



# Building Communities Not Prisons

December 14, 2023

Director Colette Peters  
Federal Bureau of Prisons  
320 First Street, NW  
Washington, DC 20534

**RE: Irregularities Concerning the Proposed FCI Letcher**

Dear Director Peters:

On behalf of the Concerned Letcher Countians (CLC) and the Building Community Not Prisons Coalition (BCNP), the undersigned write to you about several significant concerns regarding irregularities in the planning for the proposed federal prison in Letcher County, Kentucky. Building Community Not Prisons is a coalition of people who oppose the construction of FCI Letcher and demand better options for the people of Letcher County and the communities of color that are most impacted by mass incarceration. Concerned Letcher Countians, LLC, is a group of volunteers who care about their county and its future.

We are deeply concerned that the Bureau of Prisons (BOP) appears to be giving preferential access to meetings to a private, non-profit organization, the Letcher County Planning Commission which, despite its name, does not represent all Letcher Countians, and their relationship with the local county government is unclear.

We request a response to our following concerns to ensure that the planning process for FCI Letcher is transparent, equitable, and just. In addition, we request that the Bureau of Prisons promptly comply with our outstanding FOIA requests.

**I. Factual Background**

**A. History of Proposed Prison Project in Letcher County, Kentucky**

From 2015-2019, Letcher County residents, currently incarcerated individuals, environmentalists, prison justice reformers and lawyers worked together to stop the construction

6of the most expensive federal prison in US history – USP Letcher. Following litigation in 2019 that questioned the integrity of the project, the BOP canceled the prison’s construction. Since 2017, both the Trump and Biden Administrations have requested that the original funding for the prison be rescinded. Even top officials at the Department of Justice have publicly stated this new construction is unnecessary due to a declining federal prison population.

Despite bipartisan concern about the necessity of this prison project, on September 28, 2022, the BOP noted, in the Federal Registrar, its intent of restarting the National Environmental Policy Act (NEPA) process, and publishing a draft environmental impact statement (DEIS).

Members of CLC and BCNP submitted public comments following the September 28, 2022 publication and the November 17, 2022 Scoping meeting, expressing concern about the adverse social, environmental, economic and political impacts of this project.

## **B. Letcher County Planning Commission, Inc.**

The Letcher County Planning Commission, Inc. (LCPC) is a private, non-profit organization incorporated in Kentucky. LCPC is also recognized as a private non-profit by the Internal Revenue Service (IRS). Their stated mission is “providing sustainable citizen-based planning for the future of Letcher County for educational, recreational and economic progress for all its citizens, ensuring equal opportunity,” but the idea of a proposed federal prison for Letcher County originated with the LCPC.

According to the last Revised Supplemental Environmental Impact Statement (RSEIS), this project began because the BOP “was contacted by the Letcher County Planning Commission with an offer of potential sites for a new USP and FPC in Letcher County, Kentucky.”<sup>1</sup> In fact, the LCPC “identified potential locations for development and brought these sites to the attention of the Bureau to determine if the Bureau had an interest in developing a new facility at one of the locations.”<sup>2</sup>

Despite requests from the public in the last round of comments, the BOP has consistently failed to account for why this non-profit organization was empowered to identify a potential site and county for this massive government undertaking.<sup>3</sup>

## **C. Freedom of Information Act (FOIA) Request**

On June 30, 2023, Emily H. Posner, General Counsel for Voice of the Experienced (VOTE) – a member organization of BCNP – submitted a FOIA request to the BOP asking for the following:

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<sup>1</sup> See RSEIS, p. 2-3, available at [https://f3ccbb3a-b4aa-4a7c-98fe-8050e1837ed5.filesusr.com/ugd/c14bb4\\_b536c072bf30493ca8f1631f954bc5d2.pdf](https://f3ccbb3a-b4aa-4a7c-98fe-8050e1837ed5.filesusr.com/ugd/c14bb4_b536c072bf30493ca8f1631f954bc5d2.pdf)

<sup>2</sup> *Id.*

<sup>3</sup> Public Comment, p. 24 (May 8, 2017), available at [https://www.buildingcommunitynotprisons.com/\\_files/ugd/22a92b\\_98adfecfcbd2460096bc6d026f92be46.pdf](https://www.buildingcommunitynotprisons.com/_files/ugd/22a92b_98adfecfcbd2460096bc6d026f92be46.pdf)



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- Any and all meeting minutes, notes, and agendas from meetings between the BOP and the Letcher County Planning Commission meetings discussing the proposed federal prison;
- Any and all communications, including electronic communications, internally within the BOP and the Letcher County Planning Commission and/or between Letcher Planning Commission officials and any third party concerning the proposed federal prison;
- Any and all records, reports, studies, or assessments conducted by the BOP with the Letcher County Planning Commission related to the planning, construction, or potential impacts of the proposed federal prison; and
- Any and all communications, including electronic communications, between the Letcher County Planning Commission and the Federal Bureau of Prisons, Department of Justice officials, or any other federal, state, or local agencies concerning the proposed federal prison.

BOP assigned this FOIA request as No. 2023-03988. According to BOP’s website, this request is still being processed. To date, no responsive records have been provided to Emily Posner.

## **D. BOP and LCPC**

Earlier this month, a recent search of BOP’s website revealed concerning information: BOP and its contractor, WSP, had met with LCPC on [July 19, 2023](#).<sup>4</sup> Undersigned have been unable to locate any public notice of this meeting, and there was no notice of this meeting in the Federal Registrar. Upon learning of this meeting, Dr. Artie Ann Bates, secretary of CLC, wrote on December 1, 2023, to BOP’s Public Affairs office, to inquire if this information was indeed correct.

On December 5, the BOP responded that, “Yes, a meeting was held with the Letcher County Planning Commission (LCPC) on July 19, 2023, to provide the LCPC with an update on the proposed FCI/FPC Letcher, KY, project . . . [and] shortly thereafter, a meeting summary was posted on the project website,” and gave the link. In the next paragraph, the BOP stated that “The Federal Bureau of Prisons remains committed to providing periodic updates on the project website for all interested stakeholders.”

Following this correspondence, on behalf of CLC and BCNP, Dr. Bates requested a Zoom meeting with BOP and WSP. In response, the BOP stated: “While we decline your offer for a

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<sup>4</sup> See <https://www.proposed-fci-leetchercountyky.com/communications> (last visited Dec. 11, 2023).

Zoom meeting, we will continue to remain committed to providing periodic updates on the project website for all interested stakeholders.”

Later that evening, on [December 6, 2023](#), CLC research revealed that the BOP had met *again* with the LCPC, and it was on that *very same day* as Dr. Bates’ communication with the BOP Public Affairs Office. Again BOP posted a synopsis of the meeting: “a virtual meeting with the Letcher County Planning Commission (LCPC) on Wednesday, December 6, 2023, to provide the LCPC with a report concerning: Status of the proposal . . . Progress and accomplishments in preparing new Draft Environmental Impact Statement (EIS), Recently conducted activities, Upcoming activities, Anticipated schedule.”<sup>5</sup> The synopsis of the meeting on December 6th goes on to list specific biological studies and “Next steps . . . Complete delineation report for submission to the USACE for review, Analyze potential impacts from proposed FCI/FPC development, Determine if Clean Water Act permits will be needed from USACE/State of Kentucky, Develop measures for mitigating potential impacts, as necessary, Incorporate results in new Draft EIS.”<sup>6</sup>

## II. Appearance of Impropriety

These two exclusive meetings by the BOP and its contractor with the LCPC are problematic, particularly in light of BOP’s declination of a meeting with CLC. Why has a citizens group which appears to be a *proponent* of the proposed Letcher prison had two exclusive meetings with the BOP within six months? Why does a citizens’ group that is *opposed* to the prison get a prompt denial to a meeting request? BOP’s lack of transparency and its apparent ongoing communication with LCPC raises concerns about conflicts of interest.

In defiance of open government norms, these two meetings of the BOP with the LCPC impede accountability by the local and national public toward a Department of Justice agency whose very actions will severely affect local citizens in Letcher County, as well as incarcerated people and their families.

As well, BCNP and CLC are concerned that these meetings violate the Sunshine Act.<sup>7</sup> The published notes on these meetings fail to account who attended the meetings, the types of discussions that occurred and/or whether BOP conduct concerning the development of the EIS were made.

BCNP and CLC request that in the spirit of openness, transparency, accountability and compliance with the Sunshine Act that the BOP rectify our concerns immediately by

- 1) hosting a virtual meeting with CLC, BCNP and any other concerned stakeholder organization;

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<sup>5</sup> See [https://www.proposed-fci-letchercountyky.com/\\_files/ugd/5947b2\\_4be0696df6294619b8f20462b18af2ef.pdf](https://www.proposed-fci-letchercountyky.com/_files/ugd/5947b2_4be0696df6294619b8f20462b18af2ef.pdf) (last visited Dec. 11, 2023).

<sup>6</sup> See [https://www.proposed-fci-letchercountyky.com/\\_files/ugd/5947b2\\_4be0696df6294619b8f20462b18af2ef.pdf](https://www.proposed-fci-letchercountyky.com/_files/ugd/5947b2_4be0696df6294619b8f20462b18af2ef.pdf) (last visited Dec. 13, 2023).

<sup>7</sup> See 5 U.S.C. § 552b(a)(2) (stating “the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business . . .”).



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- 2) posting online access to the video of the two zoom meetings between BOP and LCPC;
- 3) releasing a transcript of the meetings that occurred between BOP and LCPC;
- 4) releasing the full minutes of these two meetings, including a list of all participants and materials exchanged or discussed; and
- 5) releasing the names of those who proposed the meetings and those who consented to them.

In so doing, BCNP and CLC also request that the BOP explain the relationship or standing that LCPC appears to have that merits exclusive, unpublicized meetings with BOP above other stakeholders who have legitimate concerns and are being denied access and information.

We believe that responding accordingly to our five requests would remedy any possible Sunshine Act violations.

### **III. Prompt Response to FOIA**

VOTE, BCNP and CLC now formally request a release of all responsive records to the VOTE's June 30, 2023 FOIA request. Access to these records is imperative in order to prepare sufficient comments to the DEIS, which is expected to be released in February of 2024.

We believe that releasing these records now will remedy our current concerns of violations of FOIA or NEPA.

### **IV. Conclusion**

In conclusion, we appreciate your consideration of our efforts to continue with a fair, transparent, and legal process as we oppose this unwarranted federal prison project in Letcher County and look forward to your response.

Sincerely,

/x/ Dr. Artie Ann Bates

Artie Ann Bates, MD  
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Member, Building Community Not Prisons

/x/ Elvenia Blair Hooper

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Co-chair, Concerned Letcher Countians  
Member, Building Community Not Prisons

/x/ Attica Scott, MS

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