

Jay Hurst

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Sent: Thursday, December 1, 2005 4:05 PM
Subject: Freedom of Information Act Request -- FCI LA TUNA

FREEDOM OF INFORMATION ACT REQUEST

Thursday, December 1, 2005

VIA ELECTRONIC MAIL ONLY,

Ms. Wanda M. Hunt, Chief
Freedom of Information Act/Privacy Act Section
Office of General Counsel, Room 841
Federal Bureau of Prisons
320 First Street, N.W.
Washington, D.C. 20534
Electronic Mail: ogc_efoia@bop.gov

**RE: BOP RECORDS RELATED TO FCI LA TUNA, ANTHONY, NEW MEXICO,
PARTICULARLY AS REGARDS INMATE-ON-INMATE VIOLENCE**

Dear Ms. Hunt:

This Requestor, EJ Hurst II of Maryland, respectfully requests records from the Federal Bureau of Prisons ("BOP") under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The BOP currently possesses these records, and it came to possess these records in the legitimate conduct of its official duties. Given time-sensitive features of this health-and-safety related request, which follows at least the second violent prison disturbance with serious injuries within the past sixty days and precedes reports that staff will turn citizen inmates out of protective custody and back to the general population who rioted, the Requestor respectfully request expedited process regarding both this "public interest" fee waiver request and the underlying, substantive records production. *See* 5 U.S.C. § 552(a)(6)(E).

The public cannot know without release of the requested records what BOP operations and activities have affected, and continue to affect, the health and safety of both inmates and correctional officers at FCI La Tuna. These records therefore have significant public value that substantially outweighs the Requestor's commercial interests. The Requestor thus respectfully requests immediate and full disclosure of all records sought herein, in the least expensive format available, with full grant of public interest fee waiver.

Request Expedition of Process, 5 U.S.C. § 552(a)(6)(E)

12/4/05

FCI La Tuna's administration and the South-Central Regional Office have refused public comment regarding a reported fight between citizen and non-citizen inmates near to FCI La Tuna's South Patio and elsewhere, in the evening of Tuesday, November 22, 2005. The day after this possible riot involving over two hundred La Tuna inmates (approximately 207 Mexican nationals and approximately 21 U.S. citizens), the Associated Press reported only "minor injuries" and that "several inmates were slightly hurt," but also that "no prison personnel were hurt." See, e.g., Associated Press, "La Tuna federal unit locked down after fights," 11/23/2005 (available online via http://www.southeasttexaslive.com/site/news.cfm?newsid=15631528&BRD=2287&PAG=461&dept_id=512590&rfti=6).

These assertions about a routine, easily-managed brawl are undermined, however, by first-hand reports of grave inmate injuries, including one purportedly still-dislocated jaw, of which BOP agents are aware, and also including a report that stitches were removed from a line of inmates (including one inmate suffering from MRSA) with one pair of scissors – unsterilized – and without the *de facto* medical personnel wearing gloves. The BOP's assertions are also undermined by the continuing administrative segregation – in the RDAP unit that was once a Special Housing Unit ("SHU"), or "the hole" – forced upon all La Tuna's citizen inmates for their own protection. Claims of a minor problem are also undermined by the following report from the *Las Cruces Sun News*:

Ed Miranda, chief of the Anthony Police Department, said two prisoners had to be taken to El Paso hospitals. Anthony police were called to the prison to assist with securing the perimeter after the fight broke out.

See LAS CRUCES SUN NEWS, "Investigation continues into prison fight," November 23, 2005 (<http://lcsun-news.com/apps/pbcs.dll/article?AID=/20051123/NEWS01/51123003>).

If a Justice Department law enforcement component needed local police to protect a low-security prison's perimeter from inmates, while its on-duty staff quelled violence inside the facility, then this incident seemingly reflects more than a routine honor-scrap between a few cons on their way home from the recreation yard. Moreover, if two prisoners were removed to El Paso hospitals – given reports of La Tuna's wanting medical care to these administratively-segregated inmates – we must adduce that those inmates transported to hospital were more than "slightly injured." Still, though, no new fresh news stories have surfaced regarding La Tuna since the flurry of reports on November 23.

Since this incident – which we cannot even know how to describe without the requested records – La Tuna (low) may have remained on lockdown. Surviving citizen inmates are now held in protective custody, a form of administrative detention (see P.S. 5270.07, *Inmate Discipline and Special Housing Units*, Ch. 9 (Change Notice 13; 1/9/2003, eff. 12/18/2002); and 28 C.F.R., Part 541), and may in fact already be entitled to notice and hearing rights. They are certainly entitled to mail, visitation, telephone, and other privileges currently, reportedly denied to them. Just the same, these men seem to prefer unlawful BOP withholding of privileges than return to mainline La Tuna, where they each and all legitimately fear resumed attacks against them.

As a matter of health and safety, this Request notes the mortal danger in which BOP may place its wards if it returns these affected, citizen-inmates to mainline La Tuna. In an abundance of caution, the Requestor respectfully notes that any retaliation against La Tuna's inmates for the Requestor's investigation would necessarily trigger an immediate report to DOJ Inspector General Glenn A. Fine.

Without analysis of the records here requested, by criminal justice professionals and the general public alike, relevant populations cannot understand the events and practices leading to, and following from, a violent insurrection that occurred Tuesday, November 22, 2005. Without these records, neither can

criminal justice professionals nor the general public compare this disturbance to the one that occurred at La Tuna on or about September 30, 2005, and other disturbances that may have escaped public notice, and to look for patterns in cause and effect.

Public Interest Fee Waiver Request, 5 U.S.C. § 552(a)(4)(A)(iii)

The requested records are in the public interest because they are likely to contribute significantly to public understanding of the operations and activities of the Government, and, when balanced against the public interests served, they are not *primarily* in the commercial interest of the requestor but rather are *primarily* in the public's interest. Open dissemination of requested BOP data will improve public understanding of the BOP's policies by allowing qualified criminal justice decision-makers, from the Electorate to the Federal defense bar to all Branches of National Government, to review La Tuna's operations and activities.

The Requestor is a Maryland-authorized attorney regularly engaged in matters pertaining to Federal criminal sentencing and BOP custody matters. He regularly contributes to widely accessible venues that disseminate criminal justice information, including filings in Federal courts and Bureau of Prisons' facilities across the country; postings to internet criminal justice discussion groups, including both BOPWatch (<http://www.bopwatch.org/>) and FedCURE (<http://www.fedcure.org/>); and separate website devoted to a "complex" FOIA request of FCC Victorville, California (<http://www.victorvillefoia.org/>).

The Requestor possesses the ability to understand and process the information here requested and further possesses the ability and intent to broadly disseminate these records to relevant general and criminal justice audiences including, *inter alia*, inmate families, Article III Judges, Members of Congress, and the Justice Department's Central hierarchies in Washington, D.C.

The Requestor will realize no immediate commercial gain from seeking this information, and files this request as a *pro bono publico* service per his professional obligations. However the records requested might professionally benefit the Requestor in the future, public dissemination of these Government records will negate any special value to him. Calculating cost of services and administration, then, the instant request is actually made at the Requestor's net personal expense. As such, the public stands the primary beneficiary of this Request, and the Request is not primarily in the requester's [*sic*, statutory] commercial interest. Accordingly, I respectfully request full waiver of fees under 5 U.S.C. § 552(a)(4)(A)(iii).

Requested Records

Each item requested below is sought for the Federal Correctional Institution ("FCI") La Tuna (low) at Anthony, New Mexico/Texas. The items below seek to identify officers performing BOP duties and their professional qualifications, but do not ask for private employee data. The Requestor has no objection or preference to any record format, and will readily accept certified electronic documents, where possible and if deemed least expensive.

I respectfully request true copies of the following records:

1. Each and all security camera video tapes, including any available audio recordings, made at FCI La Tuna (low) on Tuesday, November 22, 2005, between and including 1500 Hours and 2400 hours Mountain Standard Time. Of particular interest are all videos covering the South Patio, including ingresses and egresses.

2. The Central Office, Regional, and institutional supplements, inclusive of all "records" as liberally construed under FOIA, creating and defining the rights and privileges of inmates in detention/segregation, whether administrative (including protective custody) or disciplinary.
3. Monthly Staff Rosters and all other records providing the names, ranks, and former duty stations of all FCI La Tuna's employee- and contracted agent-staff as regularly produced for Regional and Central Office distribution, between and including January 1, 2005, and the date of response to this Request.
4. Staff Rosters and all other records providing the names, ranks, and former duty stations of all FCI La Tuna's Special Operations and Response Team (SORT) officers, and other units classified as "Use of Force" teams.
5. The certified documents including curriculum vitae, demonstrating each SORT officer's training, experience, and qualifications.
6. Daily duty logs showing present and absent SORT officers at FCI La Tuna between and including September 28, 2005 and October 4, 2005; and also between and including November 20, 2005, to December 1, 2005.
7. Daily duty logs showing present and absent staff, **inclusive of all positions**, at FCI La Tuna between and including September 28, 2005 and October 4, 2005; and also between and including November 20, 2005, to December 1, 2005.
8. All logs, reports, and other daily or weekly compilations produced by FCI La Tuna staff in the course of their duties between and including September 28, 2005 and October 4, 2005; and also between and including November 20, 2005, to December 1, 2005.
9. Special Housing Review Reports, including but not limited to Form BP-A295, for FCI La Tuna between and including January 1, 2005, and the date of response to this request.
10. Staff Rosters and other relevant documents providing the names, ranks, and former duty stations of all FCI La Tuna's Medical/Health Services staff.
11. The certified documents including curriculum vitae and licensure information demonstrating each medical division agent's training, experience, and qualifications for duty on La Tuna's Medical Staff.
12. Monthly Reports of Health Services Staff, including but not limited to Form BP-A811.060, between and including January 1, 2005, and the date of response to this request.

The Requestor understands segregated records must be redacted such that all personally identifying information is removed, and released records thus will not constitute unwarranted invasions of personal privacy. The intent of this item is to retrieve data including, but not limited to, a compilation of medical services rendered to inmates in the target timeframe, infirmary reports, sick call logs, natures of medical complaints, treatment regimen and outcomes, and average duration of infirmary stays, to review the types and quality of health care recently received by FCI La Tuna inmates.

13. The reasonably segregable portion of any and all reports summarizing caseloads, inmate visitation documentation, or other demonstrations of services rendered to inmates, from La Tuna's Psychological

Services staffs, between and including June 1, 2005, and the date of response to this request.

14. The reasonably segregable portion of any and all medical reports, including medical visit and medical request logs, and other records, maintained by FCI La Tuna's Health Services staff between and including September 28, 2005 and October 4, 2005; and also between and including November 20, 2005, to December 1, 2005.

15. The reasonably segregable portion of inmate medical requests and treatment records for FCI La Tuna between and including September 15, 2005, and the date of response to this request.

16. The reasonably segregable portion of any and all documents ordering any inmate's segregation, whether administrative (including protective custody) or disciplinary, between and including June 1, 2005, and the date of response to this request.

17. Any and all complaints, grievances, and other documents regarding FCI La Tuna filed by any employees' union or other group of organized labor, with any level of the Federal Bureau of Prisons, between and including January 1, 2000, and the date of response to this request.

18. Logs and audio recordings of any and all telecommunications contacts between FCI La Tuna staff to State, county, municipal, or other non-Federal emergency response personnel (to include police, fire, rescue, and other official actors) between and including September 28, 2005, and October 4, 2005; and also between and including November 20, 2005, to December 1, 2005.

19. Daily inventory sheets and other records of medical supplies quantities, and all purchase orders meant to replace consumed medical supplies, between and including Monday, November 21, 2005, and the date of response to this request.

The Requestor thanks the Bureau for its timely assistance in this time-sensitive request. He remains available at any of the letterhead contacts for questions or concerns, and assures the BOP of willingness to assist an expeditious and substantive response.

Respectfully submitted,

EJ Hurst II
Attorney at Law

cc:

Mr. Gerardo Maldonado, Jr., Regional Director, South-Central Region, (via electronic mail address SCRO/EXECASSISTANT@BOP.GOV, per <http://www.bop.gov/about/ro/scr/index.jsp/>)

Mr. Dennis Smith, Warden, FCI La Tuna, or Other Appropriate Administrator (via electronic mail address LAT/EXECASSISTANT@BOP.GOV, per <http://www.bop.gov/DataSource/execute/dsFacilityAddressLoc?start=y&facilityCode=lat/>)

12/4/05

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