



7

CITY OF DANBURY
DANBURY, CONNECTICUT 06810

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July 5, 2013

MEMORANDUM

To: Mayor Mark D. Boughton
Members of the City Council

From: Alan D. Baker, Chief of Police

Subject: **Memorandum of Understanding – Mutual Assistance
FCI Danbury**

I submit for your review and approval a Memorandum of Understanding (MOU) between the Federal Correctional Institution (FCI) – Danbury and the Danbury Police Department (DPD). The MOU covers situations of mutual assistance between the two agencies. The City of Danbury's Corporation Counsel has already reviewed the document.

Alan D. Baker
Chief of Police

cc: Les Pinter – Corporation Counsel



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71

**MEMORANDUM OF UNDERSTANDING
BETWEEN**

**Federal Correctional Institution
Danbury, Connecticut
Federal Bureau of Prisons**

AND

Danbury Police Department for mutual emergency assistance

Pursuant to relevant authority contained in federal and state laws appropriate to the nature and scope of the emergency, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Chapter 68 ("Stafford Act"), e.g., Sections 5170(a), (b); the Law Enforcement Emergency Assistance Act, 42 U.S.C. Chapter 111; and the Pandemic and All Hazards Preparedness Act, PL 109-417 (2006), amending sections of 42 U.S.C. that address public health emergencies, this Memorandum of Understanding ("MOU" or "Agreement") is entered into between the United States Department of Justice ("DOJ") Federal Bureau of Prisons ("BOP") Federal Correctional Institution, Danbury, Connecticut (FCI Danbury), and the Danbury Police Department ("DPD"). The parties hereby agree as follows:

I. PURPOSE/SCOPE

A. This Agreement is intended to provide for mutual assistance during a natural disaster and/or law enforcement emergency requiring prompt action and which is, or threatens to be, of such serious proportions that each party's resources alone are, or may be, inadequate to maintain the safety and security of the public, each party's prisoners, and/or each party's staff.

B. As further described herein, all emergency assistance to be provided by each party shall be immediate, short-term, and limited to operations that each party's staff are authorized to provide and for which they are trained and have expertise.

C. This Agreement supercedes any prior agreement between the parties on this same subject.

D. This Agreement shall not affect any pre-existing, independent relationship or obligation between the parties on any other subject, or with any

72
third party or parties.

II. BOP ASSISTANCE TO DPD

A. Under the current BOP authority and upon request from the Danbury Police Chief or his/her designee, the BOP Regional Director may direct the Warden or his/her designee to provide:

1. BOP staff to act ONLY:

- a) as advisors for technical assistance, e.g., consultants for hostage situations or pandemic control measure (18 U.S.C. 4042(a) (4)); OR
- b) to search for escaped state/local prisoners ONLY on BOP property (18 U.S.C. 4042(a) (1), (2)).

2. Transportation and/or temporary housing ONLY:

- a) if state prisoners are sentenced prisoners, AND
- b) if a "state boarder agreement" exists requiring full reimbursement to BOP by the state (18 U.S.C. 5003).

3. Volunteer inmate work details for community service projects (18 U.S.C. 3622(b); 28 C.F.R. 551.60).

4. Emergency preparedness training and joint training exercises (42 U.S.C. 4742 and Pandemic and All Hazards Preparedness Act, PL 109-417 (2006), amending sections of 42 U.S.C. re: public health emergencies).

B. Under the Emergency Federal Law Enforcement Assistance Act, 42 U.S.C. Chapter 111, and upon formal request by the state governor to DOJ pursuant to administrative procedures contained in 28 C.F.R. Part 65, DOJ may direct BOP to provide:

1. Any/all assistance listed above in section A.

2. BOP staff to act in any capacity for which they are trained and have expertise, including medical support, and if approved by the Deputy Attorney General, a BOP Crisis Management Team, including a Special Operations Response Team ("SORT"), a Disturbance Control Team ("DCT"). Or a Hostage Negotiation

Team ("HNT").

3. Detention / Perimeter Security

Due to limited arrest authority, BOP staff may not take sole custody of DPD prisoners or perform perimeter security duties at a DPD facility but may perform other non-contact duties to free DPD staff to perform these duties.

4. Transportation. BOP vehicles and drivers may transport DPD prisoners, including pre-trial prisoners.

- a) Ordinarily, DPD staff shall be present to maintain custody / supervision of DPD prisoners being transported.
- b) BOP staff may take sole custody of DPD prisoners being transported ONLY if state law allows BOP staff to be deputized.

5. Supplies and equipment, including blankets, food, water, clothing, medical supplies, and temporary use of large or specialized equipment.

- a) Weapons, ammunition, and chemical agents may be provided to DPD staff only if DPD has indicated its staff are competent to use such weapons, ammunition, and chemical agents.
- b) BOP staff may not use weapons, ammunition, or chemical agents to assist DPD without obtaining approval of the Deputy Attorney General or, in extraordinary circumstances, if the Director of the BOP concludes that delay to obtain approval would result in death or serious bodily injury to DPD staff or inmate hostages. All use of force by BOP staff must be consistent with DOJ / BOP policy.

C. Under the Stafford Act, upon Presidential declaration of a major disaster and coordination with DOJ implementing ESF 13 of the National Response Plan, the Federal Emergency Management Agency ("FEMA") may provide federal disaster relief funds to BOP by issuing Mission Assignments, pursuant to procedures contained in 44 C.F.R. Part 206, directing BOP to provide:

1. Any / all assistance listed above in section B.

2. Use of BOP facilities, including temporary housing for DPD prisoners, including pre-trial prisoners. As soon as possible, operational details for housing DPD prisoners beyond the resolution of the initial emergency shall be documented in a separate agreement.

III. DPD ASSISTANCE TO FCI DANBURY

A. Upon request from the Warden or his / her designee, DPD may provide assistance to FCI Danbury staff responding to disturbances, escapes, or any other natural or man-made emergency affecting the safety, security, and good order of FCI Danbury. Operational details for specific assistance shall be determined at the time of the emergency.

1. In the event of a fire at FCI Danbury, the Danbury P.D. may assist in directing traffic on Route 37.

2. In the event of a civil disturbance, the Danbury P.D. may assist in directing traffic on Route 37.

3. In the event of an accident or major incident involving the FCI Danbury Bus, the Danbury P.D. may provide security in case of an accident or major incident.

4. In the event of an evacuation of FCI Danbury, the Danbury P.D. may provide any available vehicles and security to escort our vehicles to the receiving institution.

5. In the event of an escort for high profile or high security inmates who are housed at FCI Danbury, the Danbury P.D. may provide a motorcade or additional escorts.

6. In the event of an escape at FCI Danbury, Danbury P.D. may provide additional manpower. The Danbury P.D. may also provide officers to assist FCI Danbury staff within the City of Danbury. Duties may include the following: the approach of local residences, businesses, city parks, etc.

C. Under no circumstances will DPD staff:

1. Have command authority on site; or
2. Bring any type of weapon into the secure perimeter of FCI Danbury.

IV. REIMBURSEMENT

1. In accordance with each party's financial management policy at the time of the emergency, and the statute authorizing the assistance, ordinarily the party requesting assistance shall reimburse the party providing assistance for unfunded costs of resources expended and / or damaged during the emergency, including personnel employed beyond resolution of the initial emergency.

2. Any reimbursement to BOP by DPD for unfunded expenses incurred in rendering Stafford Act assistance directed FEMA Mission Assignments shall not be more than 25% of the total cost, per 42 U.S.C. 5170b(b).

3. Nothing contained herein shall be construed to violate the Anti-Deficiency Act, 31 U.S.C. 1341, or relevant state law, by obligating the parties to any expenditure or obligation of funds in excess or in advance of appropriations.

V. GENERAL PROVISIONS

A. PERIOD OF AGREEMENT / TERMINATION

1. This Agreement shall become effective upon the date of signature of both parties, as designated below, and shall remain in effect until terminated by mutual agreement or by either party upon 60 days advanced written notice to the other party.

2. This Agreement shall remain in effect for a period of five (5) years unless terminated or modified.

B. MODIFICATION PROCEDURES. Either party may propose to modify this Agreement at any time. All proposed modifications shall be in writing and shall become effective only upon the written concurrence of both parties.

C. SURVIVAL AND SEVERABILITY

1. The provisions of this Agreement which require performance after termination of this Agreement shall remain in force

notwithstanding termination of this Agreement.

2. If any provisions of this Agreement are determined to be invalid or unenforceable, the remaining provisions shall continue in force and unaffected to the fullest extent permitted by law and regulation.

D. LIABILITY AND INDEMNIFICATION

1. Each party shall be responsible for any liability arising from its own conduct and retain immunity and all defenses available pursuant to federal and state law, including immunity provided in 42 U.S.C. 5148 for Stafford Act assistance rendered by BOP. Neither party agrees to insure, defend, or indemnify the other party.

2. Each party shall cooperate with the other party in the investigation and resolution of administrative claims and / or litigation arising from conduct related to the provisions of this Agreement.

E. DISPUTE RESOLUTION. In the event of a dispute between the parties, the parties agree that they will use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other form of non-binding alternative dispute resolution ("ADR") mutually acceptable to the parties.

F. THIRD PARTY CLAIMS. This Agreement is for the sole and exclusive benefit of the signatory parties, and shall not be construed to bestow any legal right or benefit upon other persons or entities.

G. CONTACT INFORMATION: Each party shall provide to the other party, and update as necessary, a list of contact persons authorized to act as liaison with the other party. The list shall include names, position titles, telephone numbers and e-mail addresses as appropriate.

In Witness Whereof, the undersigned, duly-authorized officers hereby subscribe their names on behalf of the Federal Correctional Institution Danbury, Connecticut and the Danbury Police Department.