

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. 21-cr-24 (EGS)
	:	
v.	:	
	:	
ROBERT GIESWEIN,	:	
	:	
Defendant.	:	

Government’s Response to the Court’s December 23, 2021, Order

On December 23, 2021, the Court ordered the government to file a brief addressing “the response by the United States Marshals Service (USMS) to address the deficiencies identified in USMS’s letter of November 1, 2021, since the implementation of the Memorandum of Understanding between the District of Columbia Department of Corrections (DOC) and USMS was entered on or about November 10, 2021, with particular focus on corrective action the USMS has requested that the DOC take at the Central Treatment Facility (CTF), and whether DOC has taken such corrective action[.]” Mr. Gieswein has been housed during his pre-trial detention in unit C2B at CTF. As directed by the Court, the government has focused its response on the conditions of confinement at CTF as they pertain to Mr. Gieswein.¹

¹ In asking the government to “focus” its response on correction action, if any, taken by DOC at CTF, the Court appropriately limited its order to matters relevant to the instant “case or controversy” involving defendant Gieswein. The government notes that on January 6, 2022, in response to the Court’s December 23, 2021 order, DOC provided updates to the Court with respect to the conditions at the Central Detention Facility (CDF), and attached both the USMS letter of November 1, 2021, and the MOU between DOC and the USMS regarding conditions at CDF, dated November 10, 2021 [*see* ECF 80]. The government does not understand the Court’s order to reflect an intent to supervise the remediation of conditions at CDF through this particular criminal case.

In response to the Court's order, the government has worked with the USMS to secure a declaration from Marvin Bickham, attached hereto as Exhibit A. Mr. Bickham was not involved in the unannounced inspection of the DOC facilities from October 18-22, 2021. Mr. Bickham was assigned to serve as a Federal Detention Monitor at the D.C. Department of Corrections in mid-November 2021 as part of the USMS's response. In his capacity as a Federal Detention Monitor at DOC, Mr. Bickham reports that he has observed the conditions in unit C2B at CTF (i.e., Gieswein's unit) on at least a weekly basis for the past two months. Mr. Bickham has concluded that the present conditions at CTF appear to be largely appropriate and consistent with federal prisoner detention standards, particularly in light of DOC's interest in protecting inmates and staff members from COVID-19.²

Respectfully submitted,

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² To the extent that Mr. Bickham's declaration notes that unvaccinated prisoners are subject to additional restrictions, the Court should take no action because CTF provides each prisoner with access to the COVID-19 vaccine. As the Seventh Circuit recently remarked in reviewing a request for compassionate release, "for the many prisoners who seek release based on the special risks created by COVID-19 for people living in close quarters, vaccines offer far more relief than a judicial order." *United States v. Broadfield*, 5 F.4th 801, 803 (7th Cir. 2021).