

OSC File No. DI-22-000356

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January 18, 2023

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Pursuant to 5 U.S.C. § 1213(e)(1), we the whistleblowers are making the following comments in response to the Department of Justice Federal Bureau of Prisons' report to the U.S. Office of Special Counsel (OSC). We ask that our comments be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). We also consent for our comments to be included with the public file maintained by OSC pursuant to 5 U.S.C. § 1219(a)(1).

Two of our allegations were determined by the Federal Bureau of Prisons to be substantiated.

Allegation 1 substantiated - Daily floor buffing throughout FCI Dublin has disturbed the asbestos contained in damaged vinyl floor tiling in various areas and buildings in violation of Occupational Safety and Health Administration (OSHA) regulations.

Allegation 2 substantiated— FCI Dublin has not implemented applicable OSHA safety measures when daily floor buffing has disturbed the asbestos contained in damaged vinyl floor tiling.

Two of our allegations were determined by the Federal Bureau of Prisons to be unsubstantiated.

We do not agree with the determination of unsubstantiated and we make the following argument that allegations 4 & 5 should have been substantiated.

Allegation 4 - FCI Dublin had not sufficiently cleaned, or remediated mold located in various buildings throughout FCI Dublin

Allegation 5 - FCI Dublin had not sufficiently repaired a leak in the roof of the Education Building to prevent future mold growth.

Timeline

2016 - 2021: Mold was present in multiple areas of the Prison and was not remediated and leaks were not repaired

2016 - 2021: Work orders and safety reports were turned in requesting the mold and leaks to be repaired

2021: Mold was reported to the Bureau of Prisons Western Regional Director, the Western Regional Deputy Director, the Local Human Resource Manager, Safety Manager, Facilities Manager, and the Warden throughout 2021 and the mold was not remediated nor was the roof sufficiently repaired in 2021. Federal Officers and Federal prison inmates were subjected to work and attend classes in a mold infested education building all through 2021, and part of 2022.

02/25/2022: Whistleblowers turned in allegations to OSC

03/01/2022: OSC assigned an OSC Attorney to review our whistleblower disclosures.

04/07/2022: OSC referred asbestos and mold allegations back to the Bureau of Prisons for investigation.

06/03/2022: Bureau of Prisons investigation due date to OSC, however they requested an extension.

07/06/2022: Bureau of Prisons investigation due date to OSC, however they requested an extension.

08/05/2022: Bureau of Prisons investigation due date to OSC, however they requested an extension.

10/24/2022: Bureau of Prisons investigation due date to OSC, however they requested an extension.

11/30/2022: Bureau of Prisons investigation due date to OSC, however they requested an extension.

12/13/2022: Whistleblowers notified by OSC that the Bureau of Prisons investigation was completed.

We as the whistleblowers made the OSC complaint in February 2022 after our requests to the Bureau of Prisons for remediation were ignored for the last couple years and we began to be retaliated against for requesting remediation.

It wasn't until the Agency became aware of OSC's involvement and referral that they acted on remediating the mold.

In 04/2022 to 07/2022 the mold was removed by removing all carpet, tiles, ceiling times and wall boards that were covered with mold.

The inspection was due prior to 06/2023 but was delayed and in 07/2022 the Bureau conducted it's inspection after the mold was removed and new carpet and tiles were replaced and walls painted (See page 16 "The July 2022 inspection")

This does not make the allegation unsubstantiated it makes the allegation remediated.

The definition of unsubstantiated is "not supported by evidence"

The allegation that FCI Dublin had not sufficiently cleaned, or remediated mold located in various buildings throughout FCI Dublin from 2016 to 2022 and they had not sufficiently repaired a leak in the roof of the Education Building to prevent future

mold growth from 2016 to 2022 was supported by multiple witness testimonies. Some examples from the Bureau report are listed below:

Page 3 “On the subject of mold, EX1 identified the Education Building and the Drug Treatment Building as having mold, which has progressively gotten worse over the years. He also stated that smaller amounts of mold were present in the Old Special Housing Unit, Records, Front Entrance, and throughout the Camp. He stated that Work Orders have been submitted regarding this issue as far back as 2013, but to his knowledge they have gone unaddressed. The Education Building has active and observable leaks, which he believes have been minimally and insufficiently repaired. He also stated, without further elaboration, that he has witnessed employee retaliation by managerial staff at FCI Dublin in response to the reporting of issues such as mold. EX1 provided a detailed recitation of events relevant to these matters involving the local union and management between 2013 and 2022. The listed events generally detail mold complaints at the Education and Drug Treatment Buildings beginning in 2013 and management’s response or lack thereof.”

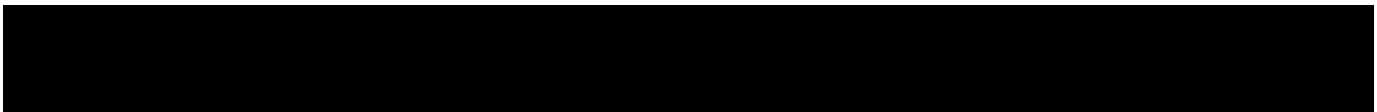
Page 6 “In January of 2016, EX5 was assigned to work in a portable office which was being utilized as the Drug Treatment Building at the time. The building smelled of mold and when it rained, water would noticeably come down the walls. A coworker was complaining of headaches and sore throat and when she moved her desk the wall behind it was covered in mold. The employee reported this to the Safety Department, and nothing was done. EX5 then obtained a home mold kit and tested the area for mold. The results showed the presence of mold and EX5 presented the test to management. EX5 stated that EX6 threatened to charge” “EX5 stated that the Education Building has leaks that are so extensive that at times the ceiling tiles become saturated with water to such a great extent that they fall. When that occurs, someone is asked to go onto the roof to try and repair the leak, and the damaged ceiling tiles are removed but not replaced. He also identified a location in the Southwest Corner of the GED room in the Education building where a tile has fallen and you can, or could at one point, see sunlight coming in through a hole in the roof.”

Additionally and conveniently not included in the inspection and report there is a mass amount of other evidence to support allegations 4 and 5 over the years from 2015 – 2022.

One important piece of evidence is a 2019 Office of Workers’ Comp approved claim for occupational disease indicating a FCI Dublin employee sustained an injury or condition when being exposed to mold and asbestos in their work area since 2015.

In closing, we as the whistleblowers are thankful the mold has been remediated and are hopeful that after OSC closes this case that FCI Dublin will make future repairs timely and not subject any future employees or inmates to conditions that they were subjected to in the past.

We ask that that the Attorney General, Department of Justice and the Federal Bureau of Prisons notify all employees, contractors, and inmates who were working at or incarcerated at FCI Dublin during the relevant time period of their potential exposure to mold and asbestos and provide them a no-cost medical evaluation. Thank you.



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OSC File No. DI-22-000357

July 31, 2023

OSC File No. DI-22-000358

Supplemental comments to our January 18, 2023, response:

Pursuant to 5 U.S.C. § 1213(e)(1), we the whistleblowers are making the following comments in response to the Department of Justice Federal Bureau of Prisons' report to the U.S. Office of Special Counsel (OSC). We ask that our comments be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). We also consent for our comments to be included with the public file maintained by OSC pursuant to 5 U.S.C. § 1219(a)(1).

On December 13, 2022, OSC notified the whistleblowers that the Bureau of Prisons report of investigation was completed and received by OSC.

On January 18, 2023, whistleblowers reviewed the Bureau of Prisons report of investigation and provided a response to OSC to include in the report to the President of the United States, oversight committees, and public file.

From January 18, 2023, through July 7, 2023, the Bureau of Prisons was given an opportunity by OSC to consider a comprehensive resolution for asbestos exposure.

On July 13, 2023, the whistleblowers were notified by OSC that the Bureau of Prisons has decided NOT to notify past and present employees of their exposure to mold and asbestos at the Federal Correctional Institution in Dublin, California.

We ask that no further delays occur and that this report be submitted timely to the President of the United States, the Congressional oversight committees, and released electronically in the OSC public file.

We ask that that the President of the United States and the Congressional oversight committees require the Attorney General, Department of Justice and the Federal Bureau of Prisons to notify all past and present employees who were working at FCI Dublin during the relevant time period of their potential exposure to mold and asbestos and provide them a no-cost medical evaluation, necessary medical care, and a presumption in their personnel file that they were exposed to these issues at the workplace for purposes of potential workers compensation claims if appropriate.

We further ask that Congressional hearings be held to seek answers from the agency as to why the known issues related to asbestos and mold were not mitigated without the need of an investigation.

Lastly, the public should be given a reason, under oath, as to why the agency won't inform past employees about these health exposures.

Thank you.

