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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN PHILIP STIRLING,

Petitioner,

v.

**DEWAYNE HENDRIX, Warden,
FCI Sheridan**

Respondent.

Case No. 3:20-cv-00712-SB

**FOURTH DECLARATION OF
COURTNEY WITHYCOMBE,
FEDERAL PUBLIC
DEFENDER INVESTIGATOR**

I, Courtney Withycombe, declare:

1. I am employed by the Federal Public Defender for the District of Oregon as an investigator and have served in this position since 2019. My employment since 2005 has been in criminal defense investigation. My current work involves conducting investigation activities in a range of criminal defense cases, including habeas corpus and compassionate release matters.

PAGE 1. FOURTH DECLARATION OF COURTNEY WITHYCOMBE, FEDERAL PUBLIC DEFENDER INVESTIGATOR

2. I have been the lead investigator on the federal habeas petitions, now numbering over 100, that have been filed in this district to challenge the constitutionality of confinement at Sheridan under 28 U.S.C. § 2241. The lead case is *Stirling v. Salazar*, 3:20-cv-00712-SB. I am aware that the court-ordered inspection of the Sheridan complex took place on Friday, September 17, 2021. I did not attend the inspection, but Chief FPD Investigator William Teesdale attended.
3. This is the fourth declaration I have made regarding information received about conditions at Sheridan experienced by petitioners and other inmates. The first declaration was signed on June 29, 2020, and filed with the court (ECF 16). The second declaration reported on information received from July 2020 to December 2020, and was relied upon by Dr. Stuart Grassian for his filed report (ECF 72, Ex 2). The third declaration, dated September 10, 2021, reports on the recent outbreak of COVID-19 at Sheridan and the experience of sick inmates being housed in the gymnasium at Sheridan. This fourth declaration provides information I have received from August 2021 to the present. This declaration is based on publicly available information from the Bureau of Prisons, information about COVID infections provided by the government in *Stirling v. Salazar*, as well as on information reported to our offices from inmates, family members of inmates, and attorneys who represent inmates.
4. I have attached the three previous declarations to this declaration, in chronological order, in order to provide a complete picture of the information we have received about conditions at Sheridan for the last 18 months.

I. CURRENT CONDITIONS FOR INMATES AT THE SHERIDAN FEDERAL CORRECTIONAL INSTITUTION

Inmates complain Sheridan is struggling to provide adequate medical care:

- On August 29, 2021, an inmate wrote: Just to give you an update with what's going on with me, I'm still in the isolation unit with covid, I still have symptoms even though I took the monoclonal antibody treatment, I have a bad cough, it burns my lungs, I think I have scarring in my lungs, I can't catch my breath, I don't seem to be getting much better. My heart feels like it's going to bounce out of my chest sometimes. Every day the nurse does come by and ask about our symptoms, but she never comes back with anything to help, it seems like they're just checking off the boxes. My cellmate (name of inmate) just came back from the hospital, they got him stable and sent him back with several prescriptions since the hospital was over-full, and like everyone else that came back from the hospital, they have not given him the medication the hospital prescribed, his condition has worsened.
- On August 10, 2021, an inmate wrote: “i have had 7 infections twice ambulated to mcminville hospital and held with sepsis. the cause all along was a enlarged heart and a resting heart rate below 40 bpm. i was scheduled to go back to see the cardiologist to discuss putting a pace maker in to help. the medical here denied this and i have found out via one of the nurses that i was denied cause i only have a couple years left and that and the procedure costs allot of money. i was turned down for compassionate release. and i sit here with an enlarged heart and a resting heart rate that doesnt supply my extremities with adequate blood supply in wich a small scratch has caused cellulitus infections that turn sepsis.” On September 20, 2021, the same inmate wrote: “i was ambulated to mcminnville hospital for pnemonia and the dr at emargency room gave me a prescription for sreroid and something else and this place REFUSED to get it for me. 5 days with congestive heart failure hyerventilating being lied to that i am ok. the warden medical all top staff LOST CONTROL OF THIS FACILITY!!!! STILL HAVE NOT GOTTEN MY MEDICATION!!!! PLEASE HELP”
- On August 9, 2021, an inmate wrote: “units 1 and 2 are in lockdown for Covid and the gym is being used to house inmates again.”
- On August 24, 2021, an inmate wrote: “I Diagnosed myself after I noticed multiple lumps in my neck which I reported to the doctor and paid 5K to an attorney to get a CT Scan for diagnosis from this institution (which I or my family could not afford) and i was right on that after a CT scan Revealed Lymphomas Multiple in my left neck. After the Core Biopsy was done I was Diagnosed with a preliminary Diagnosis of Papillary thyroid cancer with CK7 cell, TTF-1 and thyroglobulin positive in my report.”

“I was suppose to have more CT scan done for my chest and abdomen to rule out the

primary and staging of my cancer which till to date they have not done it. My can and symptoms associated with it has already progressed to a level where i have lost hearing in my left ear its 80% now reduced every day is up and down struggle for me i get breathless if i walk 100 yards at once. In last 2 months i had 2 panic attack/hypocalcemia attack, seizure attack and last week i went to the ER because the medical staff did not knew what they were doing”

This same inmate complains about not receiving pain medication for his cancer symptoms

- On August 12, 2021, our office received an email stating, “i have to get this message to the federal defenders of Oregon. inmate (name redacted) has a medical problem where he is delirious, cant walk cuz his legs are swollen beyond the scope of "normal edema", he has spoke to multiple staff and medical personal who specifically are nurse (name redacted), emt (name redacted), unit staff of 4a. he needs immediate medical attention and they are refusing to do ANYTHING to change his current medical status. he NEEDS HELP. he cant walk on his own and needs help distinguishing clothing from bedding because he isn't of a normal state of mind”

“I still have not received my c-pap machine for sleep apnea. Also the first two months here at Sheridan they didn't give me any insulin i kept tell them i need it. Two month later they changed my insulin to a generic. I told them why did they change my insulin and they said i had to have been on latus before i came. I told them i was on Lantus .And you guys didn't give me my insulin for two months and all this is on my medical records' . I can die for not having my insulin and my c-pap for sleep apnea.I have been here close to two years. I am diabetic and they haven't give us proper medical for lockdowns. Anticipating a positive reply”

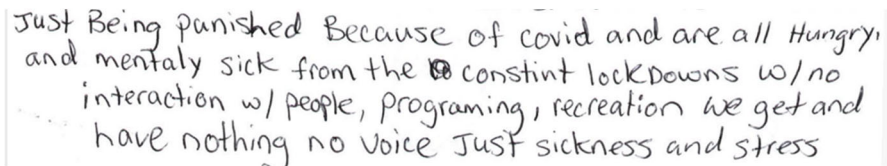
- On August 10, 2021, an inmate wrote: “i was hoping you could find out for me if the judge has interceded and agreed to appoint me counsel ? iam at my wits end i can not get medical to let me see a physician and iam wore out from trying and being sick. thank you”
- On August 9, 2021, an inmate wrote: “Covid 19 new delta variant has hit our compound hard, now 5 units are on lock down status. each unit has roughly 120 inmates are infected in 5 units.”
- “I guess with being locked down 23 1/2 hours a day and only coming out for 15 minutes. Some days we don't always get out daily, it's every other day so far. I asked to speak to the psych early this morning and the officer told me that he contacted them and left a message with the secretary. They never came.”

- “I had another episode of AFIB for over 3-hours this morning. I reported it and was told I'm scheduled to see my Cardiologist and "fill out a CopOut and mail it medical".... Again, for these extended AFIB episodes, both my primary cardiologist and surgeon have told me that I need immediate intervention when these episodes last for prolonged periods of time with "Cardioversion"....in other words either getting IV medication to get me back into normal rhythm or using the paddles to "shock" my heart into normal rhythm. The risk again with doing nothing is a massive stroke or death. These events I'm having are becoming more and more frequent. I just want these documented with you so if something does happen, someone can be held accountable for this negligence.”
- “i am just reminding you iam here and praying you will help me ,iam having problems with chest pains and breathing and they ignore my cop-outs completely .have you revived my realese form ? iam sick and need medical attention iam not one of them people that can express himself well as iam not the brightest person. i have been sick since 2/21 of this year some days i can not even breath and fill like I am droning or having a pillow put over my face .medical will see me but they always say i will see somebody else finally after 7 months i seen a physician and he told me i needed to see a cardiologist then they locked us down because of covid .now I am just locked in a cell with chest pains shortness of breath , i don't no were to turn or what to do ?”
- On August 29, 2021, an inmate wrote: “i asked again for the 3rd time to see a doctor the guard said he himself has not seen dr grasley in the compound and only the RN,NP and EMT deal with us. I showed them clots which i threw up today earlier. she replied she is not concerned about that she is only here to do vitals. she asked me to move on and not complain because she is not going to listen to my condition. When i asked her why did you even bother to ask me how I am feeling? she got mad at me. they are making up stable vital signs also when we are not stable. but now they are dispersing into other units so that complain is less from one unit.”
- Our office received a letter on September 21, 2021, stating:

furthermore, I have a large lump in my testicles and gut that is becoming more painful and larger as more time passes, I have complained since July 24th and have not even been evaluated. I worry I could die,

II. CONTINUED LOCK DOWN IN CELLS

- “Will you answer a question for me? i always thought there was some kind of law that says we are supposed to get at least 1 hour a day outside recreation? we have been locked in this unit for 19 months with a exception of 2 or 3 months they where giving us 1 or 2 hours a week .what i have heard natural sun light is one of the only ways to prevent covid ? This is so hard to be locked in like this. please help me understand !!! thank you :)”
- “Starting tomorrow morning we will only be coming out for 15 minutes a day. Word from the nurse is that there are over 68 people in the gym right now. UGH!!!”
- “this ios getting so crazy we've been lockdown over a month imtalkin confined to the cell)=i could really just use some good news please! this solitary confinement wasent what i took the deal for)=i really hope you'll fight for me hope everything is good your way please have a good day and God bless(=”
- “I will call you as soon as I can , we dont get much time out of our cells . As of now things are still bad . there are 44 people in the gym 5 people went to hospital and yesterday they came and tested only the unvaccinated people which dont make no sense .”
- On September 20, 2021, our office received a letter from an inmate stating



Just Being punished Because of covid and are all Hungry, and mentaly sick from the constint lockdowns w/no interaction w/ people, programing, recreation we get and have nothing no voice Just sickness and stress

- An inmate reported on September 20, 2021, that inmates at the Sheridan Detention Center had started a hunger strike in order to demand more time out of their cells. Inmates who were originally given 15 minutes out a day from their cell were then allowed four hours out. It is unclear if inmates are allowed time out due to the hunger strike or due to the facility understanding the damaging effects on the inmates that the isolation is causing.
- On August 29, 2021, an inmate wrote: “Not knowing if we are locked down up and down up and down no visits my family was supost to come on july 4th and visits got cacelled my daughter flew all the way from hawaii to see me and they got cancelled 2 weeks before my anxiety is going out of control i have no idea what to expect from one minute to the next they had positives in my unit who refused to test so they just left them here where yhe whole unit except for 20 got covid they are removing people from there cells and making my unit the isolation unit which is outrageuos.....my mind

feels like mush they have moved my celly out twicei dont ever know if i am going to talk to my family and then they dont know if they are going to talk to meplease help...thank you.”

- On September 23, 2021, our office received a letter from an inmate describing feeling like a “dog in a cage”:

Conditions and Confinement
Relief Please
1 1/2 hours out A week
6 1/2 hours a month 30 days
5th Quarantine
3 week
4 week
5 week
5 week 5 1/4 months
5 week out of 8 months
Hardly enough time to shower and make
a call!
NO Law library
NO Library
Isolation.
No Programs
feel like a Dog in a cage

- On September 27, 2021, an inmate wrote: “the general idea right now or at least the feeling around the unit seems to be one of resignation in that no matter what methods or means that the inmate population seems to take to protect themselves from infection and further lockdown measures, nothing seems to change and we get stuck in the same repeating loop of progress coming to a halt, including transports, visits, etc. Hopefully things will change very soon.”

III. PREPARATION FOR THE PRISON INSPECTION

A number of inmates contacted our office to report that the prison was quickly making changes to hide the true conditions of confinement in advance of the scheduled court-ordered inspection.

- “We went back to work today and we were made aware by our boss that there will be a pre-inspection ahead of Lisa coming through with Administrative staff tomorrow and to mask up at all times tomorrow at least. We went back in to approximately 2 weeks of cleaning to be done. We found a lot of dishes with standing water and/or mold to clean through including trash receptacles. We managed to get a significant portion of the cleaning done this morning and are going back in to finish this afternoon. The totality of our food has been prepared by inmates at the FPC. At no time has there been any food preparation done in the kitchen during the past two weeks as evidenced by the dishes left in place to clean. We are having lunch and dinner done today as well as breakfast tomorrow. Saturday's meals will also be made at the Camp with us going back to full operations on Sunday.”
- Multiple inmates called regarding water containers being brought to the gym for the first time for COVID patients, along with cleaning supplies that had not been available before.
- An investigator reported receiving a message on September 14, 2021, from an inmate at the detention center in J1. He reported a surprise visit from nursing staff coming through J1 asking everyone if they had good clean mask and handing them out if not. That hadn't happened in several weeks, he said.
- Inmates called that they were just provided new masks the week of the inspection
- Inmates called informing us that there were suddenly more cleaning supplies available.
- “They have the gym and chapel full of inmates. They have started to move inmates out of unit 3A and disperse them to other units as they are now making that unit the quarantine, supposedly.”
- “We got fed tomorrows meal at lunch so that when you come tomorrow we'll get the chicken meal that we usually have today. That way it looks like we get good food. Its all going to be smoke and mirrors.”

- “There have got to be over 100 inmates positive in this institution now. Many of the exec staff are still here tonight making preparations. We got box lunches for dinner so that they have time to clean up the chow hall.”
- I received two calls on September 29, 2021, from two individuals in the gym, both independently telling me they have covid. They reported that while our office was inspecting the gym, the inmates were provided water. They, once again, are not being provided water, or commissary, or hygiene products.
- On September 23, 2021, I received a call from a mother who stated, “on the day before you arrived, they moved her son out of unit 3 to the gym because he was not positive. They moved the positive people out of the gym and into his unit. Shortly after, her son was moved a second time back to his unit and then a third time to a new unit. “
- On September 13, 2021, an inmate called stating he wanted our office to know that he is in J1 and says that they are scrambling to move people around before the visit. He says his counselor (or maybe it was a guard as he mentioned both) told him “they” are cutting corners, moving people they shouldn’t be moving, and that medical “are the ones who are moving” folks around. They are trying to get things in order before the visit.
- On September 22, 2021, we received a letter from an inmate:

If you can please help us. Things were good for the day you came but when you left it all went back to the way they been treating us.

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IV. FOOD SERVICE HAS BEEN DISRUPTED

- On September 22, 2021, an inmate sent us a letter about the mistreatment of inmates working in food service to replace staff:

Evidently, all the FCI Sheridan kitchen workers have refused to work. As a result, for about a week now, BOP staff are forcing inmates at the Sheridan Satellite Camp to work around 15 hours a day, non-stop, in the FCI Sheridan kitchen. Camp inmates are forced to get up at 4:00 AM and work straight through until around 7:00 PM. Inmates are given no breaks. Inmates come in contact with the FCI Sheridan inmates who are in quarantine. Inmates who are not medically cleared to work are being forced to work. BOP staff do not care about medical chrono or Jewish religious holidays. Inmates exposed to Covid-19 at the FCI Sheridan are returning to the camp every night. The inmates are so tired. FPC Sheridan is only using Building 6 RDAP campers and not anyone from building 5. Inmates are so over-worked with around 17 inmates doing the work normally done by around 35 inmates.

- On September 22, 2021, a mother wrote: “A couple days ago he was served frozen food for breakfast and frozen bologna and cheese sandwiches for lunch.”
- On September 28, 2021, an inmate wrote: One final note: Food service is not able to follow the National Menu currently. Examples of this include: Fruit is not being served upon the trays at breakfast (we are supposed to have 12 meals with fruit each week).
 - > We have no pork roast, roast beef, we are short on eggs for baking, our menu items are limited and we are replacing meals with chicken leg quarters, ground beef and boneless skinless breast chunks. We are having to replace multiple items over the next two weeks.
 - > We have no turkey meat to use as a substitute for ground beef.
- On September 29, 2021, an inmate called our office saying he has celiac disease and is not provided food he can eat. He says he often missed three to five meals a week because he is unable to eat the food.

V. FAMILIES AND INMATES ARE UNDER EXTREME STRESS

- A mother wrote on September 23, 2021, saying her son had been moved from the gym back to Unit 3 to his cell where they have the COVID inmates. “[H]e is being kept in Lockdown again so he didn’t know when he could call again. He begged me to believe him about what was going on and I can’t help him. I know he got himself in this situation but he needs to be treated like a human and not an animal.”

- On September 22, 2021, an inmate called me at 7:04 am, he said he had been locked up since the last time I spoke with him and he that he freaked out in his cell last night and this morning. He said he was screaming & yelling and hitting the walls to get out as he couldn't do it anymore and he needed out. But no one came. He said he hadn't seen a guard in days. He said the only reason he is out right now was that an orderly came and let him out. He told me has had diarrhea the last couple of days and didn't know if that was a sign of COVID but he couldn't understand why they would put him in her with people that have it when he didn't have it. He also said he had NO TOILET PAPER, he said he told the orderly what was going on and the orderly got a half of roll of Toilet Paper from his cell.
- Our office received a call on September 22, 2021, from a family member informing us their brother, an inmate at Sheridan, called their mother a little over a week ago, was really out of breath and said he had tested positive for COVID. Then not long after, her brother's cellie's wife called and said that (name of inmate) had COVID pneumonia and had been taken out of his cell and had not come back. The cellie/cellie's wife said that (name of inmate) was taken to the hospital but the family is not sure if that is right because she also heard folks are being held in isolation somewhere at the prison. She has been calling the prison over and over again asking if her brother is alive and if he is in the hospital and they are saying they will not tell her because of HIPAA.
- On September 22, 2021, an inmate wrote:

It has been a horrible experience. We have been treated like animals. In no way shape or form have they tried to contain the virus. They are not treating the people who test positive at all. They are giving absolutely nothing for the symptoms to help with pain or fever. My cellmate tested positive and I didn't. They sent him to the gym for 13 days without testing either of us until the day after he returned. then I tested positive and went to the gym. The gym was a breeding ground for COVID 19. Last I heard there was 44 people
- I received an email from a wife stating, "On September 7, 2021, the staff locked down his unit (Unit 2A) to do temperature checks and they removed several inmates that caused concern. Over the next two days, they removed inmates who complained of fevers and loss of taste/smell. The staff then "quarantined" my husband in his room even after he told them that he was experiencing COVID symptoms, instead of

sending him to medical. The staff put a notice on his door that says "I am not showing signs of illness, and I need to quarantine." This is clearly a false statement. My husband says that the video footage in his unit will clearly show what is going on. He also told me that they are apparently not giving inmates actual COVID tests in an attempt to keep their numbers down before the inspection that you have coming up with them. My husband is concerned about retaliation for speaking out about what is going on there, but it is not right how they are treating the inmates at Sheridan."

- On September 27, 2021 an inmate wrote our office:

I'm writing to let you know that conditions here at FCI Sheridan are growing worse everyday. As you may know that we were placed under another lockdown for quarantine again early this month. It started in 2 units and then quickly grew to all 4 buildings.

As you may or may not know, that we were back to 10-15 minutes out of our cells each days, and not everyday were we given that time out. At times the phone's weren't on, and some of us can only call our families at certain times of the day since, for example,

- On September 20, 2021, we received a letter from an inmate at Sheridan:

we are in the Red zone with covid and 8 out of 8 units are on 100% lockdown Do to the high amount of covid in every unit. Just the other Day they tested 4 people randomly and all 4 had covid witch locked our unit down Being the last to get locked down out of 8 But 2 more people pushed the emergency Button Because they were so sick. They are doing little testing But everyone they do test has it and so many others are sick But not saying anything Because they dont want to Be housed on the gym floor so they just deal with the sickness. Lisa its all over here and everyone is sick. The people from the camp have to make our food and bring it to our cells. The meals are Hella small and its food Dogs have a hard time chocking down. lagmently our Break fast " ~~about~~ a bowl of gross Brainflakes" come's at 10:30 Am, lunch at 12:00 Am, Dinner at 5:00 pm so By the time we finoly get our Breakfast its Been 17 1/2 hours sence we ate we are all just Being punished Because of covid and are all Hungry and mentaly sick from the ~~the~~ constint lockdowns w/no interaction w/ people, programing, recreation we get and have nothing no voice Just sickness and stress

In conclusion, I have been the primary point of contact in our office for inmates and their families regarding concerns about the conditions at Sheridan since the end of March of 2020. In four declarations, I have recorded a sample of the concerns that inmates have raised about conditions. These are only a small part of the pleas for help that our office receives. Almost every day, I receive at least one phone call regarding medical and dental neglect which has not improved over this pandemic. In fact, many inmates report their conditions getting progressively worse as time passes and they are left untreated.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct; that the statements set forth above are based on my own knowledge, except where otherwise indicated, and I believe those statements to be true; and that this declaration was executed on October 8, 2021, in Portland, Oregon.

/s/ Courtney Withycombe

Courtney Withycombe

FPD Investigator

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INVESTIGATOR

ATTACHMENTS

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN PHILIP STIRLING,

Petitioner,

v.

**JOSIAS SALAZAR, Warden, FCI
Sheridan**

Defendant-Respondent.

Case No. 3:20-cv-00712-SB

**DECLARATION OF
COURTNEY WITHYCOMBE,
FEDERAL PUBLIC
DEFENDER INVESTIGATOR**

I, Courtney Withycombe, declare:

1. I am employed by the Federal Public Defender for the District of Oregon as an investigator and have had this position since 2019. Prior to that, I have been engaged in criminal defense investigation since 2005. My current work involves conducting investigation activities in a range of criminal defense cases, including habeas corpus and compassionate release matters.
2. This declaration is based on publicly available information from the Bureau of Prisons, as well as on information reported to our offices from inmates, family members of inmates, and attorneys who represent inmates. The declaration is also based on my review of documents from our representation of John Stirling in *United States v. Stirling*, No. 3:19-cr-00150-MO (D. Or.).

PAGE 1. DECLARATION OF COURTNEY WITHYCOMBE, FPD INVESTIGATOR

3. It is difficult to obtain accurate information about the conditions at FCI Sheridan for a number of reasons, including lack of confidence in officially reported data; frequently changing conditions; inadequate ability to assess whether one inmate's experience reflects the broader experience of others; and misinformation or rumors provided to or believed by inmates. For this reason, except where noted, my declaration reports statements received but not verified.

Facts Verified About John Stirling

1. John Stirling is 66 years old. He suffers from advanced type II diabetes and requires two daily injections of medication. His medical records include an earlier diagnosis of tuberculosis and an x-ray notes potential lung scarring or damage.
2. John Stirling is a Canadian citizen.
3. Mr. Stirling was sentenced to 40 months of custody on May 21, 2020. He has not yet been designated to a facility for service of his sentence and remains with pretrial detainees at the Sheridan FDC. His estimated release date is February 10, 2022.

Current Conditions Reported For Clients At FCI Sheridan

1. Limited Access To Legal Help And Violation of Attorney/Client Privilege
 - An attorney heard from his client that attorney-client privileged mail had already been opened when delivered to the client, despite the prominent label of "Special mail - open only in the presence of the inmate" and "Attorney-client communication" on the envelope.
 - An inmate wrote that he planned begin applying for compassionate release and would attempt to have copies made, "though the current counselor and case manager here for Unit 4A at Sheridan are not very accommodating at all. And to make matters even more challenging we are currently confined to our cells 22.5 hours per day and even then only Monday - Friday."
 - Clients report they have no access to the law library.

- A client told an investigator that he was calling from a recoded line because the line for the attorney phone was so long, and he only had about 20 minutes left before having to go back to his cell. He explained that there are hardly any inmates in the day room because everyone is waiting for the phone. He also said that the inmates were not let out of their cells at all this weekend, and that things “are getting more strange” at the FDC. Another inmate similarly reported on Monday April 20: “locked down since friday and just got out . phone line is 30 people long so I don't think I will get that . thats 5 hours out in 16 days.”
- One inmate who hoped to file for compassionate release explained “There is no counselor that is available. I have been here almost three weeks and I have only seen them once. I have sent Kytes and they are not being answered.”

1. Extremely Reduced Access to Family Members and Support

- An inmate described the lack of communication with family: “This place is so mixed up we are now on lockdown all weekend no coming out no talking to family I'm supposed to be workin right now no gloves no mask as they wear theirs everyday it changes we watch the camp walk around and the officers go from fci to camp to here in groups like they are visiting through a lab”
- All personal visits are cancelled and the telephone lines are long. “They don't clean the phones after we talk. I have to choose to call my family or my attorney.”

2. Poor Hygiene and Harm to Physical and Mental Health

- A client reported to an investigator that there was no toilet paper at all and he was “having to use dirty laundry” for toilet paper. Clean laundry was no longer provided. Inmates had access to showers only once every three days a week.
- An inmate in J1 reported that they hadn't had soap since they were given one bar at the beginning of the pandemic. No toilet paper had been passed out in a month.
- Inmates during lockdown received poor quality food. One client's food was "still raw." Others reported receiving baloney sandwiches daily.
- At the FDC, they also "removed commissary," meaning no food could be purchased.
- One inmate reported that there were inmates being housed in triple bunk cells on his unit. He thought there had been 2 or 3 cells on his unit that were triple-bunked, which he believed were for inmates who were being quarantined in preparation for a release or some other move. In a triple-bunked cell, one inmate has to sleep on the floor.

- Other inmates reported that although guard had started wearing masks, they were not wearing gloves and were “touching rolls with hands.” Because the cells are all in lock down, inmates eat in their cells. Guards are being checked when they come in but the inmates “know someone can have virus and not show signs.”
- An inmate reported that during the lockdown, a quarter of a unit was being let out at time. Since the whole unit is about 125 people, this means inmates are locked in cells for 23 hours per day. This inmate got out for 15 minutes each for breakfast and lunch yesterday.
- “I have been locked up since fri and 0900 . They have not taken out the garbage from our rooms since 2 days ago and it stinks.”
- “My medical needs are being ignored and my asthma is acting up.”
- An inmate reported in May that conditions were frightening:

This morning an inmate who lives 10 feet from me in the next cube in the same over-crowded wing was taken out to the hospital for shortness of breath and coughing and we were told simply "don't touch his stuff if you want to live" by one of the correctional officers. A number of other inmates are getting cold symptoms the last couple of days. Everybody is afraid to report their symptoms because they do not want to be put into isolation with no access to contact their families at all, when they think they only have a cold. This is scary. I know that if I am exposed, I will very likely not survive or will have permanent damage. The quarantine area here is a joke does not provide protection at all, as the same staff walk through the quarantine area just as regularly as they walk through the non-quarantine areas.

- An inmate reports they are only getting out of their cell for about 3 hours per week total;
- BOP staff reportedly is telling inmates the lockdown restrictions are because of the "riots" -- meaning the protests and demonstrations in the community.
- “On Tuesday, [an inmate] was taken to the hospital on Tuesday – hasn’t returned. Another person from same tier (name unknown) – was taken away yesterday – [client] doesn’t know where to, and hasn’t returned.”
- An inmate reported on the lack of information:

“As far as I know no inmate has been tested here. What has happened here they have shut down the R-Dap program and transferred everyone from one building to the other trying to group together everyone that works on a crew to be together. Other than that, I have no idea what is going on.”

- “They have set up a warehouse with 100 cots; I do not know what they are expecting but something.”
- “Today they finally put up a bulletin on the computer about precautions to take, so the only thing in here was the handout you sent that I put up. We now have quarantined inmates in here, some came from county. The air from their cells flows directly into our dayroom , The trays they eat off go right back to the kitchen so if they are infected the kitchen workers would all be in jeopardy of possible infections. The unit officer today without gloves took their commissary sheets and mixed them with ours after handling them touched doors and rails , Also without cleaning the equipment for yard they are sending out inmates to touch and handle the same recreation equipment as J1 we as inmates at this facility are very nervous about the lack of action taken so far , as we can only sit and watch the numbers climb we know it’s just a matter of time before their lack respect for procedures and our lives gets us all sick if not dead . I just wanted this documented as you asked me to keep you all updated on what is and aint goin on in Sheridan FDC.”
- A client reported that new inmates were being brought on the unit, but they were not really in "quarantine" as much as a "medical isolation." The use of the word quarantine was making some inmates “freak out.” The client said he was aware of two inmates reporting that they were not feeling well, which results in staff “rushing in” to isolate them.
- An inmate reported on self-harm actions in April, two weeks after the lockdown:

“4 days ago a guy a few doors done slashed himself. All the guards came in but wearing no mask and doing nothing the med guy bandaged him up. He slashed because he could not stand being locked up this long. They let him out for the since that day about 3 to 4 hours a day while the rest of us are locked up. Everyone looking out their window see's this and realizes you only need to cut yourself to get out of your cell. Sure enough yesterday a much worse thing happen and a man across from us slit his throat very bad . Blood was spurting like a fountain out of his throat. The untrained guard yelled at his door ‘Put pressure on it’ Then ran away somewhere never attempting to enter his cell to stop the bleeding at all. 20 guards and such came in including captain ,assistant warden, an evidence gather team . camera's , on and on. Not one of them wearing mask and most not gloves now contaminating the whole unit.”
- The spouse of an inmate wrote on May 27, 2020, to describe the harmful effects of misinformation and lack of medical care at Sheridan:

Thank you for the interest you have shown in helping the inmates in Sheridan, including my husband. I want you to know what is happening there. I am truly bothered by my husband’s stories of how those who are already in quarantine at the

Sheridan Camp are being sent back to the general population after spending almost a month or so inside. Another wife has shared with me that her husband was already in quarantine for twelve days, but was sent back for no apparent reason. Yesterday, May 26, he shared that two other men were kicked out of quarantine. Most of them were sent out because they found out they had no underlying conditions, one was sent back because the Probation Officer could no longer entertain another inmate. Another man was in quarantine for 30 days, but was sent back because they neglected to file his papers. I am not too sure what are the other reasons for these men being sent back to general population. It demoralizes the inmates who are all hoping to finally be reunited with their families.

Many of them including my husband was called to sign documents for release. I also sent the documents of the designated visitor who will be picking him up, I waited for his Probation Officer to come and inspect our home, and my husband was able to finish all his Release Preparation Program (RPP) classes. But until this day, they have not been called to provide a release date or any update of some sort. My husband had the courage to approach his Case Manager to ask for an update, but he was told that he was not even on the list in the first place; it did not make sense. This discouraged him to keep moving forward. I, on the other hand, will continue fighting for my husband and for those who are significantly affected by how things are run in the camp.

There are eight wings, two wings were cleared for quarantine, but my husband and a couple of wives I've kept contact with shared that some are being sent to the *jail* for quarantine. As for food, they receive small portions which is often uncooked or undercook. They often run out of soaps, they are given a flimsy mask to use for a week. Staff and Case Managers are also unapproachable; when approached, they often give a sarcastic answer to your questions.

I am also aware that they are not medically equipped to treat inmates. My husband was experiencing chest pain and the medical staff was not too helpful until he pushed that he was not feeling too well. Then only then the medical staff listened to his heart beat and found out that he needed an EKG. It took them almost a month to administer an EKG that took less than 20 seconds and we are still not aware of the results. Another wife shared with me that her husband fell ill while incarcerated. He could barely walk or use his hands. He woke up having a seizure. Instead of assisting him, they accused him for using drugs; they did not even administer a drug test to prove that he has used a substance. Knowing that our inmates are not taken cared of worries me even more when COVID-19 hits their facility.

I felt uncomfortable writing and sharing with you about Sheridan Camp thinking that they might retaliate against my husband, but if no one speaks out for them, no help will be given. I hope and pray that change happens in Sheridan Camp; these men deserve to be treated better.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct; that the statements set forth above are based on my own knowledge, except where otherwise indicated, and I believe those statements to be true; and that this declaration was executed on June 30, 2020, in Portland, Oregon.

s/ Courtney Withycombe
Courtney Withycombe
Federal Public Defender Investigator

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Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN PHILIP STIRLING,

Petitioner,

v.

**ANDREW COOPER, Acting Warden,
FCI Sheridan,**

Respondent.

Case No. 3:20-cv-00712-SB

**DECLARATION OF
COURTNEY WITHYCOMBE,
FPD INVESTIGATOR**

I, Courtney Withycombe, declare:

1. I am employed by the Federal Public Defender for the District of Oregon as an investigator and have had this position since 2019. Prior to that, I have been engaged in criminal defense investigation since 2005. My current work involves conducting investigation activities in a range of criminal defense cases, including habeas corpus and compassionate release matters.
2. This is the second declaration I have made in this case. The first declaration was signed on June 29, 2020. This declaration will give information I have received

after that date. This declaration is based on publicly available information from the Bureau of Prisons, as well as on information reported to our offices from inmates, family members of inmates, and attorneys who represent inmates. The declaration is also based on my review of documents from our representation of John Stirling in *United States v. Stirling*, No. 3:19-cr-00150-MO (D. Or.).

Facts About John Stirling

1. John Stirling is 66 years old. He suffers from advanced type II diabetes and requires two daily injections of medication. His medical records include a diagnosis of tuberculosis and an x-ray notes potential lung scarring.
2. John Stirling is a Canadian citizen.
3. He was sentenced to 40 months in custody on May 21, 2020. He remains with pretrial detainees at the Sheridan FDC. His estimated release date is February 10, 2022.

Current Conditions For Inmates At The Sheridan Federal Correctional Institution

A. Inmates Complain Sheridan is Struggling To Provide Adequate Medical Care

- An inmate was released in October on a joint agreement for compassionate release motion when he was not receiving adequate medical care. In his case, he was seen at a cardiology clinic outside of the prison and it was recommended that he have a CT scan of his chest due to pain and return in four week (suggested in medical records to return in mid-July). He continued to have pain and that test was not given. Additionally, the inmate had hand surgery on July 23rd and his hand became infected. At the date of his release, three months later, his hand was oozing puss, the arm was beginning to hurt and he was not being treated adequately nor was he transported to the hospital.
- An inmate was given a sleep study by the BOP for his sleep apnea. Two months has passed since the test was administered and the inmate has still not received his results from the test nor a sleep apnea machine. The inmate purchased a sleep apnea machine from another inmate who is leaving the facility.

- An inmate had a seizure in his cell and other inmates stated it took staff an hour and a half to get him medical help.
- An inmate was seen for an anal fissure and the outside doctor prescribed him pain medicine. Sheridan was unable to provide him with this prescribed medicine. The client continued to complain about his pain for over two weeks without receiving an explanation as to why he had not received the prescribed medication.
- An inmate who has diabetes explained the nurse goes to his door to check his blood sugar and to give him insulin at 9AM. He is supposed to take it before he eats so they are late by at least an hour and a half. In the morning his sugar level is 120 and the afternoon his blood sugar will be a little higher. The nurse comes again at 3 for the second shot. By 5:00 or 6:00 is he back to 120.
- Another inmate that is diabetic complained that the poor diet and lack of exercise available has greatly affected his sugar levels. He also explained he is unable to buy food appropriate for his diabetes at the commissary and sometimes goes without eating much.
- An inmate stated while he was in federal custody in the county jail he was prescribed medication for his anxiety and depression. Upon his arrival at Sheridan, two months ago, they stopped providing those medications. He has made numerous attempts at requesting them and has had a panic attack and feels helpless and hopeless.
- An inmate was having severe head pain and dizziness for multiple days. The staff did not provide him medication for his pain. They finally brought him into isolation and tested him two times for COVID and he tested negative. They continued to keep him in quarantine and forgot to visit or feed him during the day on a few occasions. Once released, he found out he was receiving his heart medicine three times a day instead of the two times he was prescribed. He believes this confusion in his medication was what was causing his pain and dizziness.
- Multiple inmates have complained that the times when their medication is dispensed are not consistent
- An inmate who hurt his back and was transported to the hospital was diagnosed with a compression fracture of the spine. Inmate was not given the medication that was prescribed and continually asked for assistance with his pain management and was not assisted adequately. He also complains about access to a wheelchair that is large enough for him, a shower that accommodates people with disabilities and assistance with necessities, like wiping himself

after using the toilet. He also complains that he has not been contacted regarding a plan of treatment.

- “there is another bus coming in next week !!! it seems their not even trying to not spread covid from prison to prison.. we only had two cases in the fdc.. none in the fci.. they were also not doing transports from prison to prison.. now it seems transport is running full bore and low and behold we now have covid here.. i was sentenced to nine years for non violent crimes.. what happens if me or any number of non violent people get infected and we die ? the medical here is horrendous.. we watched them let a guy who was having a stroke lay on the floor for forty minutes before even picking him up to carry him off... now he's paralyzed on his whole left side.. they picked him up by his hair to put a shirt under his head.. that's the kind of care we are given here.. anyway, I'm obviously worried.. have a good day”

B. Continued Lock Down In Cells With Only Intermittent Relief

- Multiple inmates reporting they only get out of the cell for an hour and a half every other day. They are really struggling mentally because they cannot call their family or see them.
- At the beginning of September, inmates complained that there was someone who tested positive for COVID so they were being locked down in their cells full time. Approximately two weeks later, inmates were allowed to leave their cells one hour every two days.
- Inmates say they have been out of their cells for seven hours and then see a staff member in a hazardous material suit and everything closes down again with no explanation of what is happening.
- Inmates are talking about J3 being the quarantine unit and do not know if the other inmates are testing positive and that is why they are lock in their cells again. Rumors spread quickly regarding COVID and staff has failed to educate inmates on what is going on.
- Inmates believe one nurse is responsible for deciding if the inmates are in lock down or not and do not understand what the procedures are or will be, causing fear in some and frustration to many.
- “For over the last 6 months we have been under a 24/7 lockdown once every three, but mostly 5, for a 15 minute shower. On only a handful of times have we been let out for 2/hours a day
- “so 3a and 4b are on full lock down.. 4b has been the housing unit they have been pulling inmates out of for the kitchen to prepare our meals.. so who knows

if it already spread in not only those housing units, but others ? it seems to spread once it introduced to a prison..”

- “Today 9/5/20, we are locked down again..We just got off a lock down. We are under 24/7 full lockdown again. I am not going to survive this. They served us bologna sandwiches at 11:00 AM. The “best before” date on the cheese was June 14, 2020.”

C. Limited Access To Legal Help And Violation Of Attorney/Client Privilege

- Inmates have reported that their mail has been delivered by other inmates.
- Inmates have reported that their corrlinks emails to attorneys and investigators have been read by staff. Computer access is also limited due to time in cells.
- Attorneys are having difficulty communicating with their clients due to the fact that the inmates are only able to make calls every other day. If the attorney or investigator is not available to speak on the first call, it is difficult to call back a second time.

D. Extremely Reduced Access To Family Members And Support

- Multiple inmates report that they only get out of the cell for an hour and a half every other day. They are really struggling mentally because they cannot call their family or see them.
- One inmate was placed in quarantine and was unable to contact his family for over 10 days. The family called the prison to check on the inmate and according to the inmate the family was told, “He is alive. That is all I can tell you.”
- Social visits had been unavailable until October 2020, when they were re-opened for weekend visits.
- Inmates have been unable to take classes, attend groups nor read books, further isolating them in their cells without any mental release
- Many inmates have lost their employment at the prison due to the lock down and therefore have no money. This decreases the amount of communication an inmate has with others and has created for many, a large feeling of isolation and desperation.
- Multiple inmates reported that their correspondence and photographs from family members is being withheld then photocopied. The inmates are only receiving black and white photos, letters and art from the copy made by staff and the originals are destroyed or returned to the sender.

E. Inmates have concerns about their hygiene

- An inmate relayed that he hasn't had clean laundry in two weeks, that the only hygiene products that have come around in a couple of weeks were a small amount of soap to share with his cell mate, and one toothbrush between the two of them.
- An inmate called regarding a water main breaking and the inmates not having access to bottled water for drinking or hygiene.
- "There is no free soap to wash hands and we only get one roll of toilet paper a week."
- Inmates are reporting that they have continued to use the same mask that the staff provided in April. The masks are not washable. Some masks have broken and inmates have had to put holes on the side to reconnect the ear strap.
- There are "3 people to a cell, 1 person on the floor 2 feet from the toilet. If you can imagine males urinating in the dark at night and splashing urine on the person on the floor accidentally."

F. Inmates Have Physical Safety Concerns

- "This morning (10-3-2020), shortly after 5am, 2 of my cellmates got into a fight, where one of them was stabbed repeatedly in the chest and the face by the other. I was thankfully not injured or involved as I was in the upper bunk and fortunately out of their way. All three of us have been telling the staff repeatedly, including shift lieutenants and unit counselor Saucier, for the last week that 3 people in the cell, with only 30 minutes out every other day is just not okay or fair. Additionally, as mentioned in the previous email, I have serious concerns with the fact that I am classified to go to a low facility, having camp points, and yet was celled up with high-risk, drug using, violent inmates classified to go to high & USP facilities. This place is, was, and will continue to remain a recipe waiting for a bigger disaster to happen. Even though I feel very lucky and blessed to have not been involved in this totally avoidable incident, I am not sure how much longer before another and possibly worse disaster happens, because of this facility's and the US Marshall's deliberate indifference to the clear and present dangers of housing 3-inmates, regardless of designations and risk levels, together in a 1-man cell for quarantine."
- Multiple inmates called to report they were having a hunger strike because no one was getting tested for COVID and there is constantly new inmates arriving. They have three people in a cell even though there is a paper posted that only two inmates should be in a cell.

G. Quarantine Unit Is Insufficient To Protect Inmates

- Inmate stated that he heard that 40 new quarantined inmates were added to the units, and that some cells have four inmates per room with two beds.
- “so the large chain arrived last night. they (the staff) made a big deal of telling all of us that there would be disciplinary reports written for passing things to the quarantines or talking through the doors or loitering in the vicinity of their doors, as they are coming from all over the place and that they and we should be taking this and prevention serious !! so first thing this morning there are inmates passing things and talking through the doors and hanging out at the doors. nothing said by the unit officer. also we (the orderlies) were serving them their meals.”
- “the officers they have set aside one run of the top tier for guys coming into this institution to quarantine.. the entire building/unit is on one ventilation run, the heppa filters have not been changed since I've been on this unit (over a year)”
- “so today again the medical staff come to the unit to test a quarantine.. when he gets done he comes out of the cell after about 15 minutes with a bag of used testing equipment.. he walks from the cell to the nearest housing unit trash can and throws the bag of used test equipment into it. then walks down the stairs grabbing the hand rails with his latex gloves still on, goes outside to where they have set up a special trash can to doff and dispose of their ppe and used supplies and removes his gown, latex gloves and face shield... as if he is concerned for his health and safety but has no regard for ours.”
- “we are not supposed to interact with or go near the quarantine cells. yet the inmates in the housing units are at their doors all the time conversating and passing them things. some of the officers even open their(the quarantines) doors to accommodate giving them things. it is hit and miss as to their meals. The officers are supposed to serve them and collect their trash and laundry.. some do.. ... there's a notice on each of their doors that says the doors are only to be opened with a lieutenant present. that is totally ignored.so an interesting and nonsensical new development is that they have started doing outside med trips again. The nonsense part is that they are putting some on quarantine when they return and yet others just return without being quarantined.. we have one guy who went to the hospital for an emergency and returned to be put on 21 day quarantine. yet another went out for surgery to repair a broken collar bone and was returned to the housing unit without being quarantined.. the officers who transport and accompany them on the trips are not being quarantined..”
- Inmates have complained that the quarantine unit goes to the pill line and are held in a room and then walk down the hall. The pill line is not cleaned afterwards.

- The quarantine inmates are also using the same showers and they are not being properly cleaned before the next unit enters.
- Guards are not always wearing their masks and are seen going between the units, without changing gloves or cleaning up.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct; that the statements set forth above are based on my own knowledge, except where otherwise indicated, and I believe those statements to be true; and that this declaration was executed on December 2, 2020, in Portland, Oregon.

/s/ Courtney Withycombe
Courtney Withycombe
FPD Investigator

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Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN PHILIP STIRLING,

Petitioner,

v.

**JOSIAS SALAZAR, Warden, FCI
Sheridan**

Defendant-Respondent.

Case No. 3:20-cv-00712-SB

**THIRD DECLARATION OF
COURTNEY WITHYCOMBE,
FEDERAL PUBLIC
DEFENDER INVESTIGATOR**

I, Courtney Withycombe, declare:

1. I am employed by the Federal Public Defender for the District of Oregon as an investigator and have served in this position since 2019. My employment since 2005 has been in criminal defense investigation. My current work involves conducting investigation activities in a range of criminal defense cases, including habeas corpus and compassionate release matters.

2. I have been the lead investigator on the federal habeas petitions, now numbering over 100, that have been filed in this district to challenge the constitutionality of confinement at

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Sheridan under 28 U.S.C. § 2241. The lead case is *Stirling v. Salazar*, 3:20-cv-00712-SB. I have filed previous declarations in that case, and the litigation is on-going. I am aware that the court-ordered inspection of the Sheridan complex will take place the week of September 13-17, 2021.

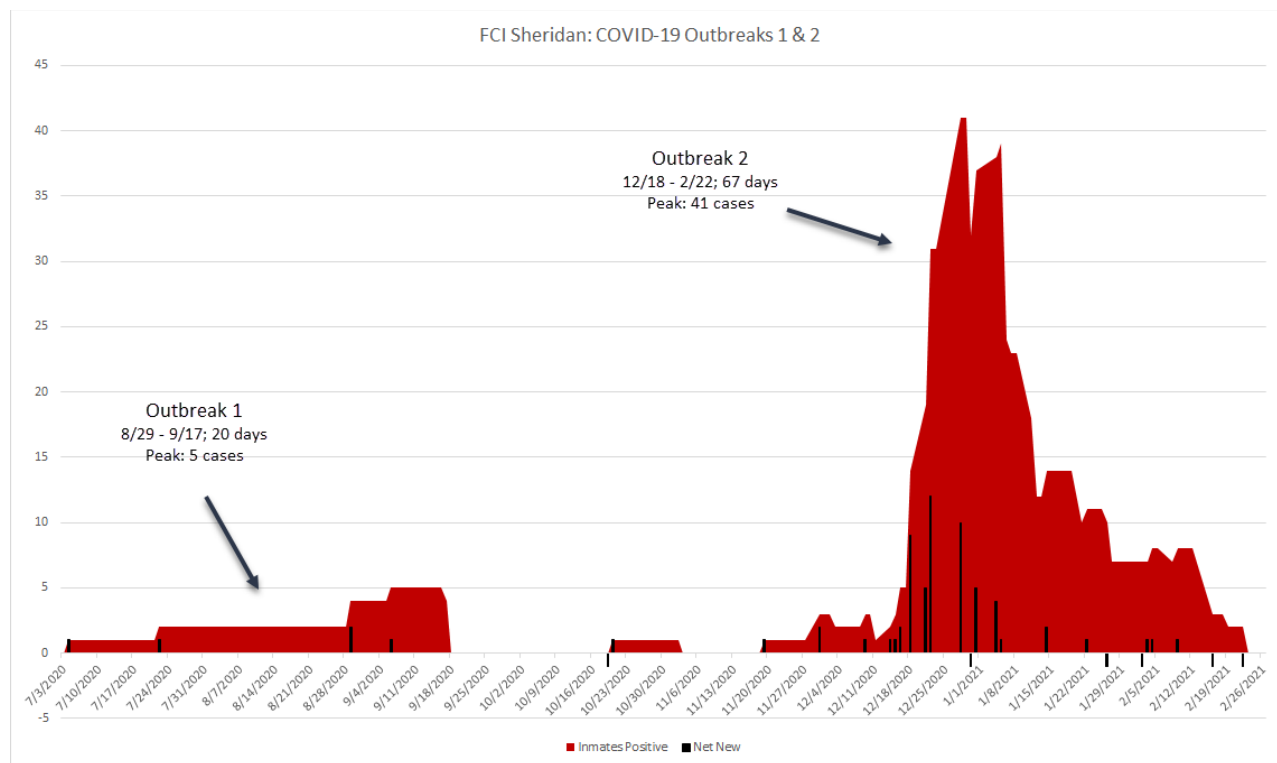
3. This declaration is based on publicly available information from the Bureau of Prisons, information about Covid infections provided by the government in *Stirling v. Salazar*, as well as on information reported to our offices from inmates, family members of inmates, and attorneys who represent inmates.

The following graph and information concerns COVID-positive inmates and their treatment during the previous wave of COVID cases prior to February 2021.

Outbreak 1: August – September, 2020. This was the mildest outbreak, from about 8/29/2020 – 9/17/2020, and reached 5 active positive cases at its peak. The outbreak lasted 20 days.

Outbreak 2: December 2020. The worst outbreak so far, in terms of length and number of cases, coinciding with the winter spike of the original variant. The initial case appeared 11/19/2020; the first big spike occurred 12/18/2020 – 12/22/2020, leaping from 5 to 31 cases, and again on 12/28/2020, to its peak of 41 active positive cases. New cases continued to appear by ones and twos after that, dragging the aftermath of the outbreak well into February of 2021: 67 days.

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INVESTIGATOR



The following is the information I received pertaining to Outbreaks 1 and 2 (inmate comments in quotations):

- “Currently, the gym at the FCI is being used to isolate infected prisoners as there are numerous positive and/or presumptive positive cases there. It is uncertain as to how this will ultimately affect issues at the FDC but will keep you posted as more is revealed.”
- An inmate stated that he got sick a few days ago and tested positive for COVID-19. He has been quarantined on a plastic mat on the floor of the gymnasium. He says there are about 50 other men in the gym with them. They all share the same bathroom and telephone.
- “Recently they open up the gym here for the covid cases ... if someone test[s] positive they go to the gym.” “[T]he lockdown of 30 minutes is still in place which is unconstitutional.” “[T]ransport[s] are still being conducted. “[N]ot one test has been conducted on non quarantine inmates in unit 2a ...”
- An inmate volunteered to take COVID test and they results were negative. “Unfortunately, there was a mix up and they said his cellie took the test and let the cellie out.” He explained he was the one who took test and they would not fix results and staff told him he would have to take another tests. He states as far as he knows there are no positive COVID cases from J1 but does not understand why new inmates are being brought in because that is how they will get sick.

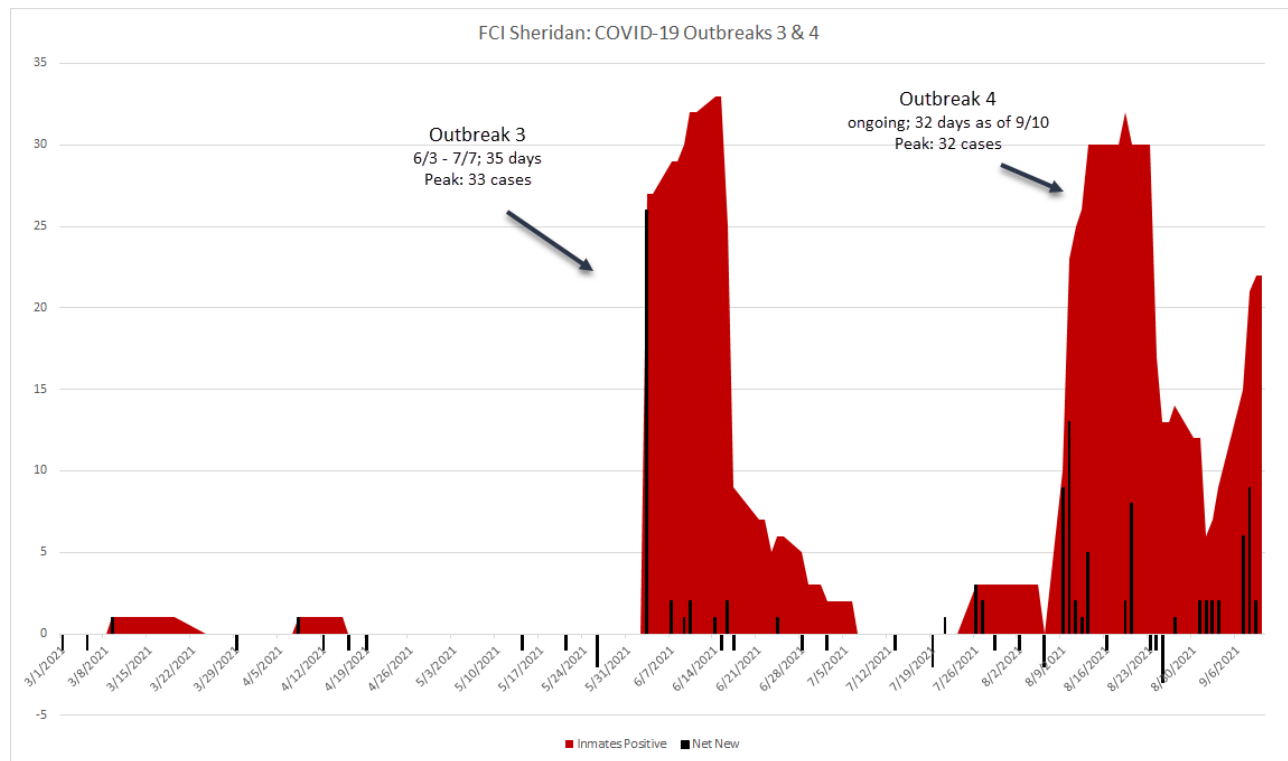
3 - DECLARATION OF COURTNEY WITHYCOMBE, FEDERAL PUBLIC DEFENDER
INVESTIGATOR

- An inmate stated while he was in quarantine, no staff checked on him.

The following graph and information concerns COVID positive inmates and their treatment during the last two waves of COVID outbreak.

Outbreak 3: June 2021. There was one big spike on the first day of 27 new active positive cases on 6/3/2021, but no spikes after that: occasional new cases in ones and twos pushed the overall peak to 33, but the outbreak was completely gone by 7/7/2021: 35 days.

Outbreak 4: Ongoing. There were 10 new active positive cases on 8/9/2021, 13 on 8/10/2021, 5 more on 8/13/2021, 8 more on 8/20/2021, 6 more on 9/7/2021, and 9 more on 9/8/2021. The peak of the outbreak so far has been 32. Unlike the single spike in June, this has been several shocks in a row. This is looking more like the long-term lingering outbreak in December than the contained outbreak in June.



Multiple inmates have called stating that when inmates test positive for COVID, they are moved to the gym where they are given cots to lay on. There is one toilet, one shower and one sink. The sink is next to the toilet and is used for washing their hands as well as getting drinking water.

The nurse comes in one time a day to check on their vitals. They are not allowed to receive

commissary, so they have been unable to access over-the-counter medication for their fevers, body aches, congestion, and coughs. They are also not provided medication from the doctor or nurse to help with the COVID symptoms. They are also not able to buy hygiene products from commissary. In addition to this, inmates have complained about the gym being dirty, dusty, and spider-infested. They have also stated the air conditioner is broken so they were struggling with heat issues in addition to any possible fevers. The following is information received from those in the gym:

- On September 10, 2021, our office received a call from an inmate stating he is on lockdown and has tested positive for Covid. He believes he caught it from one of the guards. He is denied commissary medicine. When he tested positive for Covid, they only checked his vitals and he was not given medication. He is currently in the gym with one toilet and one shower to share with over 30 inmates. The temperature inside the gym is really high and he is concerned because he has a fever as do most inmates. He does not feel safe and fears for his life.
- On September 10, 2021, I received a call from an inmate concerned about another inmate in the gym. He stated the other inmate arrived last night into the gym around 10 PM after having returned from the hospital. The inmate was supposed to have an inhaler, but it has not been given to them. They were given a cot last night without a mattress on it. The inmate was able to get a mattress a few hours later. This inmate could not get up to take vitals or to get his own food. Other inmates have been helping him get his food and have secured a wheelchair so he can go to the bathroom. The inmate has a fever of 103 and they are worried about him.
- On September 8, 2021, I received 8 calls from inmates in the gym who were concerned about lack of medical care and the conditions of the gym as well as feeling abandoned.
- On August 17, 2021, I received a call from an inmate in the gym stating that he is one of the inmates with COVID. He says there are 30 people in the gym on cots. There is no AC and it is currently around 83 degrees in there which is hard for the inmates who have fevers. The nurse is checking their oxygen levels once a day. They do not have cold water and have to pay for their own Tylenol or Advil. Originally, they were not even provided pain meds for their body aches and all of them filed BP8 complaining. They have limited commissary and are not able to buy food. They are getting 3 hot meals a day. They are all sharing one toilet.
- In August, an inmate was put in the gym at FCI and contacted us shortly thereafter stating: "There were 30 plus people. There are currently about 10 people left in the gym. It took them a week of him asking for medical to give him his medicine even though he

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INVESTIGATOR

asked every day. He has heart conditions and other medical issues and should not have gone so long without his regular meds. He hopes that by telling us he can prevent this from happening to someone else.”

He states they have “no commissary”; they are not offered medication to help them feel better. They “feel like they are being punished for getting it” but he has been in custody since January 2020 so he did not bring it in.

- The shower is in the mop closet that they all share. The gym has tons of spiders.
- On September 8, 2021, one inmate stated in that he is from FCI unit 2A- He is in the “dusty and dirty gym.” He is “not feeling good.” There are over 20 people in gym.
- On September 8, 2021, another inmate is from FCI 4B and he was “feeling horrible.” He has been in there since about the 30th of August.
- On September 8, 2021, another inmate has been in gym for 9 days. He has no symptoms. They have not been checking people before they release them from gym. There is one sink where they get their drinking water from but also wash hands. There is one toilet and one shower. It is dusty and dirty. He says there are 24 people in there. He has “had a blood clot and is over 400 pounds.” He is worried he is going to be worse since he is with people with symptoms that are sick. He received Moderna and then later tested positive. He has health problems with his stomach and has an open sore in his stomach and two lumps. The open sores have puss and have been bleeding for approximately 6 months; he is only given band-aids. He received antibiotics 4 months ago, but has since had an infection. He is afraid with the infection in his stomach and with the Covid, he may become sicker. He is not allowed to go to commissary to purchase any time of medical aid or medicine. When a nurse comes by, the nurse only checks heart rate and temperature.

Inmates Concerns About COVID When They Are Not In The Gym

The following is the information I have received in August and September, 2021 (inmate comments in quotations):

- “Just letting you know the conditions at Sheridan Fci there is Covid in both 1 and 2 building they are on complete lockdown our recreation has been taken away again so they can house inmates in the gym 10 people popped up for the virus just today.”
- One inmate sent an email stating “there is one guy who tested positive from our unit and is now at the hospital on a ventilator as he was nearly ready to get released. Another guy left today with troubles breathing and has not returned. It seems to be getting really bad here. They don’t seem to have much of a plan other then taking everyone up to the gym

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INVESTIGATOR

for two weeks and then bring them back to the unit without testing. UGH.”

- “So idk if you have been made aware but building 1a/1b and 2a/2b are locked down due to covid outbreak the inmates have been moved to the gym and are again suffering the same treatment that happened during the last 2 outbreaks even though they haven’t posted anything on the bop web page for this facility. they are not testing people or doing voluntary test only. it is sad conditions that we have to suffer.”
- One wife of an inmate called and stated her husband has been unable to contact our office but that he is “feeling helpless in prison and is in lockdown again.” She thinks it is “inhumane that people with COVID get sent to a dirty gym.”
- Another wife stated her husband is in the gym with COVID and said that her husband got COVID from the guard and spiders are crawling on him in the gym.
- Another inmate sent an email stating, “I am in Unit 4-B at the FCI. I am in the same unit as 2 other guys you are talking to. The update on our lockdown is this: the whole unit is locked down now. We are allowed out in groups of five cells at a time for a half-hour per day to shower, use the computer, etc.. The group of us that work in commissary or live with a commissary worker (as in my case) have been rapid tested twice (once yesterday and once on Monday when the 1st worker was found positive after the sick CO was hospitalized and put on a ventilator). What’s disturbing and interesting is that the rest of the unit (the other 55 cells/115 inmates) has NOT been tested and there are guys in here that are sick (and have been) but they’re just being ignored by medical. This has been going on for 2-weeks now (the officer that is deathly sick in the hospital was diagnosed 2-weeks ago today). I've asked everyday this week about getting the vaccine and have been told “I'll get it when I get it”.....you’d think with my verified major cardiac issues they’d at least make an effort.”
- One inmate stated in an email: “We have known there is covid in our unit for almost two weeks but said nothing because people would rather die then spend another day locked in there bathroom.” This inmate is currently in the gym with COVID on the date this declaration is written.
- “We have a unit full of covid and they brought in a bunch of people to our unit last night, including a cell that the people just left out of with covid.”
- “I work in commissary and my boss tested positive weeks ago and is in the hospital now very sick, one of my coworkers was just sent to the gym because he tested positive my whole unit is shut down .we get out for fifteen minutes a day.”
- “We had one positive (presumptive) case of Covid on the unit as of Thursday, August 26. As a result, we are currently on quarantine until the administration and health services determines that we are safe to come off, likely after testing is done. I anticipate

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INVESTIGATOR

this to be up to 10 days, especially if they use a PCR test in addition to the Abbott rapid test. The person who tested positive is an inmate that is an amputee with a significant portion of his body covered in skin grafts, the result of being a burn victim. For security and confidentiality reason, I am refusing to name the individual but if you are able to get in contact with the executive staff, they may be able to adequately confirm this.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct; that the statements set forth above are based on my own knowledge, except where otherwise indicated, and I believe those statements to be true; and that this declaration was executed on September 10, 2021, in Portland, Oregon.

/s/ Courtney Withycombe _____

Courtney Withycombe
FPD Investigator

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