

Congress of the United States

Washington, DC 20515

February 6, 2019

Hugh Hurwitz
Acting Director
Bureau of Prisons
320 1st Street, NW
Washington, DC 20534

Dear Acting Director Hurwitz:

We are writing to express serious concerns about the treatment of detainees by the Bureau of Prisons' Metropolitan Detention Center (MDC) in Brooklyn, NY. As you are aware, this facility was the center of a significant number of protests after it was reported that over 1,600 detainees and employees remained in a building that had heating and electrical issues for nearly a week.¹ Reports suggest that such issues are mutually exclusive: heating issues began at the facility when boilers (and associated coils) began to freeze,²³ and an electrical panel caught fire, which in turn melted a back-up generator switch. The fire prevented the facility from switching to emergency power.

As a result, detainees were kept on lockdown, in near-freezing conditions, with limited or no access to their lawyers or loved ones.⁴ Furthermore, it is understood that the facility kept detainees on lockdown without appropriate access to medical services. Attorneys and paralegal staff reported that detainees lacked access to extra blankets and could not purchase extra sweatshirts at the commissary during the height of this crisis. **Expecting detainees to purchase items at a commissary due to incidents that are entirely under the BOP's responsibility is unacceptable.** All the while, the Bureau failed to provide adequate and timely remedies to the heat and electrical issues at the facility.

Such conditions, coupled with a dismally slow response time during a polar vortex⁵, draws serious questions to the response mechanisms currently employed by the BOP and warrant further discussion over its current shortcomings. Alarming, it is our understanding management at MDC failed to activate and follow their emergency plan.

¹ Herreria, C. Protesters rally into the night for Brooklyn inmates in freezing jail cells. Huffington Post. https://www.huffingtonpost.com/entry/protests-brooklyn-jail-freezing-temperatures_us_5c5648b2e4b00187b5517ff8

² Correal, A. No heat for days at a jail in Brooklyn where hundreds of inmates are sick and 'frantic' The New York Times. <https://www.nytimes.com/2019/02/01/nyregion/mdc-brooklyn-jail-heat.html?module=inline>

³ Correal, A. Newman, A. and Goldbaum, C. Protesters try to storm federal jail in Brooklyn with little heat or electricity. The New York Times. <https://www.nytimes.com/2019/02/02/nyregion/brooklyn-federal-jail-heat.html>

⁴ Id.

⁵ Phifer, D. Brooklyn jail has power restored after inmates go days without lights and heat amid polar vortex. Newsweek. <https://www.newsweek.com/brooklyn-prison-has-power-restored-after-inmates-go-days-without-lights-and-1316370>

The Bureau is responsible for providing for the humane detention of these detainees—not subjecting them to third-world conditions. Therefore, we demand you take the incident at MDC Brooklyn seriously and immediately initiate an investigation. As you undertake this investigation, we request you provide us with answers to the following questions regarding current concerns at MDC:

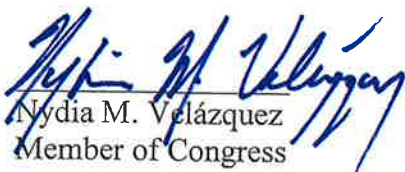
1. Prior to this heating and electrical fire incident, when was the last inspection of MDC Brooklyn's electrical and air conditioning infrastructure?
 - a. Were there any issues with facility infrastructure in the last five calendar years that caused the heat, air conditioning, water, or electricity to be offline for more than three consecutive days? If yes, please provide details of each instance.
 - b. A concern highlighted in media reporting is that the coils transporting heat through the building froze. What is your plan to insulate or rehabilitate the facility's infrastructure and units to prevent such issues in the future?
2. It is understood that the contractors tasked to fix the electrical panel issues may have had to order special parts in order to do so. Why are such parts not kept at the facility in case of extenuating and emergency circumstances?
 - a. Are such considerations part of the facility's contingency plan?
 - i. Is MDC Brooklyn's current contingency plan inadequate based on this incident?
3. Why did MDC Brooklyn staff not attend to the medical needs of the detainees, particularly those with conditions such as asthma that were exacerbated by the conditions and individuals who were placed at risk due to lack of electricity for CPAP breathing machines? What plans does BOP have to take care of such needs at its facilities in the event of the onset of such conditions?
4. Why were detainees denied the ability to meet with counsel for extended periods, and how will you prevent this from occurring in the future?
5. What review and accountability mechanisms will your agencies employ to investigate, reprimand or restructure the current leadership of MDC Brooklyn?
 - a. Should your agencies decide to restructure or change leadership at MDC Brooklyn, how will you inform the public of such decision?
 - b. Would you consider appointing an emergency monitor, investigator or other appropriate staff from BOP to oversee necessary reforms of the culture and operating practices at MDC Brooklyn?

6. Based on this weekend's events, it is clear that the BOP's lack of responsive action during this incident has seriously undermined the public's trust in this facility. What is your plan to re-establish the community's trust?
7. How will your agencies use this incident to prevent similar occurrences at other facilities operated by the BOP?

As Members of Congress, it is our responsibility to ensure that all Americans, including detainees, are provided the full rights afforded by our laws. Any transgression that limits such right, including limited access to basic shelter needs, must be fully investigated and remedied.

Given the severity of these circumstances, we request a formal response from your agencies on MDC's issues no later than ten (10) calendar days from the date of this correspondence. Your responses will be critical for Congress' role in ensuring that BOP's facilities will be able to handle harsh weather conditions without compromising the health and safety of those in federal custody.

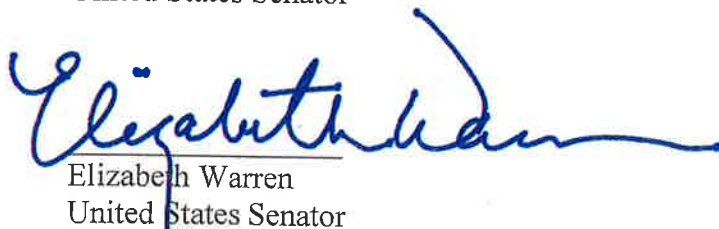
Sincerely,

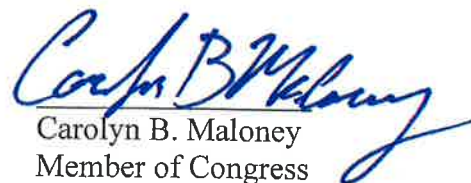

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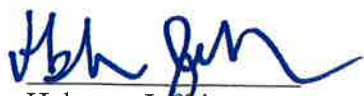

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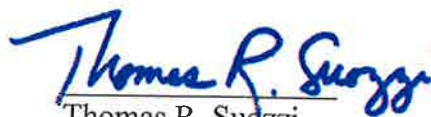
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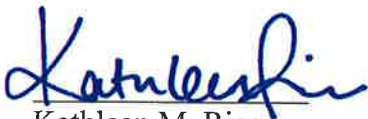
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