

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

v. :

Indictment No.
15-cr-866 (WHP)

ROGER THOMAS CLARK, :

Defendant. :

-----X

SENTENCING MEMORANDUM

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PRELIMINARY STATEMENT

During the almost five years Roger Thomas Clark will have spent in custody prior to his sentence, he endured conditions of confinement both in Thailand prior to his extradition to the United States and in the Metropolitan Detention Center (“MDC”) that fail to meet the minimum standards a civilized society imposes on those charged with the care of others. While incarcerated in Thailand, Mr. Clark was given inadequate food, inadequate clothing, inadequate space and insufficient protection from other inmates and guards who constantly preyed on those they perceived to be vulnerable.¹ In a letter he is submitted to the Court in relation to his sentencing, Mr. Clark describes life in the Bangkok Remand Prison (“BRP”) in chilling terms. See Exhibit A hereto. Reports by several international human rights groups and non-government organizations (“NGOs”) support his claims. Indeed, when he arrived in the United States, Mr.

¹ The factual assertions in this submission are based on information provided by Mr. Clark in Exhibit A, a letter he is submitting to this Court and, where noted, external sources such as reports by government agencies or NGOs or affidavits filed in other cases.

Clark had a treatment-resistant fungal infection and a recurring rash that ravaged his body. He weighed only 93 pounds. When he was taken into custody in Thailand he had weighed 180. See Exhibit A at 12.

While incarcerated at the MDC, Mr. Clark has also endured unreasonably harsh conditions of confinement as a result of the 35-day shutdown of the government from December 22, 2018, to January 25, 2019, the power outage (“blackout”) at the MDC from January 27, 2019, through February 2, 2019, and the COVID-19 pandemic that since March 3, 2019, has led to constant lockdowns and the attendant limitations on inmates’ activities. Mr. Clark respectfully submits that this Court should impose a sentence that takes his conditions of confinement into consideration.

I. **MR. CLARK’S CONDITIONS OF CONFINEMENT IN THAILAND PRIOR TO HIS EXTRADITION TO THE UNITED STATES**

Mr. Clark was arrested in Thailand on December 3, 2015, and was extradited to the United States 31 months later on June 15, 2018. Presentence Investigation Report (“PSR”) at 1. Between his arrest and his extradition, Mr. Clark was incarcerated in a country that is renowned for the brutality of its prisons.

Indisputably the conditions in prisons in Thailand fall far below those in federal prisons in the United States. What is perhaps less obvious is just how barbaric conditions are at some Thai prisons, including BRP, where Mr. Clark was detained pending his extradition. While Thailand signed to the United Nations Convention Against Torture and Cruel, Inhuman or Degrading Treatment

or Punishment (“UNCAT”) in 2007, Amnesty International,² human rights groups³ and the United States Department of State⁴ all have written about the shocking treatment that prisoners are subject to in Thailand.

Mr. Clark’s description of what BRP was like for the 31 months he was there, while consistent with these reports, is far more vivid. Exhibit A. The overcrowding of the prison is the most easily quantified of the brutality that he experienced while at BRP. Mr. Clark shared a cell of approximately 258 square feet with seventy-five to eighty-five men. Exhibit A at 2. A wooden platform was constructed along one wall of his cell – cell ten in sub-prison 8. The shelf was approximately six feet wide and was raised 2 feet above the floor of the cell. Men slept on the platform and below it. *Id.* No mattresses or blankets were provided. Mr. Clark describes his “bedding” as follows:

²See *Concluding Observations on the initial report of Thailand*, United Nations Committee against Torture, June 20, 2014. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsk2oy72JlefPnicA9mLXtq%2B9%2F5hbXwg%2B5JWNDr0RdTusMRgzu6yeggVTu8QgwbPcc9dlir1Tfe5g9kMOTJykFvZmYIG7TVsYdYcm2OgOMRJK>. (Expressing “serious concern” about conditions of confinement in detention centers, including “insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care” as well as “violence in detention, including sexual violence by prison guards or other prisoners with the acquiescence of the authorities.”)

³See *Thailand Submission to the United Nations Committee Against Torture, 52nd Session, 28 April – 23 May, 2014*, AMNESTY INTERNATIONAL, 2014 (“Amnesty International has received credible reports of the practice of torture and other ill-treatment in prisons.”). <https://www.amnesty.org/download/Documents/8000/asa390032014en.pdf>

⁴See *2018 Country Reports on Human Rights Practices: Thailand*, United States Department of State, 2019. <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/thailand>.

When I first arrived at sub-prison 8, I was issued 2 sackcloth blankets, which were really more like the thickness of sheets, and measured about 3 ft x 6 ft. In mid-2016 the military toured the prison, and declared that we didn't need the blankets. The officers seized them all and burned them. After that, we slept on the concrete floor wearing shorts and a t-shirt, and nothing more.

Exhibit A at 4. Because of the absence of space, men slept on their sides, knees to the next man's back. See photograph of conditions at Thai prison, attached hereto as Exhibit B⁵. Mr. Clark reports that as a result of sleeping on his side for the two and a half years he was at BRP, he has an ongoing impairment:

It is either a nerve or circulation problem, or possibly both. Medical staff here [at the MDC] is stymied. Now I cannot lay on my left side, back or stomach without my left thigh going numb, with a feeling of excruciating fire in my left leg.

Exhibit A at 4. In his letter to the Court, Mr. Clark also notes that while at BRP, he was "inflicted with numerous intestinal parasites, scabies, pinworm, ringworm and several other types of fungal infections, and countless insect bites." Exhibit A at 6.

The inmates at BRP were locked in their cells from 2:00 p.m. when they completed their work assignments until 6:30 a.m., a period of sixteen and a half hours per day. *Id.* They were not allowed to have food or water during this period. *Id.*

The most repulsive conditions at the prison concerned the lack of sanitation. There was one toilet – a hole in the ground – in Mr. Clark's cell, which

⁵This is not a photograph of BRP, the prison where Mr. Clark was held. However, the photograph depicts conditions that mirror those Mr. Clark experienced. See Exhibit A.

was routinely shared by eighty men for the sixteen hours a day they were locked inside. Mr. Clark describes the filth this situation created:

There was no privacy whatsoever, and prisoners were in full view of each other throughout the cell. There was a hose pipe that had about an 8" hose dangling from it, that was for rinse water to wash excrement down the drain and for personal cleaning. There was no toilet paper, nor bowl to hold water. After defecating, one had to scoop water from the pipe with the left hand to clean oneself. We were not allowed to bring any bottled water into the cells. Shorts (no underwear allowed) and a t-shirt were the only two items that were permitted, enforced by strip searches every day before entering the cells.

Because of the ongoing drought in Thailand, and in fact in large swaths of SE Asia, the water was shut off at 6:00 p.m. every night, so there was no water for cleaning or flushing waste away. One does not truly know the meaning of despondent until they are crouched over a 4" hole in the floor suffering explosive diarrhea from dysentery, with no water to clean oneself or the floor. Many people became nauseous at the mess which stank indescribably in the heat, and would get sick, causing others to also vomit as a result. Dysentery was common due to poor water sanitation facilities, and everyone suffered from it at least several times a month. The area around the toilet became a cesspool of urine, excrement, and vomit on most nights. Prisoners who were unable to clean themselves had to stand against an outside wall for the rest of the night, so as not to spread the mess throughout the rest of the cell.

Exhibit A at 8. When it rained the hole overflowed, spilling human waste onto the floor of the cell:

Prisoners would take off their clothes to try and dam the area around the drain if the rain wasn't too heavy. In heavier rains prisoners were force to choose between standing or sitting down in foul sewage water remnants until we were released at 6:30 a.m., and rushed to the shower area to clean up before breakfast.

Id. at 8.

There were 16 squat toilets in the “yard,” that the inmates had access to during the daytime hours they were not locked in their cells. Those toilets were used by 1200 men. While there were wooden barriers on the sides between the “stalls”, there was “no door on the front, and [they] offered absolutely no privacy.” Exhibit A at 7. The “open wall of the 16,000 square foot paper factory on the main floor of the building faced the toilets.” *Id.*

The prison served only breakfast and lunch. The food often was not edible:

The food provisions were nutritionally inadequate, and the water was not always potable. Breakfast usually consisted of a “soup” with one fish-ball per prisoner. The soup was served in bowls that were shared between four prisoners, who would all dip their spoons into the same bowl while eating. Each prisoner would have his own plate of rice, which was often unpalatable. The food was placed on the tables starting long before the prisoners were let in to eat, so cockroaches, flies, mice and rats got their fill first. Lunch usually consisted of fish-head soup--which is exactly what it sounds like--and more rice. That was the extent of the food available daily from the prison.

Exhibit A at 11. As noted above, Mr. Clark lost almost 90 pounds while incarcerated in Thailand.

Vermin were rampant at the facility. Even the feral cats could not control them:

The eight sub-prisons went through literally tons of rice a day. The ground floor of the main building was used to store the rice, and it always had several dozen stacks of rice, stacked in 50-kilogram burlap type bags 3 x 6 x 20 high (the main floor was about 18' high) leaving a mice, rat and insect “highway” between the bags. Cats would camp out and toilet on the top of the stacks--there was no ground that wasn't concreted over for them to bury their spoor. As bags were removed from the top of the stacks for use to feed the prisoners, the bags would be covered in excrement and stained yellow from the urine that leaked inside. Repeated requests for tarps to cover the stacks were denied. The staff seemed to find it

humorous that "Cats shit and piss all over your food." Undoubtedly boiling the rice for 30 minutes killed any microbes, but that didn't change the fact that the food was too unappetizing to eat as a result.

Exhibit A at 10. Seeing how the food was stored and prepared, Mr. Clark often found it difficult to eat even the minimal rations that were provided.

The absence of water was oppressive and dangerous. The temperature in Bangkok while Mr. Clark was at BRP reached a daily high average of 91 degrees and 86% humidity. See Exhibit C attached hereto. The country was experiencing a drought in 2016 to 2018, and water was scarce at BRP. See Exhibits D and E attached hereto. There was no air conditioning in the facility. Showering was a necessary means for reducing body temperature. The inmates were permitted to shower only twice a day from 6:30 to 8:00 a.m. and from 1:30 p.m. until the count at 2:00 p.m. Exhibit A at 9. During that time, 1200 men vied to wash themselves. The two water tanks that fed the showers were exhausted well before the designated shower time ended. Inmates had to fight to insure that they would get their share of the scarce commodity. *Id.*

Inmates with money or influence essentially controlled the prison. The guards, who were indifferent to the needs of inmates who were not bribing them, would bring virtually anything into the prison for a fee: food, drugs or weapons. Gangs participated in controlling this trade, particularly the distribution of food and water, with the full knowledge and encouragement of the guards. In his letter to the Court, Mr. Clark explains how the system worked. The so-called Food Mafia, inmates designated by the guards, "pretty much ran sub-prison 8." Exhibit A at 14. One of the gang's most profitable activities was reselling good from the

commissary at a significant mark up. Inmates could make purchases only through agents of the Food Mafia:

Payment was made by giving the gang the required amount in milk - 250 ml boxes that were 10 baht (about US \$0.30) each and were sold 30 to a case. The Food Mafia would give the cases of milk to the guards, who would then "sell" them back to the store, keeping a percentage, and using the proceeds to credit the Food Mafia purchases.

Id. at 15. The Food Mafia also sold access to water when the cisterns in front of the toilets were empty. Since dysentery was a frequent issue, and the prison provided no toilet paper, the gang did a brisk business in selling this vital product. Inmates who got behind in paying their debts were severely beaten. *Id.*

While the physical conditions in the facility were brutal, the omnipresent violence, particularly sexual violence directed at the vulnerable, was the most difficult aspect of life at BRP for Mr. Clark. It is this component of his life in prison in Thailand that most haunts Mr. Clark now. He believes this aspect of his incarceration in Thailand caused him post-traumatic stress disorder. It is not difficult to understand why:

Sexual assaults, rapes, and violence were a continuing problem at sub-prison 8 of the BRP, particularly in the cells. Locked in from line up to cells at 2:00 p.m., until 6:30 a.m., sadistic alpha males in the cell took constant advantage of the zeta males.

Weaker prisoners were stripped naked and beaten, sometimes for hours. Sometimes the aggressors would play soccer with their victims, splitting into two teams, and kicking their victim towards the wall at the opponents end of the room, up a narrow aisle up the middle of the cell. The people who would normally lay there stood to the side and cheered them on. If the victim was kicked towards the sides, the prisoners lying there would kick him back towards the center of the room. It was positively brutal.

Sexual assaults were pervasive, with the victims being raped or forced to perform fellatio, or often both at the same time by two attackers. There were numerous attacks every night, up to five or six over a period of several hours. I witnessed literally several thousand attacks of sexual violence during my time at the BRP.

Id. at 5

This is a brief summary of the unimaginably inhumane treatment that Mr. Clark received while incarcerated at BRP. Only his letter to this Court, Exhibit A, can adequately communicate what his life was like for more than 31 months.

This Court need not rely solely on Mr. Clark's reports about the conditions he experienced in BRP during his incarceration there. In its 2014 submission to the U.N. Committee on Torture, Amnesty International reported so-called "trustee-beatings" (beating of inmates by other inmates who had been given responsibility by prison officials to control and discipline prisoners) at BRP. *Thailand Submission to the United Nations Committee Against Torture, 52nd Session, 28 April – 23 May, 2014*, AMNESTY INTERNATIONAL, 2014 ("Amnesty International has received credible reports of the practice of torture and other ill-treatment in prisons.") at 9, 10 <https://www.amnesty.org/download/Documents/8000/asa390032014.en.pdf>.

The U.S. Department of State reported no improvement in these conditions in its 2016 report on human rights in Thailand. The publication noted with extreme understatement that conditions in prisons and detention centers remained "poor and most were overcrowded." *2016 Country Report on Human Rights Practices – Thailand*, UNITED STATES DEPARTMENT OF STATE, 3 March, 2017. <https://www.refworld.org/docid/58ec89bb4.html>. As of September 1, 2016,

Thai authorities held 306,000 persons in detention facilities with a maximum capacity of 210,000 to 220,000. *Id.* Lack of sleeping accommodations and lack of medical care were cited as “serious problems” at some facilities. *Id.* Solitary confinement was used to punish male prisoners. From October 2015 to September 1, 2016, 728 people in the custody of the Department of Corrections died.

The International Federation for Human Rights (“FIDH”) released a report, based on interviews with former prisoners, that extensively documented the conditions in the BRP and the Central Women’s Correctional Institution (CWCI) while Mr. Clark was incarcerated. *FIDH Report - BEHIND THE WALLS - A look at conditions in Thailand's prisons after the coup*, February, 2017. <https://www.refworld.org/pdfid/58b593dd4.pdf>. (“FIDH Report”). In its Executive Summary to the report, FIDH states its overall conclusion succinctly: “Thailand’s ongoing failure to enact a comprehensive prison reform has created conditions for human rights violations to be rife in its prison system in breach of the country’s obligations under international instruments to which it is a state party.” FIDH Report at 4. The conditions are those described by Mr. Clark: a high level of crowding and inadequate living conditions, limited access to medical treatment, insufficient food and potable water, and poor sanitation facilities. *Id.* The group also found that “punishment contravenes international standards and, in some cases, may amount to torture and ill-treatment.” *Id.* See also See UN Committee Against Torture (CAT) - *Concluding observations on the initial report on Thailand*, 20 June 2014. <http://docstore.ohchr.org/SelfServices/Files>

[Handler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsk2oy72JlefPnicA9mLXtq%2B9%2F5hbXwg%2B5JWnDr0RdTusMRgzu6yegqVTu8QgwbPcc9dlir1Tfe5g9kMO TJykFvZmYIG7TVsYdYcm2OgOMRJK.](#)

In its 2018 report on Thailand, which also documented conditions that existed in 2017 while Mr. Clark was incarcerated there, the States Department, an agency not known for exaggeration, noted that the sub-standard conditions it had documented in the 2016 report were still prevalent:

Physical Conditions: Prison and detention facility populations were approximately 60 percent more than designed capacity. As of August 1, authorities held approximately 359,500 persons in prisons and detention facilities with a maximum designed capacity of 210,000 to 220,000 persons.

In some prisons and detention centers, sleeping accommodations were insufficient, there were persistent reports of overcrowding and poor facility ventilation, and a lack of medical care was a serious problem. Authorities at times transferred seriously ill prisoners and detainees to provincial or state hospitals.

Pretrial detainees comprised approximately 18 percent of the prison population. Prison officers did not segregate these detainees from the general prison population. The government often held pretrial detainees under the emergency decree in the southernmost provinces in military camps or police stations rather than in prisons.

Prison authorities sometimes used solitary confinement, as permitted by law, to punish male prisoners who consistently violated prison regulations or were a danger to others. Authorities also used heavy leg irons on prisoners deemed escape risks or potentially dangerous to other prisoners.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, 536 persons died in official custody from October 2017 to August, including 21 deaths while in police custody and 515 in the custody of the Department of Corrections. Authorities attributed most of the deaths to natural causes. According to media reports, an inmate died in custody on April 18 after an apparent beating.

Thailand 2018 Human Rights Report, U.S. Department of State, 2018.
<https://www.state.gov/wp-content/uploads/2019/03/THAILAND-2018.pdf>

In short, there can be no dispute that Mr. Clark was subjected to brutal treatment at BRP. The word torture would be more accurate.

While the requirements of the Eighth Amendment likely would not apply to a foreign government, it is significant that many of the conditions of Mr. Clark's confinement in Thailand would violate the Eighth Amendment if they were imposed by a government official in the United States. See *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 199-200 (1989)(citation omitted)("when the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being. ... The rationale for this principle is simple enough: when the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs--e.g., food, clothing, shelter, medical care, and reasonable safety--it transgresses the substantive limits on state action set by the Eighth Amendment ... [and the] Due Process Clause."); *Lareau v. Manson*, 651 F.2d 96, 106 (2d Cir. 1981)(prisoners are entitled to, *inter alia*, sanitation).

II. MR. CLARK'S CONDITIONS OF CONFINEMENT AT THE MDC

Mr. Clark could reasonably have believed that his conditions of confinement would improve following his June, 2018 extradition to the United

States. They have. However, the conditions he has experienced at the MDC also deserve condemnation.

The Government Shutdown

Six months after Mr. Clark arrived at the MDC, Congress was unable to reach an agreement on an appropriations bill to fund the continuing operation of the federal government. As a result, for the 35-day period from December 22, 2018, through January 25, 2019, the MDC was “operating under a lapse of funding.” February 15, 2019 Affidavit of Warden Herman Quay, 19-cv-01075-MKB-SMG, Eastern District of New York, docket entry 65-1, at ¶12. (“Quay Affidavit”), attached hereto as Exhibit F. Staff at the MDC were required to report to work during the shutdown. Many did not. *Id.* This had a direct impact on Mr. Clark’s ability to participate in his defense.

Because the discovery in this case is far larger than is usual – almost nine terabytes – Mr. Clark was permitted to use a laptop that was provided to him to review the material. The MDC was concerned that having a computer circulating in the facility would create a security risk and, as a result, designated a “discovery room” in the East Building visiting area. Mr. Clark was required to keep the laptop, discovery materials and the bulk of his notes on what he had reviewed and ideas for how to plan his defense there. Mr. Clark is housed in the West Building. The two structures are connected by a tunnel. To access his material, Mr. Clark had to be escorted to the East Building by an officer. During the shutdown, the officers who worked refused to take Mr. Clark over. For a

month, Mr. Clark was not able to continue his review of the government's evidence against him.

The shutdown affected Mr. Clark in other ways. During the 35-day period, inmates' movements throughout the facility were curtailed. Educational and other types of programming was interrupted. Social visits were cancelled for several weeks. While Mr. Clark was not directly impacted by some of these interruptions in the routine of the facility – he was extradited to the United States and has never had a social visit, for example – the shutdown indirectly affected all the inmates. Tension in the facility, including in the unit in which he was housed, reached an extremely high level. Inmates who could not see their family members or write emails to them became increasingly agitated. This unrest was manifest at the MCC by some inmates refusing to eat. See Brendan Krisel, *Prisoners on Hunger Strike As Gov't Shutdown Bars Visits: Report*, PATCH, January 15, 2019, <https://patch.com/new-york/downtown-nyc/mcc-prisoners-go-hunger-strike-government-shutdown-report>. At the MDC a similar feeling of unrest prevailed. The inmates felt like they were being subject to unnecessary punitive restrictions. They were resentful.

Significantly for Mr. Clark, access to commissary, which inmates generally can avail themselves of bi-weekly, was curtailed. As stated, *supra* at 2, during his incarceration in Thailand, Mr. Clark developed a rash of undiagnosed origin. This is not the type of small, localized irritation that results from a spider bite or an ill-fitting garment. This rash has at times covered much of Mr. Clark's body.⁶ It is

⁶I personally have observed this rash.

endlessly itchy. When the rash is out of control, it becomes a consuming preoccupation. Mr. Clark cannot get comfortable in any position. He cannot sleep. He loses his appetite. Sometimes during his two-plus years at the MDC, medical staff has provided Mr. Clark with cortisone cream. This helps quell the itching. Sometimes the medical staff has refused to see Mr. Clark, and he has had to buy the cream from the commissary.⁷ During the shutdown, neither avenue was consistently available for Mr. Clark to obtain the medication.

The Blackout

Two days after the shutdown ended, the conditions at the MDC worsened. On January 27, 2019, “a major electrical fire impacted the MDC.” Exhibit F at ¶18. The fire destroyed the Priority 3 power-distribution equipment, which was essential to providing power to the West Building where Mr. Clark was housed. *Id.* at ¶19. The situation was not corrected until February 3, 2019. *Id.* at ¶30. The blackout occurred during a “polar vortex,” which led to record cold temperatures in many parts of the United States.⁸ The temperatures in Brooklyn were frigid

⁷ This has been an ongoing issue throughout Mr. Clark’s period of incarceration at the MDC. He has had to fight to get treatment for this condition. I have drawn this problem to the attention of the MDC Legal Department more than once. At my request, the government has also spoken to MDC Legal to ensure that Mr. Clark got his cortisone cream. On one occasion, the Court intervened and ordered the government to seek an explanation from the MDC about why Mr. Clark was being denied treatment. After the government made the MDC Legal Department aware of the Court’s concern, Mr. Clark immediately receive a small supply of the medication.

⁸The National Weather Service defines a polar vortex as follows: “The polar vortex is a large area of low pressure and cold air surrounding both of the Earth’s poles. It ALWAYS exists near the poles, but weakens in summer and strengthens in winter. The term ‘vortex’ refers to the counter-clockwise flow of air that helps keep the colder air near the Poles. Many times during winter in the

during this period: From Sunday, January 28, 2019, to Friday, February 2, 2019, the daily high temperatures were 38, 43, 35, 16, 21 and 34, respectively. The daily lows were 25, 25, 6, 2, 11 and 16. <https://www.accuweather.com/en/us/brooklyn/11210/february-weather/334651?year=2019>. There was no heat in the West Building, and as the days passed and the remaining heat in the facility quickly dissipated, the temperature inside began to equal the ambient air temperature outside.

Deirdre D. von Dornum, the Attorney-in-Charge of the Eastern District office of the Federal Defenders of New York, toured the MDC on February 1, 2019, pursuant to an administrative order issued by Chief Judge Dora Irizarry of the Eastern District of New York. In an Affidavit she submitted in support of a civil suit the Federal Defenders' Office brought contesting the conditions of confinement at the MDC, Ms. D. von Dornum described the conditions she observed. The lobby was cold. Officers at the desk were wearing multiple layers of clothing, including scarves wrapped around their heads. Affidavit of Deirdre D. von Dornum, *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons*, 19-cv-660 (MKB-SMG), document 7, at ¶25, attached hereto as Exhibit G. In the housing units, the lights were not functioning in any individual cells. The cells were pitch black. It was too dark to read or for the inmates to see the food they were given. *Id.* at ¶31. Inmates had been unable to obtain refills of their medications. *Id.* at ¶32. Because grievances are submitted electronically, and the computers had been down since the fire, inmates were unable to raise concerns

northern hemisphere, the polar vortex will expand sending cold air southward with the jet stream.” <https://www.weather.gov/safety/cold-polar-vortex>.

about the lack of medical care. *Id.* at ¶33. Inmates had not received access to legal or social visits or to the CorrLinks email system. *Id.* at ¶34. Only the telephone that had a direct dial to the Federal Defender was accessible to inmates. *Id.* Inmates had not received clean clothing or bedding since the fire. The facility provided no additional blankets or clothing, and since the commissary had been closed since January 25, 2019, even inmates who had sufficient funds were unable to purchase these items. *Id.* at ¶35. Some inmates had only short-sleeved shirts and light cotton pants. *Id.* at ¶36. Several inmates described dire medical situations for which they had received no care. *Id.* at ¶37. Inmates on one unit reported being locked into their cells since the fire with the exception of a few hours each morning and afternoon. *Id.* at ¶51. Some had no had hot food since the fire on January 27. *Id.* at ¶52. While the common rooms had some heat, the cells in some of the units did not. Inmates on the side of the building that faced the Upper Bay were wrapped head to toe in blankets and towels. Cold air blew out from the cell doors. *Id.* at ¶¶54, 56. Many inmates were wrapped in multiple layers of clothing. Other did not have enough clothing to use to try to warm themselves. *Id.* at ¶57.

In many ways those conditions are less onerous than those that Mr. Clark experienced. The first day of blackout, the men in his unit were permitted to go into the common areas, which had emergency light, for three hours. Inexplicably, a decision was made the following day to lock the inmates on Mr. Clark's unit in their cells. The food cart brought breakfast at the usual time, but the food was not delivered to the inmates' cells until 3:00 p.m. It was inedible. The men in Mr.

Clark's unit decided to go on a "food strike." They had no food again, other than snacks they had accumulated in their cells from commissary purchases, until February 3. Mr. Clark had no role in making the decision to strike, and could not safely go against it.

In addition to having no food during the blackout, Mr. Clark was never permitted to shower or wash his clothing. The facility provided no changes of clothing. The men could not buy additional clothing or blankets since the commissary was closed. The tap water was brown throughout the eight-day period. Mr. Clark had no access to email or telephones. He could not communicate with counsel.

Perhaps most disturbing to Mr. Clark was to be so cut off from the outside world. Inmates were not given information about how long the situation would last – maybe because the officials at the MDC did not know. Inmates were left to wonder: Would this go on forever? Some of the inmates Ms. D. von Dornum interviewed described this to her. They reported having a panicky feeling. They felt frustrated that they were being "treated like they were in SHU," even though they had no disciplinary issues. They were upset they were not allowed to go to the common area, which had functioning emergency lighting. *Id.* at ¶¶59-60. The tap water in one unit was not potable. *Id.* at ¶60.

Of course these conditions did not meet the minimum standards required for federal prisons set by the Bureau of Prisons or aspirational standards of care established by the International Committee of the Red Cross. Sufficient heat, lighting, hot food and access to showers must be provided to prisoners. See

Water, Sanitation, Hygiene and Habitat in Prison, Supplementary Guidance, International Committee of the Red Cross, April 2012.<https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4083.pdf>.

The *Inmate Admission & Orientation Handbook* that is given to new admittees to the MDC demonstrates that even some of the less egregious treatment Mr. Clark received during the shutdown and blackout violated BOP policy. The institution is required to issue clothing to inmates “which is properly fitted, climatically suitable and presentable.” *Inmate Admission & Orientation Handbook*, Bureau of Prisons, Updated October 19, 2017, at 6. https://www.bop.gov/locations/institutions/bro/BRO_aohandbook.pdf. Each unit is to be permitted to “shop” at the commissary every two weeks. *Id.* at 7. Phones are supposed to be available for the inmates’ use. Inmates are entitled to three meals a day are served at designated times. *Id.* at 13. The facilities must provide legal research materials and the ability to review discovery. This is done at the MDC through the Electronic Law Library. Inmates are supposed to be able to access these materials through computers in each library and on each unit. *Id.* at 16. Absent disciplinary infractions, inmates are entitled to participate in leisure activities, such as sports, board and card games and crafts. *Id.* at 17. Finally, procedures require that inmates be given with basic mental health care and the ability to attend religious services. *Id.* at 17-18. All of these requirements were violated during the shutdown and blackout.

COVID-19

Starting in March of this year, the BOP instituted what it characterized as a “modified operation plan” to deal with the novel Coronavirus that causes COVID-19. The key component of the plan was to limit inmate movement, and thereby minimize the spread of the illness by keeping inmates locked in their cells. For the past eight months, Mr. Clark has been locked in his cell for weeks at a time without access to regular showers, telephone calls, emails, legal materials, social visits and, until September, counsel visits. Commissary, which usually is available bi-weekly, has been severely curtailed during this period. Items, including the cortisone cream Mr. Clark depends on, are frequently unavailable. Programming has been non-existent. Whatever the merits of this approach from a public-health perspective it has imposed dramatically harsher conditions of incarceration on inmates, including Mr. Clark.

Being locked in with 1600 other inmates in a situation that poses a higher risk of contracting an illness that may lead to death it not a normal condition of confinement. It is beyond reasonable debate at this point that the virus that causes COVID-19 is highly contagious, highly deadly and present in federal prisons.⁹ Courts across the country have recognized that the COVID-19 pandemic poses a particular danger for inmates. *United States v. Nkanga*, No. 18-Cr-713 (JMF), 2020 WL 1529535, at *1 (S.D.N.Y. Mar. 31, 2020)(“The country

⁹As of November 2, 2020, 231,181 individuals have died in the United States from COVID-19. <https://coronavirus.jhu.edu>. The BOP reports that as of November 2, 2020, there are currently 1,796 inmates and 911 BOP staff who have confirmed positive test results. An additional 16,185 inmates and 1,383 staff had COVID-19 and have recovered, while 130 inmates and 2 staff members have died from the illness. <https://www.bop.gov/coronavirus>.

faces unprecedented challenges from the novel Coronavirus pandemic. Those detained in jails and prisons face particularly grave danger.); *United States v. Scparta*, No. 18-Cr-578 (AJN), 2020 WL 1910481, at *9 (S.D.N.Y. Apr. 20, 2020)(“the COVID-19 pandemic presents an extraordinary and unprecedented threat to incarcerated individuals.”) See also letter of Senator Dick Durban (Mar. 23, 2020), available at: <https://www.durbin.senate.gov/imo/media/doc/Letter.%20to%20DOJ%20and%20BOP%20on%20COVID-19%20and%20FSA%20provisions%20-%20final%20bipartisan%20text%20with%20signature%20blocks.pdf>. (“Conditions of confinement do not afford individuals the opportunity to take proactive steps to protect themselves, and prisons often create the ideal environment for the transmission of contagious disease.”).

Government policy makers, including the Attorney General of the United States, have also acknowledged that the virus has entered the federal prison system and killed inmates. On March 26, 2020, General Barr issued a memorandum to the Director of the Bureau of to express the view that “at-risk inmates who are non-violent and pose minimal likelihood of recidivism” might be “safer serving their sentences in home confinement rather than in BOP facilities.” The Attorney General stated that the BOP should “ensure that home confinement” is utilized, “where appropriate, to protect the health and safety of BOP personnel and the people in [their] custody.” https://www.bop.gov/coronavirus/docs/bop_memo_home_confinement.pdf.

In a further directive on April 3, 2020, the Attorney General stated that “upon [his] finding that emergency conditions are materially affecting the

functioning of the Bureau of Prisons,” he was authorized by the “CARES Act to expand the cohort of inmates who can be considered for home release” and that the “review should include all at-risk inmates—not only those who were previously eligible for transfer.” The Attorney General also acknowledged that “[w]hile BOP has taken extensive precautions to prevent COVID-19 from entering its facilities and infecting [its] inmates, those precautions, like any precautions, have not been perfectly successful at all institutions.” https://www.bop.gov/coronavirus/docs/bop_memo_home_confinement_april3.pdf.

The increased risk of contracting COVID-19 and becoming seriously ill that Mr. Clark has been subjected to is a factor this Court should consider in determining what period of incarceration to impose. Many courts have done so. See *United States v. Ozols*, No. 16-CR-692 (JMF), 2020 WL 2849893 at *4 (S.D.N.Y. June 2, 2020)(considering vulnerability of 42-year-old man suffering from anxiety and depression with family history of heart and lung disease in determining what sentence was appropriate); *United States v. Zukerman*, 451 F.Supp. 3d 329, 335-36 (S.D.N.Y. 2020)(granting compassion release to 75-year-old man with diabetes, hypertension and obesity). See also, *Koon v. United States*, 518 U.S. 81, 111 (1996)(District Court did not abuse its discretion by considering particular vulnerability of inmate to abuse in prison in determining sentence); see also, *United States v. D.W.*, 198 F.Supp.3d 18, 23 (E.D.N.Y. 2016)(“The trial judge cannot close his or her eyes to the conditions a particular defendant being sentenced will necessarily experience in prison.... the prison environment must be considered by the sentencing judge in estimating total harm

and benefits to prisoner and society—a utilitarian as well as a compassionate exercise.”).

III. OBJECTIONS TO THE PSR

Under the Offense Section of the PSR, Probation has included a subheading entitled, “Overdose Deaths Linked to the Original Silk Road.” PSR at ¶¶89-106. These paragraphs describe the deaths, purportedly by drug overdose, of six individuals who the report asserts had purchased drugs from sellers through the Silk Road website. This information should be stricken from the PSR. The Second Circuit’s decision in *United States v. Ulbricht*, 858 F.3d 71 (2d Cir. 2017), resolves this issue.

Ross Ulbricht’s PSR, as Mr .Clark’s, included references to these deaths. Mr. Ulbricht’s counsel argued that there was insufficient evidence connecting the deaths with drugs purchased from Silk Road for the District Court to consider them in sentencing. The District Court disagreed, finding that the government had demonstrated by a preponderance of the evidence that the deaths bore a sufficient connection to be considered relevant conduct. Ulbricht challenged that ruling on appeal. The Second Circuit held that the District Court’s factual findings on this issue were not clearly erroneous. However, the Circuit Court also stated that the overdoses would not have been an appropriate basis for determining Ulbricht’s sentence:

No federal judge needs to be reminded of the tragic consequences of the traffic in dangerous substances on the lives of users and addicts, or the risk of overdose and other ramifications of the most dangerous of illegal drugs. Those consequences are among the reasons why illegal drugs are prohibited and constitute a principle justification advance for the extremely lengthy sentence provided

by federal statutes and sentencing guidelines for trafficking in illicit substances. Absent reason to believe that a drug dealer's methods were unusually reckless, in that they enhanced the risk of death from drugs he sold beyond those inherent in the trade, we do not think that the fact that the ever present risk of tragedy came to fruition in a particular instance should enhance those sentences, or that the inability of the government to link a particular dealer's product to a specific death should mitigate them. The government's insistent on proceeding with this evidence generated an appellate issue that has taken on disproportionate focus in relation to the reasons actually advanced by the district court in its lengthy and careful statement of the reasons for the sentence it impose.

Id. at 126. The information about the overdoses should be removed from the PSR.

IV. THE STATUTORY SENTENCING FACTORS¹⁰

The Sentencing Guidelines Range

While this Court is no longer bound to impose a Guidelines sentence, and the Guidelines do not provide the presumptive sentence, 18 U.S.C. §3553 requires a District Court to "consider" the Guidelines, and in "order to fulfill this statutory duty to 'consider' the Guidelines, a sentencing judge will normally have to determine the applicable Guidelines range." *United States v. Crosby*, 397 F.3d

¹⁰As the Court knows well, following the United States Supreme Court's decisions in *United States v. Booker*, 543 U.S. 220 (2005), and subsequent cases, a sentencing decision must be governed by the factors listed in 18 U.S.C. §3553(a). Those factors include the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds of sentences available, the Guidelines range and any applicable Guidelines Policy Statements, the need to avoid sentencing disparities and the need to provide restitution to the victim. This Court must consider all of the 18 U.S.C. §3553(a) factors to derive a sentence that is "sufficient, but not greater than necessary," to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment, to afford adequate deterrence, to protect the public and to provide the defendant with needed educational or vocational training, medical care or other correctional treatment. See *United States v. Ministro-Tapia*, 470 F.3d 137, 141-43 (2d Cir. 2006) (analyzing the "parsimony clause" of 18 U.S.C. §3553(a)).

103, 111 (2d Cir. 2005). Thus, one step in deciding what sentence is appropriate for Mr. Clark is to calculate the Guidelines range for his offenses.

Pursuant to a written plea agreement with the government, Mr. Clark pled guilty to conspiracy to distribute controlled substances, including heroin, cocaine, LSD and methamphetamine. The parties stipulated that his total offense level was 45.¹¹ Mr. Clark falls within Criminal History Category I. See Presentence Investigation Report (“PSR”) at ¶9. By operation of United States Sentencing Guidelines Section (“U.S.S.G.”) 5G1.1(a), Mr. Clark’s sentencing guideline range is 240 months.¹² PSR at ¶163.

The Nature of the Offense

The nature of the offense is serious. The government alleges that Mr. Clark was a key advisor and mentor to Ross Ulbricht, the creator of the Silk Road website. The PSR calculates that the website sold sufficient quantities of heroin, cocaine, methamphetamine and LSD to trigger an offense level of 36. PSR at ¶112. Probation (and the plea agreement) add an additional four levels to the base because Mr. Clark was a leader or organizer of the offense, two levels

¹¹ United States Probation found that one of the adjustments the plea agreement had incorporated – a two level increase for obstruction of justice pursuant to U.S.S.G. §3C1.1 – was not applicable. Probation based this determination on Application Note 7 to U.S.S.G. §2D1.1. That Note directs that the obstruction adjustment may not be applied when a defendant receives an enhancement under §2D1.1(b)(16)(D). Mr. Clark did receive that enhancement, and, as a result, Probation did not apply the §3C1.1 adjustment. PSR at ¶165. Even without the two-level increase, Mr. Clark’s guideline range remains the same. *Id.*

¹²Section 5G1.1(a) provides as follows: “Where the statutorily authorized maximum sentence is less than the minimum of the applicable guideline range, the statutorily authorized maximum sentence shall be the guideline sentence.”

because the offense involved the distribution of controlled substances through mass marketing by means of an interactive computer and two levels because Mr. Clark made a credible threat to use violence in relation to the offense. PSR at ¶113. Mr. Clark admitted his role in the offense in an affidavit he submitted in connection with his motion to suppress and has not objected to the PSR.

The History and Characteristics of the Defendant

Mr. Clark has no prior convictions. Members of his family, Tannis Wing and Elizabeth Clark, remain supportive. They have been in contact with me throughout Mr. Clark's case to express concern about his well-being and interest in assisting with this sentencing.

The Kinds of Sentence Available

Section 3553(a) requires the Court to consider the kinds of sentences that are available. Mr. Clark faces no mandatory minimum term of incarceration and a maximum term of twenty years. See 21 U.S.C. §841(b)(1)(C).

V. WHAT SENTENCE IS APPROPRIATE TO IMPOSE IN THIS CASE

Ultimately, this Court must consider the factors discussed above and craft a sentence that is sufficient but not greater than necessary to reflect the seriousness of the offense, protect the public, promote respect for the law, serve as an adequate deterrent and provide the defendant with needed educational or vocational training, medical care or other correctional treatment. These factors weigh in favor of imposing a sentence below the 240-month Guideline range.

Individual Deterrence, the Likelihood of Recidivism and the Need to Protect the Public

This Court can conclude that it is likely that Mr. Clark will not offend in the future based on extensive research that has been undertaken by the United States Sentencing Commission. The United States Sentencing Guidelines Commission has released seven reports on recidivism, which analyze, *inter alia*, the likelihood of recidivism. correlation between age and likelihood of reoffending. See *Length of Incarceration and Recidivism*, United States Sentencing Guidelines Commission, April 29, 2020. <https://www.ussc.gov/research/research-reports/length-incarceration-and-recidivism> (describing past reports). This and other studies establish beyond dispute that older “offenders were substantially less likely than younger offenders to recidivate following release.” *The Effects of Aging On Recidivism Among Federal Offenders*, United States Sentencing Guidelines Commission, December 7, 2017, at Report Highlights. <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>. Offenders who were 65 or older at the time of release had only a 13.4 percent rearrest rate during the eight-year period following release. *Id.*

The comparatively low probability that an individual will commit an offense after the age of 60 is a factor that this Court may appropriately consider when determining the length of the sentence that is necessary to deter Mr. Clark. See *United States v. Hamilton*, 323 F. App’x. 27, 31 (2d Cir. 2009)(finding that the District Court had the authority to consider the inverse correlation between age and recidivism in determining the appropriate sentence in spite of the Guidelines rejection of that factor as a relevant consideration in sentencing); See also,

United States v. Nellum, 04-cr-30 (PS), 2005 WL 300073 *3 (N.D. Ind. Feb. 3, 2005)(“Under the guidelines, the age of the offender is not ordinary relevant in determining the sentence. See § 5H1.1. But under §3553(a)(2)(C), age of the offender is plainly relevant to the issue of ‘protect[ing] the public from further crimes of the defendant.’”); *Simon v. United States*, 361 F. Supp. 2d 35, 48 (E.D.N.Y. 2005)(non-Guideline sentence appropriate for 43-year-old defendant in part because recidivism rates for defendants between the age of 41 and 50 with a criminal history category of III is less than half that of defendants under the age of 21); *United States v. Carmona-Rodriguez*, 04-CR-667 (RWS), 2005 WL 840464 at *4 (S.D.N.Y. Apr. 11, 2005)(relying on low probability of 55-year-old defendant recidivating as a bases for imposing a non-Guidelines sentence);

The same reasoning applies in this case. Mr. Clark is 59 years old. If this Court were to impose a sentence of 15 years, he would not be released until he is 67 years old.¹³

For the same reason, there is no basis for concluding that 67-year-old Roger Clark would pose a threat to the public. Of course, Mr. Clark will be deported to Canada, the country of his citizenship, at the conclusion of this case. Thus, it is virtually certain that he will pose no danger to individuals in the United States.

¹³On a sentence of 180 months, a defendant in federal custody may receive up to 706 days good-time credit, meaning he would serve 4769 days, or approximately 13 years. See Federal Sentencing Good Time Chart. https://www.fed.org/sites/default/files/criminal_defense_topics/essential_topics/sentencing_resources/clemency/good-time-chart.pdf. Since Mr. Clark has already been incarcerated on these charges for approximately 5 years, he would have to serve an additional 8 years. In 8 years he will be 67 years old.

The Need to Promote Respect for the Law, Reflect the Seriousness of the Offense and Provide Just Punishment

This Court also must consider what sentence is sufficient but not greater than necessary to promote respect for the law, reflect the seriousness of the offense and provide just punishment. It is respectfully submitted that a sentence of 180 months is sufficient to meet these goals.

The offense of conviction is serious, and a serious sentence is warranted. However, Mr. Clark has been subjected to punishment for his role in this case that is well beyond that inherent in being imprisoned as described in detail *supra* at 1-22. The unusually harsh conditions of confinement imposed on Mr. Clark in Thailand before he was extradited to the United States and at the MDC is a factor that this Court should consider pursuant to 18 U.S.C. §3553(a) in determining what additional term of incarceration will provide "just punishment" for Clark.

Even before the United States Supreme Court's decision in *Booker*, Courts, including the Second Circuit, had found that harsh conditions of confinement were a mitigating factor that a sentencing court could consider. In *United States v. Carty*, 264 F.3d 191, 196 (2d Cir. 2001), for example, the Second Circuit held "that pre-sentence confinement conditions may in appropriate cases be a permitted basis for downward departures." See also *United States V. Alexander*, 860 F.2d 508, 512-13 (2d Cir. 1988)(for the "purposes of sentencing ... the court is virtually unfettered with regard to the information it may consider.").

In light of the extraordinary brutal conditions under which Mr. Clark was held in Thailand for 31 months and the sub-standard conditions he experience for a significant percentage of the time he has been incarcerated at the MDC, Mr. Clark should be sentence to a term of incarceration less than the maximum of 120 months. Indeed, the need to promote respect for the law, reflect the seriousness of the offense and provide just punishment can only be served by imposing a term of incarceration that takes his treatment while incarcerated into account.

CONCLUSION

For all of the reasons stated herein, it is respectfully submitted that the Court should impose a term of incarceration of 180 months.

Respectfully submitted,

_____/s/_____
Stephanie M. Carvlin

cc: AUSA Michael Neff
AUSA Vladislav Vainsberg

Sentencing Statement of Roger Thomas Clark to the Court

Introduction

I was in custody in Bangkok Remand Prison (BRP) for thirty and one-half months, from December 3, 2015, to June 14, 2018, awaiting extradition. During my 925 days of incarceration at BRP I was subject to inhumane and degrading conditions of confinement, and the deprivations I suffered were sufficiently serious that I was denied the minimal civilized measure of life's necessities. Then conditions of confinement were so atrocious that on American soil they would have constituted constitutional deprivations based on the following:

- (1) Overcrowding
- (2) Lack of Beds or Mats and Bedding
- (3) Insufficient Ventilation
- (4) Sexual Violence
- (5) Mingling of Inmates With Serious Infectious Maladies
- (6) Deprivation of Sleep
- (7) Unusable and Unsanitary Toilet Facilities
- (8) Insufficient Potable Water and Sanitation Facilities
- (9) Lack of Basic Toiletries
- (10) Infestations Throughout the Sub-prison
- (11) Inadequate Nutrition
- (12) Inadequate Medical Care
- (13) Exploitive Labor
- (14) Crime and Intimidation
- (15) Interference With Access to Legal Counsel, Legal and Personal Correspondence, and News

(1) Overcrowding

BRP is divided into eight separate wings or buildings, located along a 1/2 mile road within the prison complex. Each wing is operated as an individual sub-prison, with its own manager, correctional officers staffing, budget and rules. A single warden and "central control office" oversees the entire eight sub-prison complex. Within a sub-prison, the Building Manager is in charge, he rules as a god within his fiefdom, and distributes the profits from the factories amongst the ten or so other correctional officers that work in the sub-prison. I was held in sub-prison 8 for much of my time at BRP. Sub-prison 8 is the largest by a factor of two, and contains the kitchen facilities that feed all eight sub-prisons and the infirmary. As well it contains a wood-working factory, a shoe factory, and the main floor of the dormitory building is a 16,000 square foot open-air paper bag assembly factory. The second floor of the dormitory building is split between prisoner canteen facilities, and shoe making facilities.

The cells in sub-prison 8 of the BRP are rooms of "about 24 square meters."¹ FIDH Report at 5. The rooms used to have linoleum, but that was removed in late 2015, and the floors were painted. Along one wall is a platform roughly constructed of plywood, that is raised about 2 feet off the floor, is 6 feet wide and stretches the length of the room, and men sleep on and under the shelf. Two external walls consist of bars, with concrete walls dividers between cells. During my time living in sub-prison 8, there were about 75-85 men living in cell 10. Counts were made in the room in the evenings after we were locked in, and again in the mornings before we were unlocked. Many times the count was up to 85, and it never dropped below 75. Eighty men was the average usual head count. Line ups to go to the cells was at 2:00 p.m., and the cells not unlocked until 6:30 a.m. Prisoners went to the cells barefoot, wearing only shorts and t-shirts. No food or water was allowed.

With 80 men in the room, that allowed 0.3 square meters (slightly over 3 square feet) per man. The International Committee of the Red Cross ("ICRC") puts "the minimum space for accommodation over ten times that - 3.4 square meters per person in shared or dormitory accommodations." ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplementary Guidance*, April 2012, 32-33. <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4083.pdf>.

In its report on conditions in Thai prisons during 2016, the International Federal for Human Rights ("FIDH")² noted that the minimum space currently mandated by the Thai Department of Corrections is 1.2 square meters for men. February 2017 FIDH Report - *BEHIND THE WALLS - A look at conditions in Thailand's prisons after the coup*, February, 2017 at 20. <https://www.refworld.org/pdfid/58b593dd4.pdf>. ("FIDH Report"). The amount of space in cell ten at BRP is only 35% of that amount.

In assessing conditions in Thai prisons during 2016, FIDH reported "that overcrowding remained the most pressing issue in Thai prisons." As FIDH stated, "The United Nations (UN) Human Rights Committee (CCPR), the UN committee Against Torture (CAT), and the UN Committee on Economic, Social and Cultural Rights (CESCR) have all expressed ongoing concern over the rights of prisoners and prison conditions in Thailand." *Id.* at 9.

The United Nations Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment report on Thailand ("UNCAT") noted in a 2014 report that it was "concerned at the extremely high levels of overcrowding and harsh conditions prevailing in detention facilities" in Thailand. UN Committee Against Torture (CAT) - *Concluding observations on the initial report on Thailand*, 20 June 2014. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsk2oy72JlefPnicA9mLXtq%2B9%2F5hbXwg%2B5JWNDr0RdTusMRgzu6yegqVTu8QgwbPcc9dlir1Tfe5g9kMOTJykFvZmYIG7TVsYdYcm2OgOMRJK> ("UNCAT report").

¹This converts to approximately 258 square feet.

²FIDH is an international human rights NGO.

As a result of the cramped conditions, inmates at "BRP are forced to sleep on their sides due to the insufficient space, and in order to avoid conflicts with other inmates. Former inmates at [BRP] reported experiencing leg and back pain because they could not move while sleeping," and "[f]ormer prisoners at the BRP reported that prisoners had to lay their legs on one another because of the crowded sleeping areas." FIDH Report at 20.

They say a picture is worth a thousand words, and that is never more true than now. The picture attached to my sentencing memorandum as Exhibit B is a graphic example of a cell that appears to be identical to my cell - cell 10 in in sub-prison 8 at the BRP – and it appears to have about 75 men in the room. The picture is a screen capture from a hacked security camera in a Thai prison. Many international rights organization reported that these conditions existed in prison in Thailand while I was incarcerated there.

Former prisoners from “BRP revealed that there are dormitories with better conditions reserved for prisoners with good behavior and for the purpose of receiving visits from UN, European Union (EU), or National Human Rights Commission of Thailand officials. These dormitories are cleaner and larger than the dormitories where most prisoners sleep." FIDH report at 21. At the BRP, the “nice” dormitories were in sub-prison 1, and westerners were offered places there for 40,000 baht (approximately US \$1,250) per month. I spent my first few weeks in December, 2015 in sub-prison 1, and there were 18 to 20 men per cell. Sleeping mats, pillows and blankets, which were forbidden in the other sub-prisons, were allowed and available for purchase. I was moved out around Christmas time when it was clear I couldn't pay the bribes required to stay.

(2) Lack of Beds or Mats and Bedding

Courts in this Circuit have recognized "that the condition of a prisoner's mattress may be so inadequate as to constitute an unconstitutional deprivation." *Walker v. Schult*, 717 F.3d 119, 127 (2d Cir 2013)(discussing *Bell v. Luna*, 856 F. Supp. 2d 388, 397-98 (D. Conn. 2012), where the court denied a motion to dismiss because the inmate lived with a torn, unstuffed, and mildewed mattress for seven months).

Rule 21 of the UN Standard Minimum Rules on the Treatment of Prisoners states, "Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness."

"FIDH and UCL's research shows a trend of increased restrictions in the [Central Women's Correctional Institution] and the BRP since the 22 May 2014 military coup. According to former inmates from both prisons, officials confiscated their mattresses, pillows, and blankets and replaced these items with three thin sackcloth blankets. Most inmates would lay one of the blankets down on the floor in place of a mattress. One former prisoner said, "Before the coup, I bought sleeping stuffs from the prison shop, so I had seven to eight blankets. But in late 2015, the officers took my sleeping mats, pillow and blankets and burned them, then gave us three blankets [each]." FIDH Report at 24.

When I first arrived at sub-prison 8, I was issued 2 sackcloth blankets, which were really more like the thickness of sheets, and measured about 3ft x 6ft. In mid-2016 the military toured the prison, and declared that we didn't need the blankets. The officers seized them all and burned them. After that, we slept on the concrete floor wearing shorts and a t-shirt, and nothing more. Some of the gang leaders--who slept on the raised plywood shelves, because they were more comfortable than the floor, would bribe the guards to let them bring in a blanket, but personally I never saw the purpose as they were too thin to offer even a modicum of comfort.

The attached screenshot from a hacked Thai prison security camera shows a scene that is pretty much identical to Cell 10 when I was incarcerated there. Exhibit B to sentencing submission.

I have permanent problems with my left leg from lying on the concrete floor for 16 hours a day, on my side, for over 2 1/2 years. It is either a nerve or circulation problem, or possibly both. medical staff here is stymied. Now I cannot lay on my left side, back or stomach without my left thigh going numb, with a feeling of excruciating fire in my left leg. The medical staff at MDC has been aware of the problem since my arrival, but has not determined the cause, in spite of finally getting tests and x-rays earlier this year. I am told that better diagnostic methods, i.e. CAT scan or MRI, will likely be available when I get to my "spot". Medical staff at MDC are borderline competent, and I don't expect anything more of them before I leave here. Currently I also have neck and shoulder problems from only laying on my right side, which is painful, but the only possible sleeping position I have left. It doesn't help that MDC prohibits pillows, and I'm told that I cannot get a pass for one.

(3) Insufficient Ventilation

According to the ICRC, "no more than 40-50 persons should be accommodated in a room where inmates sleep and then only when the available space, ventilation, and lighting meet the ICRC's recommended specifications." ICRC, *Water, Sanitation, Hygiene and Habitat in Prisons, Supplemental Guidance*, 2005, 25-26.

<https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4083.pdf>.

"Inmates cannot see the external environment from their dormitories . . . Iron bars are used to separate the dormitories at both [the CWCI and BRP] prisons. The former prisoners reported that there was an insufficient number of fans." 2017 FIDH Report, 21.

There was no airflow through the cells, and the fans merely served to move the fetid air around. The average daily high in Bangkok during my incarceration was 91 degrees, with an average relative humidity of 86%. See Bangkok Temperature, Relative Humidity and Rainfall data, attached as Exhibit C. The heat, humidity and stale air was absolutely debilitating. The thick concrete of the building would soak up heat from the sun during the day, and the temperature in the cells would continue to rise during the evening as the heat radiated out from the concrete, often bringing the temperature up to close to 100 degrees. Of course the filthy toilet facilities added to the miasma, with the smell often causing nausea.

(4) Sexual Violence

The United Nations Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment report on Thailand stated that "[r]eports before the Committee indicate incidents of continuing violence in detention, including sexual violence in detention, including sexual violence by prison guards or other prisoners with the acquiescence of the authorities." UNCAT Report.

Sexual assaults, rapes, and violence were a continuing problem at sub-prison 8 of the BRP, particularly in the cells. Locked in from line up to cells at 2:00 p.m., until 6:30 a.m., sadistic alpha males in the cell took constant advantage of the zeta males.

Weaker prisoners were stripped naked and beaten, sometimes for hours. Sometimes the aggressors would play soccer with their victims, splitting into two teams, and kicking their victim towards the wall at the opponents end of the room, up a narrow aisle up the middle of the cell. The people who would normally lay there stood to the side and cheered them on. If the victim was kicked towards the sides, the prisoners lying there would kick him back towards the center of the room. It was positively brutal.

Sexual assaults were pervasive, with the victims being raped or forced to perform fellatio, or often both at the same time by two attackers. There were numerous attacks every night, up to five or six over a period of several hours. I witnessed literally several thousand attacks of sexual violence during my time at the BRP.

When I arrived in America on June 15, 2018, and was incarcerated at the MDC, I was plagued by nightmares and memories of the assaults I had witnessed in the Thai prison. Often I could only get 1 or 2 hours of broken sleep a night. My not-so-tough to figure out self-diagnosis was PTSD. Stress after traumatic events seemed about right, but I remained leery for months of the stigma involved with asking for help. There are no secrets at MDC.

Then, by the beginning of December 2018, I had been unable to sleep for 10 days, and I was experiencing a pounding head, poor vision and balance, and auditory hallucinations all consistent with a terminal lack of sleep. I finally contacted the psychology department at MDC who very unhelpfully suggested that I write down what was bothering me when I went to bed each night, to try and identify the problem. Identifying the problem was not the issue, it was the memory of the brutal sexual assaults, and the nightmares that resulted that was the problem. The psychologist having proved to be more than useless, I lobbied to see someone from psychiatric services.

Finally around December 15, 2018, I had a visit with the prisons part-time psychiatrist. I sat in his office for 20 minutes with him barely asking me a question, after I first explained my problem. The visit concluded with him prescribing me a cocktail of "psych meds" that he assured me would allow me to sleep. For almost two years, it has been effective, with two dosage adjustments. I

still have problems falling asleep many nights because the memories still haunt me, but when I do fall asleep I sleep like a log, not waking up until morning. The psych meds leave me slow to wake up and dozy for a while in the mornings, but that has the advantage that I never remember my dreams, nor my nightmares.

It is unlikely that I will ever get over the mental damages that I suffered at the BRP, but at least now I am able to live with them.

(5) Mingling of Inmates With Serious Infectious Maladies

"Many inmates at the . . . BRP suffer from diseases and infections that easily spread among inmates due to the overcrowding and shortage of healthcare staff." FIDH Report at 25.

"While sick prisoners are supposed to be kept separate from other prisoners, this is difficult to implement in practice due to overcrowding." *Ibid.*

"Diseases that inmates commonly contract in the prison include skin diseases, such as scabies and abscesses, and tuberculosis." *Ibid.*

In mid-2016 the prison tried to identify all the inmates in all 8 sub-prisons who had active tuberculosis. They then transferred over 150 men to sub-prison 8, in order to keep the tuberculosis "problem" in one place. They moved about 100 men out to balance the influx, and my cell number 10 received 11 of the active TB patients. Most of the patients were AIDS victims, uneducated and illiterate. Bags containing several varieties of pills would be issued to them, along with printed instructions on the complex regimen they were supposed to follow for the month. Most patients traded the pills for food; among the inmates there, any pills besides the paracetamol that the infirmary issued for any problems, was considered "special," and they would trade for them with no regard for what type they were, or what they were for.

In the Spring of 2017, prison officials brought in portable x-ray machines and forced all inmates to have x-rays, as TB was running out of control in the institution. By the spring of 2018 it was even worse, and once again the x-ray trucks were brought in. Even more patients were identified, and then the same process with meds that were never properly taken was repeated. About a week before I left the prison I was taken to a hospital to have an x-ray for TB. The day I left the prison on the way out I was taken to a hospital for yet another x-ray to confirm I didn't have TB.

During my stay at BRP I was inflicted with numerous intestinal parasites, scabies, pinworm, ringworm and several other types of fungal infections, and countless insect bites. I currently still suffer from an aggressive skin fungal infection that ebbs and flows, but even oral anti-fungal drugs, which require weekly liver testing while dosing with them, could not completely get rid of it after 3 months of treatment. I also have an unrelated but equally debilitating rash that also comes and goes, and often I'll wake scratching drawing blood and scarring myself. Unfortunately the treatment for the rash leaves my skin more susceptible to the fungal infection, so it's been a vicious circle for 2 1/2 years at MDC, with currently no end in sight.

(6) Deprivation of Sleep

"[L]ights at the CWCI and the BRP affect prisoners sleep." 2017 FIDH Report, 21. In 2016 fluorescent lights were replaced by identically mounted LED lights, which featured 2 rows of LED lights in a fixture that was a plug-in replacement for fluorescent bulbs, and that according to the packaging were "40% brighter than fluorescents." Cell 10 had 4 banks of the extremely bright lights. "The lights are kept on all night, to prevent the prisoners from escaping or breaking the rules." Ibid.

The ICRC states that "artificial lighting should not be kept on 24 hours a day in areas where detainees sleep" and "should not be so powerful that it disturbs the sleep of prisoners." ICRC, Supplementary Guidance, 2012, 20, 37.

The poor ventilation and foul air from the toilet area, sights of sexual violence, and fights and arguments that break out over the stupendously overcrowded conditions when a sleeper rolls over even a little bit, all contribute to an environment that is in no way conducive to sleep. Of course being forced to lay on ones side on a cold concrete floor makes sleep difficult if not almost impossible as well.

Sleep is critical to human existence, and conditions that prevent sleep have been held to violate the Eighth Amendment. *See Tafari v. McCarthy*, 714 F. Supp. 2d, 317, 367 (N.D.N.Y. 2010)("Courts have previously recognized that sleep constitutes a basic human need and conditions that prevent sleep violate an inmate's constitutional rights.")(citing *Harper v. Showers*, 174 F.3d 716, 720 (5th Cir. 1999).

7) Unusable and Unsanitary Toilet Facilities

In 1972 the Second Circuit noted that "[w]hat is most offensive to this Court was the use of the 'Chinese toilet'. Causing a man to live, eat and perhaps sleep in close confines with his own human waste is too debasing to be permitted." *LaReau v. MacDougall*, 473 F.2d 974, 978 (2d Cir. 1972). The *LaReau* court had previously described a 'Chinese toilet' as a facility for disposing of human waste that "was merely a hole in the floor in the corner of the cell covered with a grate." *Id.* at 977. This was the type of toilet that was in the my cell, cell 10, in BRP.

"The toilets at the CWCI and the BRP lack privacy and are too few in numbers." 2017 FIDH Report, 22. I experienced this.

Outside the main building for use during the day, there were 16 squat toilets available for 1,200 men. They had a barrier about 24" high between each toilet, but had no door on the front, and offered absolutely no privacy. The open wall of the 16,000 square foot paper factory on the main floor of the building faced the toilets.

The ICRC recommends "no less than one toilet per 25 detainees" and that "prisoners using toilets should not be in full view of other detainee" ICRC, Supplementary Guidance, 38, 53. The toilets at BRP had one cistern in front of two toilets to hold water for cleaning oneself after defecating. The cisterns were filled at the beginning of the day using buckets dipping water from 2 locked tanks in front of the toilets. This water would usually run out by 8:00 a.m. or so. For the rest of the day, members of the "Food Mafia" would hang around the toilet area with buckets of water. For 1 baht (about US\$0.03) to 4 baht you could fill up a bottle with water to use for cleaning yourself. The Food Mafia would write each time down in a book, and collect from everyone once a week (See more information on the "Food Mafia" at heading 14 *ante*).

Unlike sub-prisons 1 through 7, sub-prison 8 was built a decade later, and to a completely different design. The cells were evenly split between having either one squat toilet in a corner, or having only a 4" hole in the floor for toilet facilities. Cell 10 that I was in had only a hole in the floor. There was no privacy whatsoever, and prisoners were in full view of each other throughout the cell. There was a hose pipe that had about an 8" hose dangling from it, that was for rinse water to wash excrement down the drain and for personal cleaning. There was no toilet paper, nor bowl to hold water. After defecating, one had to scoop water from the pipe with the left hand to clean oneself. We were not allowed to bring any bottled water into the cells. Shorts (no underwear allowed) and a t-shirt were the only two items that were permitted, enforced by strip searches every day before entering the cells.

Because of the ongoing drought in Thailand, and in fact in large swaths of SE Asia, the water was shut off at 6:00 p.m. every night, so there was no water for cleaning or flushing waste away. One does not truly know the meaning of despondent until they are crouched over a 4" hole in the floor suffering explosive diarrhea from dysentery, with no water to clean oneself or the floor. Many people became nauseous at the mess which stank indescribably in the heat, and would get sick, causing others to also vomit as a result. Dysentery was common due to poor water sanitation facilities, and everyone suffered from it at least several times a month. The area around the toilet became a cesspool of urine, excrement, and vomit on most nights. Prisoners who were unable to clean themselves had to stand against an outside wall for the rest of the night, so as not to spread the mess throughout the rest of the cell.

To make matters worse, when it rained, the sewage hole in the floor invariably backed up. Even the smallest amount of rain in Bangkok tends to fall in an extremely short period of time, so it would be only minutes after a deluge started that the drains would start to spew sewage into the cell. Prisoners would take off their clothes to try and dam the area around the drain if the rain wasn't too heavy. In heavier rains prisoners were forced to choose between standing or sitting down in foul sewage water remnants until we were released at 6:30 a.m., and rushed to the shower area to clean up before breakfast.

The Second Circuit has long recognized that unsanitary conditions can, in egregious circumstances, rise to the level of cruel and unusual punishment. *See Lareau v. Manson*, 651 F.2d 96, 106 (2d Cir. 1981)(noting that prisoners are entitled to, *inter alia*, sanitation).

(8) Insufficient Potable Water and Sanitation Facilities

"Research indicates that poor living conditions, including inadequate access to medical treatment, food and potable water, and poor sanitation facilities continue to plague [CWCI and BRP prisons]. These conditions fail to meet international standards." 2017 FIDH Report, 18.

"Inmates at CWCI and the BRP do not have an adequate supply of water for personal hygiene." *Id.* at 22.

The washing/showering area was open from 6:30 a.m. to 8:00 a.m. In that time, 1200 men attempted to clean themselves. In the morning, there were 2 tanks (1 meter x 8 meters, and 1 meter deep) that prisoners crowded around and dipped in their bowls to wash and rinse. The tanks would be empty by 7:00 am "Prisoners at the BRP shower using the bowl washing system in the morning and the pipe [shower spray] system in the evening." *Ibid.* In the afternoons, the showers would open at 1:30 for 30 minutes, for 1200 men. "The BRP's shower area has one water tank [pumped to the showers] to which prisoners will rush to have enough water to shower . . . [o]ne prisoner from the BRP described the situation at the showers at the BRP 'If you don't fight, you won't get a space in the shower before the water runs out!'" *Ibid.*

Washing twice a day is critical in the climate in Bangkok. During my 925 days in the BRP, the *average* daily high temperature was 91 degrees, and the *average* daily relative humidity was 86%. (When asked about the conditions in a Thai prison, my short response is "Like hell, only a lot more humid.") See temperature, relative humidity and rainfall data, Exhibit C to sentencing memorandum. The cells were hot, filthy and disgusting, so washing first thing after being unlocked, and changing to clean clothes, was critical before eating. Unwashed persons in dirty clothes were not allowed into the canteen. In the afternoons, we'd be soaked with sweat and desperate for a shower by 1:30pm when the showers opened for 30 minutes. At 2:00pm, we'd line up to go to our rooms.

Rule 16 of the UN Standard Minimum Rules for the Treatment of Prisoners states, in part, "Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suited to the climate, as frequently as necessary for general hygiene."

"Inmates do not have an adequate supply of drinking water due to the prison's poor water supply capacity." *Id.* at 24. "[S]ome [sub-prisons] have poor quality water filtration systems. As a result, some prisoners drink water that is not filtered at all." *Ibid.* The drinking water was putrid, and I'd suffer dysentery 4 or 5 times a month, as would basically all the prisoners. "Former inmates from the BRP said that each [sub-prison] had two water dispensers that inmates could use to fill up their bottles. However, sometimes the machine did not work and they would have to buy water from the prison [commissary]" *Ibid.*

The UN Standard Minimum Rules for the Treatment of Prisoners state, "drinking water shall be available to every prisoner when he or she needs it."

At night, from 2:00pm line ups to cells, until 6:30am unlocking, prisoners were not allowed to have any food or bottled water in the rooms. Barefoot, with shorts and a t-shirt was all we were allowed in the rooms. Due to the ongoing drought conditions prevalent for several years throughout Thailand, water for flushing excrement waste down the hole in the floor that served as a toilet, was shut off every night at 6:00pm. No water at all was available for over 12 hours every day.

(9) Lack of Basic Toiletries

It is clear that prisoners have a constitutional right to sanitary living conditions and the necessary materials to maintain adequate personal hygiene. "[T]he failure to provide prisoners with toiletries and other hygienic materials may rise to the level of a constitutional violation." *Walker*, 717 F.3d at 127 (citing cases).

Prisoners at BRP were not provided with basic toiletries such as soap, shampoo, toothbrushes, toothpaste, tissues or toilet paper, razors, combs, nail clippers, laundry soap, or access to a mirror. During my first eight months or so at BRP I had no visitors, who would have been able to purchase my requirements at the visitors store, and so I had no toiletries or shoes. The prison did not supply anything, including toiletries, laundry soap, or even clothing. On my first night there officers cut my trousers down to the size of shorts, and removed most the sleeves from my dress shirt, and confiscated my underwear, socks and shoes. I had to do without everything except a toothbrush that a prisoner who was leaving donated to me. Note that these items were not available in the sub-prison's commissary store, only a visitor could purchase them for prisoners.

(10) Infestations Throughout the Sub-prison

Vermin infestations were prevalent throughout the facility. Dozens of semi-feral cats roam the outdoor areas to help keep down the rodent population, but they were not allowed above the open air ground floor of the main building.

Sub-prison 8 had a massive outdoor kitchen that fed all 8 sub-prisons and the infirmary. No cats were allowed in the kitchen area, and it was infested with rats, mice, cockroaches and flies.

The eight sub-prisons went through literally tons of rice a day. The ground floor of the main building was used to store the rice, and it always had several dozen stacks of rice, stacked in 50-kilogram burlap type bags 3 x 6 x 20 high (the main floor was about 18' high) leaving a mice, rat and insect "highway" between the bags. Cats would camp out and toilet on the top of the stacks- there was no ground that wasn't concreted over for them to bury their spoor. As bags were removed from the top of the stacks for use to feed the prisoners, the bags would be covered in excrement and stained yellow from the urine that leaked inside. Repeated requests for tarps to cover the stacks were denied. The staff seemed to find it humorous that "Cats shit and piss all

over your food." Undoubtedly boiling the rice for 30 minutes killed any microbes, but that didn't change the fact that the food was too unappetizing to eat as a result.

The dormitory cells were absolutely overrun with rats, mice, flies, ants, very large centipedes and spiders, and other insects. The toilet hole in the floor and the hole in the wall where the exposed hosepipe came in were veritable hives of vermin activity. Insect and rodent bites were nightly occurrences for all inmates.

Unfortunately, the semi-feral cats were not allowed in the canteen where the food was served. Food was placed on the tables before the prisoners were let in all at once, and the rodents and insects got the first dibs on the food. While eating you would have to constantly shoo away flies and cockroaches from your food, and rodents scampered merrily about snatching scraps from under the tables.

When challenged prison conditions include exposure to unsanitary conditions, the Second Circuit is unwilling "to set a minimum duration and minimum severity of an exposure for it to reach the level of a constitutional violation." *Willey v. Kirkpatrick*, 801 F.3d 51, 68 (2d Cir. 2015). There is neither "any bright-line durational requirement for a viable unsanitary conditions claim. Nor is there some minimal level of grotesquerie required . . ." *Id.* Whatever the line, the conditions are BRP clearly fell below it.

(11) Inadequate Nutrition

Meal times at sub-prison 8 at the BRP were at 7:30 a.m. and 11:00 a.m. There used to be a dinner meal at 2:00 pm, with prisoners lining up to go to their cells at 3:00 p.m., but that changed a couple of months after I arrived. The final meal was no longer served (though if you visit there, signs on the canteen proudly announce a meal at 4:00 p.m., a couple of hours after prisoners are locked up tight for the day) and the line up to go to the cells was moved to 2:00 p.m.

"The former prisoners from the CWCI and the BRP described the prison food as tasteless and lacking in nutritional value . . . a former inmate from the BRP said that he lost weight in prison because he could not eat the prison food and stayed hungry at night." 2017 RIDH Report, 23.

The food provisions were nutritionally inadequate, and the water was not always potable. Breakfast usually consisted of a "soup" with one fish-ball per prisoner. The soup was served in bowls that were shared between four prisoners, who would all dip their spoons into the same bowl while eating. Each prisoner would have his own plate of rice, which was often unpalatable. The food was placed on the tables starting long before the prisoners were let in to eat, so cockroaches, flies, mice and rats got their fill first. Lunch usually consisted of fish-head soup--which is exactly what it sounds like--and more rice. That was the extent of the food available daily from the prison.

Lack of water and dehydration was a problem every evening. Prisoners were allowed no food or even bottled water in the rooms from line up for rooms at 2:00 p.m. until unlocking at 6:30 a.m.

Even if one was so desperate to drink from the toilet hosepipe, it was shut off at 6:00 p.m. due to drought conditions in the country. See attached news reports from 2016 and 2018 concerning drought conditions in Thailand and SE Asia in general, see Exhibit D and E to sentencing memorandum.

"Former prisoners from the BRP confirmed that prisoners who could afford to buy other food would order it from the [visitors] prison shop or [have visitors order from] food shops outside the prison." *Ibid.* A prisoner needed to have visitors pay for outside food, or food from the visitor-only "prisoners welfare shop", where only a visitor could order and pay for food, to be delivered the next day to the sub-prison. A prisoner with money on his account but no visitors was out of luck.

I was 180 pounds when I arrived at BRP on December 3, 2015, and my weight had dropped to 93 pounds when I left on June 14, 2018, 924 days later. My current weight on November 5, 2020 is 155 lbs.

(12) Inadequate Medical Care

I had abscesses on the sides of my hips and buttocks from lying on the concrete floor. Given the absence of medical care, other prisoners "treated" me for this condition with a flame sterilized needle that punctured and drained them. The same treatment was used the five or six times I was afflicted with scabies. My rash was treated by saving up my own urine and applying it to the affected area. To deal with the ringworm I contracted at the prison, I used tobacco and spit poultices. Trips to the infirmary invariable ended up with returning with a useless strip of 10 paracetamol. The excruciating pains in my leg from sleeping on the concrete floor were ignored by the medical staff, and I was advised to have it attended to when I arrived in America. That hasn't worked out too well either, so far.

I am not the only person who found these conditions while in prison in Thailand. The United Nations Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment report on Thailand reported that prison "conditions include insufficient ventilation . . . poor sanitation and hygiene facilities and inadequate access to health care." UNCAT Report.

"Inadequate access to medical treatment, insufficient food and potable water, and poor sanitation facilities continue to plague [the CWCI and BRP] prisons examined in this report." FIDH Report at 4.

The International Federation for Human Rights stated the following in its 2017 report on this question: "The CWCI and the BRP lack an adequate staff of healthcare workers and their services are very difficult to access as a result." *Id.* at 24. "The doctor and nurses usually prescribe paracetamol [a not-very-powerful over the counter analgesic as common in Europe and SE Asia as aspirin] to treat most ailments. One former prisoner from the BRP said, 'They [the doctor] will sit far away from us like they are disgusted by us. They will shout to ask what the matter is and give us paracetamol.'" *Ibid.*

"As a result of poor medical care, many inmates preferred to take care of themselves. One former prisoner at the CWCI recounted, 'My eye was infected and I chose to rinse my eye with my urine because I wouldn't get eye drops from them anyway.' Another former prisoner at the CWCI said, 'The first thing I was told when I got there [to the CWCI] was that I must not get sick because if I got sick, I'd be better off dead.'" *Ibid.*

"Former prisoners from the BRP described the healthcare services as 'horrible.' One of them recounted, 'Lots of people have abscesses and the treatment is not to see a doctor but to use a singed needle and pierce the wound and core it out. The blood will flow out of the wound, and then we cover the wound with tobacco. We cannot wait for the healthcare services because it takes too long. If there is anything we can do, we'll do it on our own'." *Ibid.*

"At the . . . BRP, access to emergency medical care at night, weekends, and public holidays is either not provided or extremely limited. In some cases, the only available emergency medical is provided by designated prisoner volunteers'." *Id.* at 25.

(13) Exploitive Labor

Thailand's Constitution of 2017, Section 30, states: "Forced labour shall not be imposed, except by virtue of a provision of law enacted for the purpose of averting public calamity, or when a state of emergency or martial law is declared, or during the time when the country is in a state of war or armed conflict." However, this provision of the Constitution was not honored. "Prisoners are often subjected to exploitive labor practices characterized by harsh working conditions and insufficient remuneration." 2017 FIDH Report, 4.

"[T]he National Human Rights Commission of Thailand (NHRCT) and the Ombudsman [are] recognized as the sole authorities able to conduct prison visits." *Id.* at 17. However, "members of the NHRCT have reported difficulty visiting certain prisoners or prisons despite their official capacity." *Id.* at 18.

"Working conditions at the CWCI and the BRP are harsh and the remuneration is insufficient" and "[p]risoners work seven days a week . . . from 8am to 2pm . . . at the BRP." *Id.* at 25. In sub-prison 8, workers finished at 1:30pm, to allow them a chance to shower before going to the cells at 2:00 p.m.

It was my experience at sub-prison 8 that no workers received any pay for their work. The guards promoted the fiction that all pay was banked to be paid on the day that a prisoner was released. Prisoners who had contact with released inmates said that no payments were ever forthcoming.

When dealing with complaints about no pay, the building manager of sub-prison 8 said that the pay all went towards the cost of feeding the inmates.

The job I was assigned was on the main floor of the dormitory building, folding and gluing together bags. I was never remunerated for my work. The prisoners who worked as factory bosses were leery of meting out punishment to white foreigner, and unlike most other prisoners I was never beaten when I didn't make my quota.

Stitching together women's shoes was the biggest industry in sub-prison 8. Workers would have to stitch together 40 to 60 pairs of shoes a day, depending on the complexity of the shoe and their experience. Consequences were particularly brutal for missing quotas there, as the shoe factory was the guards' biggest earner. I personally saw Laos and Cambodian children as young as 9 years old, who were imprisoned without their parents, stitching together "Bata" branded "Comfit" model open-toed shoes, that were proudly labeled "Made in Thailand."

Supposedly the prison complex kept no prisoners younger than 14, and under those under 18 were to be kept in sub-prison 2, but many Laos and Cambodian children came through sub-prison 8 and worked making shoes. Unscrupulous contractors would hire Cambodian and Laos workers for construction jobs, and when the job was complete, instead of paying off the workers, they'd call immigration to raid the camp. Often children would be swept up without their parents. Adults, and children 9 and older, without even going to court were sent directly to the prison en mass to work in the factories for 90 days--never charged with anything--and then deported. This in spite of the fact that there were supposed to be separate Immigration Detention Facilities, with no factory work, that they should have been sent to. The children were housed in cell 16, with the 50 or so "lady-boys" (men with breasts and other female attributes, usually sex workers imprisoned for robbery and assault of clients) who "mothered" them and fortunately protected them from sexual predators.

14) Crime and Intimidation

"While procedures for making complaints exist, prisoners are afraid to lodge complaints out of fear of retaliation at the hands of prison officials." FIDH Report at 4.

The prison official didn't want to hear anything that made the prison look bad, and the "Food Mafia" split their profits with the prison guards, so they were untouchable.

The Food Mafia pretty much ran sub-prison 8. There were 10 prison staff, including the sub-prison manager, to supervise all operations 24 hours a day, 7 days a week, including the kitchen serving the entire 8 sub-prison complex and the infirmary, and the paper bag, shoe, and wood-working factories. Except for line-up to cells at 2:00 p.m. and unlocking at 6:30 a.m., unless you sought them out at their desks in their offices, it was perfectly possible to go days, even weeks, without seeing any prison staff during the day.

The name "Food Mafia" comes about as the largest and most profitable venture the gang engaged in was reselling food from the commissary and the visitors' store at a 25% to 50% markup. Only their agents could make purchases at the commissary food store, and an agent would pay 3,500 baht (about US\$110.00) a month for the right. If you didn't write out your

commissary order through a Food Mafia agent, the commissary (which was staffed exclusively by Food Mafia agents, of course) would ignore the order.

An inmate could purchase items available from the visitors' store for a 50% markup, for items otherwise unavailable to prisoners who did not have visitors. Commissary store items were sold at a 25% markup. Debts for purchases would be written down, and had to be paid within a week. If you were unable to pay, 15% per week, compounded weekly was added on, and it was rolled over to the next week. Payment was made by giving the gang the required amount in milk - 250 ml boxes that were 10 baht (about US \$0.30) each and were sold 30 to a case. The Food Mafia would give the cases of milk to the guards, who would then "sell" them back to the store, keeping a percentage, and using the proceeds to credit the Food Mafia purchases.

The Food Mafia also sold water for cleaning yourself of excrement after using the outdoor toilets after 8:00 a.m., when the cisterns in front of the toilets were empty. They would charge 1 baht (about US\$0.03) per 500ml bottle, or 4 baht per 2 liter bottle of water. They would sell dozens of 5 gallon pails of water per hour. Once again, usurious payment terms applied: They would write your name down in their collection books, and roll it over with a 15% surcharge if you were unable to pay off some or all of your bill.

At meal times there would be dozens of Food Mafia all over the sub-prison, with blankets laid out with bags of food and other items spread out for sale. The prison looked like a bazaar from 10:00 a.m. to 1:00 p.m.

Additionally, the Food Mafia ran all the gambling, as well as the prostituting out of the "ladyboy" sex workers.

Failure to pay off their bills would result in beatings, or in severe cases, stabbings. They basically controlled all aspects of the daily existence within the prison, and they were brutal in maintaining their hold on power.

15) Interference With Access to Legal Counsel, Legal and Personal Correspondence, and News

Again, FIDH reported similar conditions to those I experienced at BRP:

"Inmates have reported unreasonable restrictions placed on visits and correspondence with family and friends." FIDH Report at 4.

"Prison officers monitor all the conversations at both prisons." *Ibid.*

At the BRP personal and legal visits take place in a long series of rooms, with about 6 visitors per room on the other side of wire glass and bars. Communication is over phones that the prison unabashedly informs prisoners that Central Control in the prison monitors and records.

When I tried to hand in legal mail to be sent, the English-speaking and English-literate inmate in charge of mail would read it and then consult with a guard, who would refuse to accept it and usually rip it up. My attorney sent me numerous communications that were never received. My common-law wife sent me weekly letters for the first eight months, until she discovered they weren't getting through, and my sisters each sent several to me. In the more than two and a half years that I was in the BRP, I never received any mail whatsoever.

"One former prisoner commented, 'When I didn't have money, I wasn't allowed to write that, I had to write something good like 'I'm doing fine' because the letters would be censored by the officers.' Another former prisoner said, 'You have to use polite language in the letters you send to people outside prison and if you don't the officers will call you in and hit you because they will examine your letters'." *Ibid.*

One of the "trusty" inmates who also worked mail suggested that the reason I'd never get any mail in our out was because the guards were scared to beat a white, English-speaking Westerner, so they took out their frustrations at that in other ways. Of the dozens of letters that I sent out, only one was ever delivered, and that was after some six weeks of delay.

No phone calls were allowed at all at the BRP.

At attorney visits, I was not allowed to bring any papers or notes at all to the visiting area. I was strip searched before each attorney visit twice. These "examinations" took place when I left sub-prison 8 before walking the 1/2 km or so to the visiting area, and again before I entered the visit area to meet with my attorney. My attorney was not allowed to give me any papers concerning my case.

On my court appearance in February 2016 where the extradition documents were presented, I was given a stack of copies of the documents from America. All of them were seized from me and destroyed a couple of hours later when I returned to the BRP.

During attorney visits there was always a guard that spoke English sitting at a desk on the attorney's side of the glass. Consultations could not begin until another guard who spoke English came and stood directly behind my seat at the phone. He would slap me if I talked about conditions at the prison. If either of the guards did not like what my attorney and I were saying, the guards would end the meeting and have me dragged out of the visiting room. This happened several times.

"[F]ormer prisoners at the CWCI and the BRP reported that after the coup [in 2014] the Department of Corrections banned newspapers and watching the news on TV, as well as books in the dormitories." The UN Standard Minimum Rules for the Treatment of Prisoners state, "Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by letters or by any similar means as authorized or controlled by the prison administration."

The news blackout was very effective, virtually no information about what was going on in Thailand, or the rest of the world filtered through to us. As an example, after I got to the MDC in New York, there was an announcement one day that there would be a special report that evening on the anniversary of the massacre in Las Vegas. I turned to some men at the table, and asked, rather surprised, "What's this about a massacre in Las Vegas?" I had heard nothing about it prior to that, and was aghast when I learned the details of the shootings, which the special on TV that night showed leaders from around the world expressing their sadness and expressing condolences.



BANGKOK POST

An image captured from hacked CCTV footage posted on Youtube shows an overcrowded cell in Lang Suan prison in Chumphon province.

Bangkok Temperature, Relative Humidity, and Rainfall - Section 1

	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	Jun 2016
01 Temps		74F to 88F	81F to 94F	75F to 93F	82F to 91F	81F to 95F	83F to 86F
R.H. / Rain		70% / --mm	92% / 0.4mm	62% / --mm	87% / 0.1mm	91% / 3.5mm	92% / 2.3mm
02 Temps		73F to 89F	81F to 88F	77F to 94F	82F to 93F	85F to 96F	81F to 91F
R.H. / Rain		83% / --mm	91% / 0.2mm	62% / --mm	84% / --mm	88% / 0.7mm	99% / 1.47mm
03 Temps	77F to 93F	74F to 91F	76F to 90 F	78F to 96F	82F to 94F	85F to 97F	83F to 91F
R.H. / Rain	96% / 0.5mm	79% / --mm	70% / --mm	84% / --mm	89% / --mm	85% / --mm	93% / 14.2mm
04 Temps	78F to 90F	74F to 94F	75F to 90F	80F to 93F	83F to 95F	85F to 96F	82F to 89F
R.H. / Rain	98% / 0.2mm	83% / --mm	73% / --mm	88% / 0.3mm	85% / --mm	85% / --mm	96% / 0.6mm
05 Temps	76F to 87F	77F to 92F	76F to 92F	81F to 93F	85F to 95F	85f to 98F	82F to 95F
R.H. / Rain	94% / 0.1mm	79% / --mm	75% / --mm	87% / --mm	82% / --mm	91% / --mm	87% / 0.8mm
06 Temps	77F to 90F	78F to 93F	79F to 87F	81F to 93F	84F to 97F	86F to 98F	81F to 94F
R.H. / Rain	89% / 1.3mm	82% / --mm	81% / --mm	88% / --mm	89% / --mm	83% / --mm	92% / 0.5mm
07 Temps	75F to 88F	78F to 91F	67F to 80F	82F to 94F	85F to 95F	86F to 98F	83F to 91F
R.H. / Rain	89% / --mm	93% / 0.2mm	8% / --mm	90% / --mm	86% / --mm	87% / m	96% / --mm
08 Temps	75F to 90F	80F to 87F	63F to 79F	81F to 93F	84F to 94F	87F to 97F	79F to 96F
R.H. / Rain	88% / --mm	89% / 0.3mm	58% / --mm	89% / --mm	86% / --mm	85% / 3.7mm	96% / --mm
09 Temps	76F to 93F	77F to 89F	65F to 81F	81F to 92F	82F to 95F	87F to 98F	84F to 94F
R.H. / Rain	86% / --mm	94% / 0.4mm	64% / --mm	94% / --mm	88% / --mm	87% / --mm	77% / --mm
10 Temps	77F to 91F	80F to 92F	69F to 90F	81F to 92F	84F to 97F	86F to 98F	84F to 95F
R.H. / Rain	90% / --mm	88% / 0.4mm	72% / --mm	92% / --mm	86% / 0.2mm	84% / --mm	95% / --mm
11 Temps	78F to 93F	77F to 91F	72F to 90F	81F to 83F	84F to 100F	86F to 99F	82F to 93F
R.H. / Rain	91% / --mm	96% / 1.0mm	90% / --mm	91% / --mm	90% / --mm	80% / --mm	95% / 0.5mm
12 Temps	80F to 100F	78F to 91F	76F to 92F	83F to 94F	83F to 98F	87F to 98F	82F to 91F
R.H. / Rain	95% / 0.1mm	93% / --mm	91% / --mm	86% / --mm	90% / --mm	86% / 0.6mm	85% / 1.2mm
13 Temps	81F to 93F	78F to 92F	79F to 92F	82F to 93F	84F to 98F	87F to 99F	83F to 94F
R.H. / Rain	94% / 0.1mm	91% / --mm	93% / --mm	87% / 0.3mm	87% / 0.2mm	82% / 2.4mm	82% / 0.3mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 1 (cont)

	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	Jun 2016
14 Temps	80F to 92F	79F to 92F	78F to 93F	82F to 94F	85F to 99F	84F to 95F	83F to 94F
R.H. / Rain	94% / 0.4mm	93% / 1.4mm	95% / --mm	84% / --mm	81% / 1.0mm	82% / 2.58mm	82% / 4.1mm
15 Temps	79F to 92F	80F to 92F	80F to 94F	82F to 93F	85F to 99F	86F to 100F	81F to 94F
R.H. / Rain	89% / --mm	92% / 0.7mm	93% / 0.1mm	90% / --mm	88% / 1.1mm	83% / 4.6mm	94% / --mm
16 Temps	79F to 92F	80F to 88F	81F to 90F	83F to 93F	85F to 99F	84F to 92F	82F to 86F
R.H. / Rain	86% / --mm	94% / 2.5mm	93% / 4.0mm	93% / --mm	84% / 1.7mm	89% / 2.6mm	95% / 3.2mm
17 Temps	77F to 85F	80F to 93F	80F to 94F	82F to 95F	85F to 97F	82F to 99F	78F to 86F
R.H. / Rain	88% / --mm	86% / --mm	87% / 0.7mm	88% / --mm	90% / 2.9mm	86% / 4.6mm	98% / 1.2mm
18 Temps	72F to 83F	82F to 94F	79F to 93F	82F to 93F	85F to 97F	78F to 94F	77F to 86F
R.H. / Rain	71% / --mm	94% / --mm	90% / --mm	88% / --mm	88% / 0.6mm	98% / 0.6mm	99% / 1.8mm
19 Temps	72F to 86F	82F to 90F	79F to 92F	83F to 92F	85F to 95F	84F to 95F	81F to 94F
R.H. / Rain	72% / --mm	91% / 1.7mm	92% / --mm	86% / --mm	86% / 0.9mm	88% / 1.3mm	98% / 0.4mm
20 Temps	72F to 87F	77F to 91F	80F to 92F	83F to 93F	85F to 97F	83F to 95F	83F to 92F
R.H. / Rain	77% / --mm	94% / 0.9mm	89% / --mm	87% / --mm	85% / 0.5mm	92% / 1.1mm	96% / 0.1mm
21 Temps	73F to 91F	79F to 92F	80F to 92F	83F to 94F	82F to 95F	82F to 95F	76F to 89F
R.H. / Rain	77% / --mm	96% / 0.4mm	94% / 0.3mm	86% / --mm	82% / 0.1mm	92% / 3.3mm	97% / 5.8mm
22 Temps	79F to 88F	80F to 92F	79F to 91F	83F to 94F	86F to 99F	81F to 93F	77F to 92F
R.H. / Rain	71% / 0.1mm	91% / 0.4mm	86% / --mm	85% / --mm	82% / 1.5mm	96% / 5.0mm	99% / 3.8mm
23 Temps	79F to 87F	80F to 93F	80F to 93F	82F to 96F	86F to 104F	81F to 94F	76F to 89F
R.H. / Rain	79% / 0.3mm	93% / 0.1mm	87% / --mm	91% / 0.3mm	87% / 0.3mm	89% / 3.4mm	98% / 7.5mm
24 Temps	78F to 89F	72F to 83F	80F to 92F	83F to 100F	86F to 97F	84F to 95F	79F to 88F
R.H. / Rain	85% / --mm	83% / 2.3mm	89% / 1.2mm	92% / 0.1mm	83% / 1.1mm	84% / 5.0mm	98% / 10.4mm
25 Temps	80F to 93F	63F to 69F	78F to 91F	83F to 95F	86F to 97F	84F to 96F	81F to 91F
R.H. / Rain	88% / --mm	76% / --mm	88% / 0.8mm	85% / --mm	86% / --mm	74% / 0.4mm	98% / 0.5mm
26 Temps	81F to 94F	61F to 77F	74F to 94F	80F to 96F	83F to 92F	82F to 96F	77F to 91F
R.H. / Rain	90% / --mm	73% / 0.1mm	63% / --mm	79% / 0.6mm	94% / --mm	83% / 0.4mm	98% / 1.1mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 1 (cont)

	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	Jun 2016
27 Temps	79F to 92F	62F to 81F	81F to 92F	83F to 92F	83F to 98F	85F to 96F	79F to 88F
R.H. / Rain	94% / --mm	88% / 0.2mm	64% / --mm	86% / 1.3mm	90% / --mm	86% / --mm	98% / 1.1mm
28 Temps	80F to 92F	66F to 88F	75F to 93F	79F to 82F	85F to 98F	86F to 95F	78F to 90F
R.H. / Rain	83% / --mm	83% / --mm	71% / --mm	89% / 0.9mm	92% / 0.7mm	80% / --mm	99% / 0.5mm
29 Temps	79F to 92F	73F to 93F	79F to 91F	81F to 90F	87F to 97F	85F to 95F	81F to 90F
R.H. / Rain	80% / --mm	81% / --mm	67% / --mm	89% / 1.0mm	88% / --mm	83% / 0.1mm	83% / 2.0mm
30 Temps	78F to 91F	79F to 92F		82F to 92F	86F to 92F	84F to 90F	81F to 90F
R.H. / Rain	74% / --mm	92% / 0.1mm		87% / 1.8mm	96% / 1.4mm	86% / 0.9mm	86% / 3.0mm
31 Temps	78F to 89F	80F to 92F		82F to 92F		78F to 92F	
R.H. / Rain	75% / --mm	94% / --mm		90% / --mm		98% / 2.9mm	

Except where noted, all Temperature and Relative Humidity data are from:

www.timeanddate.com/weather/thailand/bangkok/historic retrieved on August 25, 2020

Temperature and Relative Humidity for July 4-18, 2016, and December 16, 2016, and all Rainfall data, are from:

www.worldweatheronline.com/lang/en-ca/bangkok-weather-history/krung-thep/th.aspx retrieved on August 25, 2020

Bangkok Temperature, Relative Humidity, and Rainfall - Section 2

	Jul 2016	Aug 2016	Sep 2016	Oct 2016	Nov 2016	Dec 2016
01 Temps	82F to 89F	82F to 93F	81F to 92F	82F to 90F	79F to 89F	78F to 87F
R.H. / Rain	96% / 1.7mm	81% / 0.9mm	85% / 2.2mm	88% / 2.4mm	89% / 8.9mm	83% / --mm
02 Temps	78F to 90F	83F to 94F	81F to 93F	81F to 89F	80F to 89F	77F to 88F
R.H. / Rain	98% / 4.8mm	80% / 4.2mm	88% / 0.4mm	90% / 9.4mm	95% / 3.4mm	74% / --mm
03 Temps	81F to 90F	81F to 92F	80F to 93F	79F to 89F	78F to 85F	78F to 88F
R.H. / Rain	92% / 0.7mm	98% / 0.5mm	82% / 2.0mm	96% / 5.6mm	98% / --mm	80% / --mm
04 Temps	82F to 95F	81F to 94F	82F to 91F	79F to 92F	79F to 90F	78F to 90F
R.H. / Rain	99% / 1.9mm	96% / 5.1mm	88% / --mm	98% / 3.6mm	81% / --mm	80% / --mm
05 Temps	79F to 90F	83F to 90F	81F to 92F	78F to 84F	79F to 91F	78F to 88F
R.H. / Rain	89% / 6.2mm	96% / 5.1mm	80% / 0.3mm	98% / 7.9mm	91% / --mm	84% / --mm
06 Temps	77F to 82F	79F to 92F	81F to 94F	79F to 86F	80F to 90F	79F to 86F
R.H. / Rain	90% / 1.2mm	96% / 0.6mm	94% / 1.3mm	86% / 6.0mm	87% / 0.1mm	76% / --mm
07 Temps	77F to 86F	78F to 89F	78F to 91F	78F to 89F	80F to 87F	77F to 87F
R.H. / Rain	92% / 4.7mm	98% / 0.9mm	96% / 5.7mm	95% / 7.1mm	97% / 1.7mm	76% / --mm
08 Temps	79F to 86F	80F to 91F	80F to 91F	80F to 92F	77F to 76F	78F to 84F
R.H. / Rain	81% / 0.3mm	96% / 0.9mm	91% / 2.0mm	92% / 6.3mm	86% / 4.0mm	84% / 0.1mm
09 Temps	81F to 88F	81F to 92F	78F to 91F	79F to 91F	80F to 86F	75F to 90F
R.H. / Rain	75% / 1.1mm	99% / 2.0mm	96% / 0.3mm	95% / 7.3mm	96% / 5.0mm	93% / --mm
10 Temps	79F to 90F	80F to 93F	81F to 94F	79F to 93F	80F to 90F	75F to 89F
R.H. / Rain	77% / --mm	99% / 0.1mm	80% / 0.3mm	95% / 2.4mm	97% / 8.1mm	84% / --mm
11 Temps	79F to 90F	81F to 93F	82F to 91F	81F to 90F	79F to 90F	75F to 89F
R.H. / Rain	76% / --mm	100% / 2.8mm	83% / 6.2mm	87% / 6.2mm	96% / 6.5mm	80% / --mm
12 Temps	81F to 90F	81F to 92F	79F to 87F	80F to 88F	79F to 94F	77F to 89F
R.H. / Rain	79% / 2.0mm	94% / 1.7mm	94% / 6.5mm	89% / 3.1mm	91% / 0.1mm	80% / --mm
13 Temps	81F to 93F	81F to 90F	79F to 86F	80F to 91F	81F to 90F	74F to 89F
R.H. / Rain	75% / 4.5mm	89% / 4.1mm	98% / 8.5mm	92% / 3.2mm	84% / 2.4mm	84% / --mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 2 (cont)

	Jul 2016	Aug 2016	Sep 2016	Oct 2016	Nov 2016	Dec 2016
14 Temps	81F to 91F	82F to 91F	78F to 88F	82F to 92F	80F to 95F	78F to 86F
R.H. / Rain	84% / 1.4mm	92% / 1.3mm	91% / 4.6mm	89% / 6.6mm	93% / 0.6mm	86% / 1.1mm
15 Temps	81F to 91F	81F to 90F	78F to 91F	83F to 92F	83F to 96F	78F to 84F
R.H. / Rain	84% / --mm	92% / 3.3mm	89% / 2.6mm	87% / 11.1mm	85% / 0.2mm	88% / --mm
16 Temps	81F to 95F	82F to 90F	80F to 92F	82F to 95F	81F to 94F	75F to 82F
R.H. / Rain	81% / --mm	92% / 1.1mm	91% / 2.4mm	98% / 6.7mm	85% / --mm	69% / 2.0mm
17 Temps	82F to 95F	82F to 93F	81F to 94F	78F to 88F	81F to 89F	77F to 87F
R.H. / Rain	77% / 0.7mm	94% / 0.6mm	90% / 2.3mm	97% / 24.2mm	80% / --mm	80% / --mm
18 Temps	79F to 88F	83F to 90F	79F to 91F	80F to 90F	81F to 94F	72F to 90F
R.H. / Rain	81% / 2.3mm	94% / --mm	96% / 2.8mm	96% / 5.0mm	77% / --mm	83% / --mm
19 Temps	80F to 95F	82F to 88F	78F to 91F	80F to 92F	78F to 91F	72F to 91F
R.H. / Rain	96% / 3.8mm	92% / --mm	96% / 1.8mm	96% / 0.6mm	96% / 5.1mm	81% / --mm
20 Temps	80F to 92F	84F to 93F	79F to 80F	82F to 93F	78F to 95F	78F to 92F
R.H. / Rain	94% / 3.1mm	94% / --mm	98% / 9.2mm	90% / 2.2mm	98% / 5.7mm	86% / --mm
21 Temps	76F to 91F	81F to 94F	77F to 86F	80F to 90F	81F to 89F	78F to 94F
R.H. / Rain	96% / 2.4mm	94% / 0.2mm	99% / 18.8mm	89% / 0.4mm	91% / --mm	83% / --mm
22 Temps	82F to 92F	82F to 95F	77F to 88F	82F to 90F	80F to 93F	81F to 84F
R.H. / Rain	92% / 3.0mm	90% / --mm	99% / 5.5mm	93% / --mm	83% / --mm	80% / 0.2mm
23 Temps	84F to 88F	84F to 95F	77F to 87F	78F to 92F	81F to 90F	81F to 91F
R.H. / Rain	89% / 3.4mm	93% / 6.2mm	98% / 16.7mm	89% / 1.5mm	88% / 16.5mm	91% / --mm
24 Temps	83F to 90F	81F to 93F	78F to 89F	79F to 80F	78F to 92F	81F to 91F
R.H. / Rain	90% / 1.7mm	96% / --mm	96% / 5.0mm	89% / 3.5mm	96% / 2.3mm	79% / --mm
25 Temps	81F to 91F	78F to 92F	78F to 88F	77F to 87F	78F to 90F	80F to 90F
R.H. / Rain	91% / 1.9mm	93% / 1.4mm	94% / 4.2mm	98% / 1.4mm	97% / 9.1mm	83% / --mm
26 Temps	80F to 95F	79F to 92F	80F to 90F	79F to 90F	79F to 91F	80F to 91F
R.H. / Rain	91% / 2.47mm	95% / --mm	94% / 5.0mm	96% / 11.7mm	96% / 2.2mm	83% / --mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 2 (cont)

	Jul 2016	Aug 2016	Sep 2016	Oct 2016	Nov 2016	Dec 2016
27 Temps	78F to 90F	83F to 94F	81F to 93F	81F to 89F	80F to 89F	77F to 88F
R.H. / Rain	96% / 1.3mm	94% / 4.5mm	96% / 3.9mm	96% / 5.0mm	82% / 2.2mm	80% / --mm
28 Temps	82F to 91F	80F to 88F	79F to 91F	78F to 91F	79F to 89F	77F to 85F
R.H. / Rain	96% / 2.6mm	98% / 1.1mm	97% / 0.8mm	98% / 6.8mm	86% / 0.2mm	73% / --mm
29 Temps	80F to 91F	81F to 90F	80F to 90F	76F to 90F	76F to 90F	72F to 87F
R.H. / Rain	91% / 2.2mm	98% / 5.8mm	92% / 0.6mm	98% / 15.4mm	84% / --mm	77% / --mm
30 Temps	81F to 88F	81F to 91F	80F to 90F	78F to 90F	78F to 89F	72F to 86F
R.H. / Rain	81% / 3.2mm	96% / 1.2mm	86% / 2.0mm	96% / 4.1mm	85% / --mm	70% / --mm
31 Temps	81F to 93F	81F to 93F		77F to 90F		76F to 86F
R.H. / Rain	80% / 2.8mm	96% / 6.9mm		91% / 9.6mm		68% / 0.2mm

Except where noted, all Temperature and Relative Humidity data are from:

www.timeanddate.com/weather/thailand/bangkok/historic retrieved on August 25, 2020

Temperature and Relative Humidity for July 4-18, 2016, and December 16, 2016, and all Rainfall data, are from:

ww.worldweatheronline.com/lang/en-ca/bangkok-weather-history/krung-thep/th.aspx retrieved on August 25, 2020

Bangkok Temperature, Relative Humidity, and Rainfall - Section 3

	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017	Jun 2017
01 Temps	76F to 88F	76F to 93F	80F to 96F	75F to 90F	84F to 97F	83F to 93F
R.H. / Rain	76% / --mm	74% / --mm	88% / --mm	98% / 7.2mm	83% / 1.2mm	92% / 1.8mm
02 Temps	75F to 88F	76F to 92F	79F to 93F	78F to 92F	86F to 98F	82F to 94F
R.H. / Rain	87% / --mm	77% / --mm	88% / --mm	92% / 4.2mm	80% / 2.3mm	92% / 5.0mm
03 Temps	76F to 87F	77F to 84F	78F to 95F	78F to 92F	86F to 94F	78F to 94F
R.H. / Rain	78% / --mm	87% / --mm	86% / --mm	98% / 0.1mm	86% / 1.7mm	93% / 3.7mm
04 Temps	77F to 86F	76F to 91F	81F to 94F	81F to 92F	86F to 96F	78F to 90F
R.H. / Rain	74% / 0.1mm	88% / --mm	86% / --mm	86% / --mm	83% / 3.2mm	93% / 4.7mm
05 Temps	78F to 87F	77F to 96F	81F to 92F	78F to 91F	75F to 91F	82F to 91F
R.H. / Rain	82% / 0.4mm	76% / --mm	86% / 0.9mm	96% / --mm	96% / 3.1mm	90% / 5.9mm
06 Temps	76F to 87F	76F to 94F	81F to 94F	81F to 91F	82F to 94F	81F to 91F
R.H. / Rain	86% / 0.8mm	70% / --mm	87% / 0.2mm	89% / 2.1mm	88% / 0.7mm	91% / 3.5mm
07 Temps	78F to 84F	78F to 95F	81F to 92F	80F to 92F	78F to 93F	81F to 90F
R.H. / Rain	90% / 0.1mm	71% / --mm	87% / --mm	89% / 0.6mm	93% / 1.4mm	98% / 7.7mm
08 Temps	78F to 82F	76F to 92F	82F to 92F	82F to 94F	84F to 93F	79F to 88F
R.H. / Rain	91% / 3.8mm	74% / --mm	84% / 0.7mm	87% / --mm	89% / --mm	88% / 0.5mm
09 Temps	78F to 92F	75F to 95F	82F to 91F	83F to 94F	83F to 94F	83F to 90F
R.H. / Rain	98% / 5.5mm	83% / --mm	82% / --mm	89% / --mm	86% / 2.96mm	92% / 3.6mm
10 Temps	76F to 84F	79F to 92F	81F to 92F	83F to 94F	81F to 90F	83F to 92F
R.H. / Rain	99% / --mm	83% / --mm	82% / --mm	86% / --mm	92% / --mm	98% / 0.5mm
11 Temps	77F to 86F	77F to 89F	81F to 92F	84F to 96F	81F to 93F	81F to 90F
R.H. / Rain	93% / 0.8mm	66% / --mm	87% / 0.6mm	88% / --mm	92% / 1.7mm	96% / 0.1mm
12 Temps	78F to 87F	73F to 89F	81F to 93F	83F to 95F	82F to 85F	81F to 90F
R.H. / Rain	96% / 0.6mm	62% / --mm	91% / 0.3mm	85% / --mm	94% / 6.3mm	81% / --mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 3 (Cont)

	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017	Jun 2017
13 Temps	78F to 90F	72F to 88F	82F to 97F	83F to 95F	81F to 88F	82F to 94F
R.H. / Rain	98% / --mm	64% / --mm	98% / 0.5mm	90% / --mm	98% / 5.0mm	78% / 0.5mm
14 Temps	76F to 90F	73F to 86F	82F to 94F	82F to 94F	80F to 91F	82F to 92F
R.H. / Rain	91% / --mm	62% / --mm	91% / --mm	82% / 2.8mm	96% / 1.0mm	88% / 0.6mm
15 Temps	76F to 92F	74F to 90F	82F to 94F	83F to 94F	82F to 92F	82F to 93F
R.H. / Rain	91% / --mm	63% / --mm	91% / --mm	83% / --mm	90% / 2.3mm	85% / --mm
16 Temps	81F to 90F	75F to 92F	83F to 94F	83F to 92F	78F to 90F	82F to 96F
R.H. / Rain	79% / --mm	71% / --mm	86% / 1.0mm	81% / --mm	98% / 2.0mm	84% / --mm
17 Temps	82F to 87F	75F to 94F	82F to 96F	83F to 89F	80F to 84F	83F to 95F
R.H. / Rain	79% / 0.6mm	74% / --mm	86% / --mm	83% / 0.2mm	98% / 26.6mm	73% / --mm
18 Temps	80F to 91F	76F to 94F	82F to 93F	82F to 96F	81F to 92F	83F to 93F
R.H. / Rain	95% / --mm	88% / --mm	89% / 0.2mm	85% / 0.9mm	92% / 3.6mm	87% / 0.1mm
19 Temps	78F to 93F	77F to 93F	82F to 94F	83F to 96F	83F to 85F	80F to 93F
R.H. / Rain	86% / --mm	88% / --mm	87% / 0.6mm	82% / 0.7mm	96% / 0.2mm	94% / 4.5mm
20 Temps	78F to 92F	78F to 92F	82F to 94F	84F to 96F	79F to 96F	78F to 93F
R.H. / Rain	78% / --mm	89% / --mm	88% / 0.5mm	85% / 0.47mm	96% / 1.2mm	98% / 1.7mm
21 Temps	79F to 91F	80F to 95F	83F to 97F	83F to 98F	83F to 96F	83F to 93F
R.H. / Rain	72% / --mm	92% / --mm	87% / 3.5mm	82% / --mm	92% / --mm	98% / --mm
22 Temps	77F to 89F	81F to 91F	83F to 96F	82F to 99F	85F to 96F	75F to 90F
R.H. / Rain	76% / --mm	89% / --mm	89% / --mm	77% / --mm	86% / 2.4mm	98% / --mm
23 Temps	76F to 87F	81F to 95F	83F to 94F	85F to 99F	86F to 95F	79F to 92F
R.H. / Rain	75% / --mm	92% / --mm	85% / 0.5mm	82% / 0.8mm	87% / 0.6mm	94% / --mm
24 Temps	75F to 89F	81F to 92F	84F to 93F	86F to 98F	82F to 95F	80F to 92F
R.H. / Rain	71% / --mm	89% / 0.3mm	86% / 0.8mm	85% / 0.2mm	92% / 5.9mm	92% / 0.3mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 3 (Cont)

	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017	Jun 2017	
25 Temps	75F to 91F	81F to 92F	82F to 97F	85F to 99F	76F to 91F	79F to 90F	
R.H. / Rain	78% / --mm	89% / 0.6mm	88% / 0.3mm	85% / --mm	99% / 3.0mm	90% / --mm	
26 Temps	77F to 87F	81F to 90F	83F to 95F	85F to 97F	81F to 84F	80F to 90F	
R.H. / Rain	78% / --mm	89% / 1.3mm	87% / 1.0mm	79% / --mm	93% / 18.6mm	78% / 7.4mm	
27 Temps	78F to 92F	80F to 92F	77F to 84F	83F to 97F	79F to 90F	82F to 93F	
R.H. / Rain	85% / --mm	92% / --mm	98% / 3.4mm	82% / 0.2mm	97% / 14.0mm	77% / 1.7mm	
28 Temps	75F to 90F	80F to 95F	78F to 93F	85F to 94F	80F to 90F	78F to 94F	
R.H. / Rain	73% / --mm	67% / --mm	87% / 0.7mm	85% / 2.9mm	96% / 3.6mm	98% / 0.1mm	
29 Temps	75F to 90F		82F to 90F	80F to 92F	81F to 87F	79F to 90F	
R.H. / Rain	79% / --mm		86% / 0.3mm	88% / 0.3mm	98% / 8.6mm	96% / 0.2mm	
30 Temps	76F to 91F		81F to 95F	82F to 96F	79F to 87F	80F to 89F	
R.H. / Rain	% / --mm		92% / 0.3mm	86% / --mm	99% / 2.3mm	95% / 1.7mm	
31 Temps	77F to 92F		83F to 94F		80F to 91F		
R.H. / Rain	82% / --mm		86% / 0.8mm		99% / 0.7mm		

Except where noted, all Temperature and Relative Humidity data are from:

www.timeanddate.com/weather/thailand/bangkok/historic retrieved on August 25, 2020

Temperature and Relative Humidity data for July 4-18, 2016, and December 16, 2016, and all Rainfall data are from:

www.wordlweatheronline.com/lang/en-ca/bangkok-weather-history/krung-thep/th.aspx retrieved on August 25, 2020

Bangkok Temperature, Relative Humidity, and Rainfall - Section 4

	Jul 2017	Aug 2017	Sep 2017	Oct 2017	Nov 2017	Dec 2017
01 Temps	78F to 92F	82F to 94F	82F to 94F	81F to 86F	77F to 84F	81F to 89F
R.H. / Rain	91% / 0.5mm	88% / --mm	90% / 0.1mm	95% / 14.4mm	76% / 0.2mm	77% / --mm
02 Temps	81F to 90F	82F to 93F	82F to 92F	77F to 82F	78F to 89F	77F to 90F
R.H. / Rain	87% / 0.2mm	91% / 2.3mm	86% / --mm	98% / 11.4mm	76% / --mm	77% / --mm
03 Temps	81F to 93F	84F to 89F	81F to 93F	78F to 83F	80F to 90F	78F to 91F
R.H. / Rain	94% / 2.9mm	94% / --mm	82% / --mm	98% / 8.1mm	76% / --mm	74% / --mm
04 Temps	77F to 88F	82F to 90F	82F to 94F	76F to 83F	75F to 90F	80F to 91F
R.H. / Rain	98% / 2.4mm	96% / 0.3mm	84% / 0.7mm	98% / 9.1mm	64% / --mm	70% / 1.5mm
05 Temps	78F to 89F	82F to 89F	80F to 90F	78F to 85F	77F to 83F	80F to 84F
R.H. / Rain	98% / 0.5mm	94% / 1.47mm	96% / 0.6mm	99% / --mm	62% / 0.7mm	66% / --mm
06 Temps	81F to 92F	81F to 88F	80F to 87F	80F to 87F	74F to 83F	77F to 89F
R.H. / Rain	98% / 3.1mm	92% / 3.3mm	96% / 1.8mm	93% / --mm	74% / --mm	71% / --mm
07 Temps	79F to 90F	79F to 88F	77F to 91F	82F to 89F	76F to 87F	79F to 90F
R.H. / Rain	98% / 7.8mm	94% / 1.6mm	96% / 1.1mm	89% / 2.1mm	82% / 1.0mm	76% / --mm
08 Temps	77F to 89F	81F to 89F	82F to 94F	78F to 91F	79F to 85F	80F to 91F
R.H. / Rain	96% / 17.2mm	100% / 0.1mm	92% / 3.3mm	95% / 6.5mm	77% / 5.5mm	82% / --mm
09 Temps	81F to 92F	82F to 94F	84F to 94F	80F to 90F	78F to 90F	76F to 87F
R.H. / Rain	84% / 3.7mm	86% / 4.2mm	87% / --mm	90% / 8.5mm	82% / --mm	82% / --mm
10 Temps	78F to 90F	82F to 93F	84F to 95F	80F to 89F	80F to 91F	76F to 90F
R.H. / Rain	98% / 0.1mm	85% / --mm	96% / 1.9mm	92% / 2.0mm	86% / 7.8mm	72% / --mm
11 Temps	81F to 91F	79F to 93F	79F to 92F	82F to 87F	78F to 86F	76F to 90F
R.H. / Rain	89% / 5.6mm	91% / 0.3mm	89% / 0.1mm	90% / 3.7mm	91% / 6.5mm	79% / --mm
12 Temps	77F to 86F	81F to 96F	82F to 91F	80F to 89F	77F to 92F	78F to 90F
R.H. / Rain	98% / 3.9mm	73% / 1.2mm	89% / 0.8mm	96% / 3.9mm	90% / 6.2mm	92% / --mm
13 Temps	78F to 90F	82F to 96F	81F to 91F	81F to 84F	79F to 89F	80F to 89F
R.H. / Rain	98% / 1.0mm	74% / --mm	92% / 4.3mm	94% / 5.9mm	89% / 12.1mm	85% / 0.8mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 4 (Cont)

	Jul 2017	Aug 2017	Sep 2017	Oct 2017	Nov 2017	Dec 2017
14 Temps	83F to 86F	83F to 94F	80F to 91F	76F to 88F	80F to 89F	81F to 90F
R.H. / Rain	82% / --mm	85% / 0.1mm	89% / 2.0mm	98% / 9.0mm	92% / 0.8mm	92% / 1.3mm
15 Temps	81F to 92F	82F to 90F	80F to 91F	78F to 91F	80F to 91F	79F to 90F
R.H. / Rain	93% / 15.2mm	93% / 5.8mm	94% / --mm	96% / 3.0mm	96% / 5.0mm	98% / --mm
16 Temps	82F to 89F	82F to 89F	80F to 94F	79F to 91F	79F to 90F	80F to 89F
R.H. / Rain	81% / 4.1mm	96% / 3.5mm	94% / 1.7mm	94% / 1.8mm	90% / 7.7mm	89% / 1.0mm
17 Temps	81F to 89F	77F to 87F	82F to 86F	79F to 90F	80F to 92F	75F to 83F
R.H. / Rain	84% / 7.3mm	98% / 11.0mm	81% / 5.2mm	96% / 1.2mm	94% / 3.2mm	65% / --mm
18 Temps	81F to 89F	77F to 89F	80F to 91F	78F to 85F	80F to 94F	69F to 81F
R.H. / Rain	82% / --mm	97% / 3.21mm	85% / --mm	95% / 16.0mm	96% / --mm	60% / --mm
19 Temps	77F to 87F	82F to 92F	81F to 92F	78F to 90F	82F to 90F	65F to 78F
R.H. / Rain	98% / 5.7mm	89% / 5.9mm	77% / --mm	95% / 3.5mm	94% / 10.4mm	58% / --mm
20 Temps	77F to 87F	80F to 90F	82F to 89F	80F to 93F	77F to 86F	63F to 77F
R.H. / Rain	98% / 6.8mm	87% / 4.9mm	87% / 12.1mm	90% / 3.6mm	98% / 14.0mm	58% / --mm
21 Temps	79F to 89F	81F to 92F	79F to 97F	81F to 90F	78F to 89F	64F to 80F
R.H. / Rain	82% / 6.6mm	93% / 5.9mm	98% / 6.4mm	95% / 10.7mm	96% / 11.0mm	56% / --mm
22 Temps	82F to 91F	82F to 90F	77F to 89F	77F to 92F	78F to 89F	65F to 83F
R.H. / Rain	79% / 1.3mm	78% / 0.9mm	95% / --mm	96% / 10.8mm	96% / 5.1mm	63% / --mm
23 Temps	80F to 90F	82F to 88F	77F to 87F	78F to 92F	80F to 88F	72F to 90F
R.H. / Rain	83% / 2.0mm	90% / 0.8mm	95% / 9.3mm	96% / 7.5mm	84% / 6.7mm	64% / --mm
24 Temps	81F to 90F	80F to 90F	76F to 90F	78F to 87F	79F to 87F	75F to 92F
R.H. / Rain	86% / 0.4mm	95% / 2.5mm	98% / 10.1mm	96% / 26.0mm	86% / --mm	69% / --mm
25 Temps	80F to 91F	78F to 91F	79F to 89F	77F to 88F	76F to 88F	75F to 84F
R.H. / Rain	88% / 8.8mm	97% / 0.4mm	94% / 2.5mm	98% / 3.6mm	70% / --mm	66% / --mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 4 (Cont)

	Jul 2017	Aug 2017	Sep 2017	Oct 2017	Nov 2017	Dec 2017
26 Temps	82F to 89F	80F to 91F	80F to 90F	78F to 91F	76F to 89F	74F to 77F
R.H. / Rain	89% / 10.4mm	92% / 4.5mm	96% / 16.1mm	93% / 11.1mm	72% / --mm	98% / 4.4mm
27 Temps	79F to 90F	76F to 89F	78F to 90F	77F to 89F	77F to 88F	67F to 70F
R.H. / Rain	83% / 4.8mm	99% / 13.9mm	95% / 3.5mm	98% / 0.1mm	72% / --mm	97% / 0.7mm
28 Temps	80F to 92F	78F to 90F	81F to 95F	79F to 92F	77F to 87F	70F to 79F
R.H. / Rain	84% / 0.4mm	94% / 7.0mm	91% / 8.7mm	79% / --mm	85% / --mm	98% / 0.8mm
29 Temps	79F to 89F	78F to 91F	77F to 91F	80F to 92F	77F to 90F	72F to 85F
R.H. / Rain	88% / --mm	95% / 0.6mm	98% / 2.7mm	78% / --mm	78% / 0.9mm	93% / --mm
30 Temps	82F to 93F	80F to 92F	79F to 92F	79F to 89F	81F to 88F	75F to 88F
R.H. / Rain	84% / --mm	89% / 1.6mm	92% / 2.6mm	69% / --mm	77% / 2.1mm	87% / --mm
31 Temps	83F to 94F	83F to 90F		76F to 87F		76F to 89F
R.H. / Rain	80% / --mm	96% / 1.6mm		75% / --mm		90% / 0.1mm

Except where noted, all Temperature and Relative Humidity data are from:

www.timeanddate.com/weather/thailand/bangkok/historic retrieved on August 25, 2020

Temperature and Relative Humidity for July 4-18, 2017, and December 16, 2017, and all Rainfall data, are from:

www.worldweatheronline/lang/en-ca/bangkok-weather-history/krung-thep/th.aspx retrieved on August 25, 2020

Bangkok Temperature, Relative Humidity, and Rainfall - Section 5

	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018
01 Temps	73F to 87F	77F to 86F	79F to 92F	80F to 87F	77F to 89F	81F to 92F
R.H. / Rain	96% / --mm	91% / 0.6mm	94% / --mm	86% / 2.0mm	97% / 1.8mm	94% / 0.3mm
02 Temps	74F to 88F	74F to 84F	81F to 92F	83F to 89F	78F to 90F	82F to 94F
R.H. / Rain	85% / --mm	84% / --mm	92% / 3.4mm	87% / 11.1mm	97% / --mm	90% / 1.3mm
03 Temps	77F to 88F	76F to 80F	80F to 92F	76F to 100F	78F to 88F	82F to 85F
R.H. / Rain	79% / --mm	70% / --mm	94% / --mm	98% / 2.0mm	96% / 8.3mm	89% / 0.9mm
04 Temps	77F to 91F	72F to 83F	80F to 93F	81F to 91F	78F to 94F	84F to 96F
R.H. / Rain	77% / --mm	70% / --mm	96% / --mm	98% / 3.2mm	93% / 2.2mm	74% / 5.2mm
05 Temps	78F to 93F	70F to 82F	80F to 93F	83F to 92F	80F to 92F	82F to 94F
R.H. / Rain	80% / --mm	74% / --mm	92% / --mm	87% / 1.1mm	90% / 0.1mm	84% / 5.6mm
06 Temps	80F to 89F	68F to 84F	81F to 94F	80F to 93F	81F to 91F	83F to 92F
R.H. / Rain	80% / --mm	80% / --mm	91% / 0.1mm	87% / 1.9mm	89% / 7.3mm	94% / --mm
07 Temps	80F to 87F	71F to 88F	80F to 92F	74F to 84F	78F to 92F	81F to 89F
R.H. / Rain	86% / 4.7mm	72% / --mm	88% / --mm	98% / 4.9mm	96% / 0.2mm	94% / 0.4mm
08 Temps	78F to 90F	72F to 89F	79F to 93F	73F to 87F	82F to 95F	82F to 86F
R.H. / Rain	95% / 0.1mm	88% / --mm	90% / 10.5mm	85% / --mm	96% / 5.3mm	83% / 11.6mm
09 Temps	80F to 91F	75F to 88F	76F to 82F	75F to 94F	83F to 94F	78F to 85F
R.H. / Rain	87% / 2.3mm	93% / --mm	96% / 11.5mm	77% / --mm	88% / 1.0mm	86% / 3.9mm
10 Temps	76F to 82F	76F to 90F	74F to 86F	78F to 96F	84F to 95F	83F to 89F
R.H. / Rain	98% / 7.5mm	91% / 0.1mm	90% / --mm	82% / --mm	90% / 3.0mm	98% / 5.3mm
11 Temps	78F to 80F	76F to 88F	74F to 91F	82F to 96F	82F to 90F	82F to 89F
R.H. / Rain	84% / 0.1mm	85% / --mm	83% / --mm	88% / --mm	86% / 1.2mm	87% / 0.9mm
12 Temps	71F to 81F	78F to 91F	78F to 91F	83F to 94F	78F to 93F	83F to 91F
R.H. / Rain	83% / --mm	94% / 0.4mm	85% / --mm	85% / --mm	93% / 1.4mm	80% / 1.7mm

Bangkok Temperature, Relative Humidity, and Rainfall - Section 5 (Cont)

	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018
13 Temps	67F to 81F	71F to 88F	80F to 93F	83F to 95F	82F to 94F	83F to 92F
R.H. / Rain	78% / --mm	82% / --mm	89% / --mm	84% / --mm	84% / 4.0mm	85% / 0.6mm
14 Temps	68F to 85F	72F to 92F	82F to 92F	84F to 95F	82F to 93F	83F to 91F
R.H. / Rain	75% / --mm	87% / --mm	88% / 0.1mm	88% / --mm	95% / 0.3mm	92% / 0.1mm
15 Temps	71F to 85F	74F to 92F	80F to 92F	84F to 93F	78F to 90F	
R.H. / Rain	81% / --mm	91% / --mm	89% / --mm	89% / 1.5mm	93% / 1.5mm	
16 Temps	73F to 90F	75F to 92F	81F to 91F	83F to 96F	82F to 96F	
R.H. / Rain	84% / --mm	92% / --mm	92% / 0.1mm	93% / 4.9mm	92% / --mm	
17 Temps	74F to 90F	78F to 92F	79F to 91F	77F to 91F	85F to 96F	
R.H. / Rain	84% / --mm	95% / --mm	91% / --mm	96% / 0.5mm	81% / 0.7mm	
18 Temps	76F to 90F	79F to 91F	81F to 92F	79F to 90F	84F to 94F	
R.H. / Rain	75% / --mm	92% / --mm	92% / --mm	88% / --mm	85% / 2.7mm	
19 Temps	75F to 85F	79F to 89F	82F to 94F	84F to 92F	80F to 94F	
R.H. / Rain	90% / --mm	90% / 0.69mm	88% / --mm	79% / 0.4mm	86% / 0.9mm	
20 Temps	76F to 90F	79F to 91F	82F to 94F	83F to 92F	83F to 96F	
R.H. / Rain	76% / --mm	90% / 3.2mm	85% / 0.6mm	89% / 1.5mm	85% / 0.7mm	
21 Temps	78F to 91F	79F to 91F	83F to 90F	82F to 96F	82F to 91F	
R.H. / Rain	78% / --mm	94% / 4.0mm	85% / 0.5mm	90% / 1.8mm	86% / 1.6mm	
22 Temps	78F to 93F	81F to 90F	80F to 90F	83F to 94F	80F to 86F	
R.H. / Rain	87% / --mm	89% / 2.5mm	94% / 0.8mm	87% / --mm	94% / 1.3mm	
23 Temps	78F to 92F	77F to 87F	80F to 90F	84F to 96F	80F to 92F	
R.H. / Rain	87% / --mm	98% / 8.3mm	91% / 0.6mm	87% / --mm	96% / 3.7mm	
24 Temps	81F to 87F	78F to 89F	80F to 92F	84F to 94F	78F to 90F	
R.H. / Rain	85% / --mm	95% / 3.7mm	89% / 0.1mm	88% / --mm	95% / 1.2mm	

Bangkok Temperature, Relative Humidity, and Rainfall - Section 5 (Cont)

	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018
25 Temps	79F to 89F	78F to 91F	84F to 91F	85F to 94F	79F to 92F	
R.H. / Rain	92% / 1.5mm	96% / --mm	81% / 0.5mm	85% / 0.3mm	92% / 0.6mm	
26 Temps	80F to 89F	77F to 92F	82F to 93F	82F to 92F	82F to 89F	
R.H. / Rain	88% / 3.3mm	92% / 4.8mm	87% / 1.0mm	84% / 0.2mm	89% / 3.9mm	
27 Temps	80F to 89F	76F to 90F	78F to 89F	80F to 93F	80F to 94F	
R.H. / Rain	89% / 0.9mm	98% / 1.8mm	97% / 0.1mm	98% / 11.8mm	95% / 0.1mm	
28 Temps	80F to 90F	76F to 92F	78F to 92F	74F to 79F	81F to 94F	
R.H. / Rain	87% / --mm	93% / 0.5mm	94% / 1.0mm	99% / 4.6mm	94% / 0.8mm	
29 Temps	79F to 91F		80F to 91F	75F to 88F	81F to 90F	
R.H. / Rain	91% / --mm		100% / 0.4mm	98% / --mm	88% / --mm	
30 Temps	79F to 89F		83F to 91F	77F to 86F	82F to 92F	
R.H. / Rain	95% / --mm		92% / 0.3mm	98% / 0.9mm	87% / 3.1mm	
31 Temps	78F to 88F		82F to 90F		80F to 92F	
R.H. / Rain	98% / 0.3mm		91% / 2.9mm		92% / --mm	

Except where noted, all Temperature and Relative Humidity data are from:

www.timeanddate.com/weather/thailand/bangkok/historic retrieved on August 25, 2020

Temperature and Relative Humidity for July 4-18, 2017, and December 16, 2017, and all Rainfall data, are from:

www.worldweatheronline/lang/en-ca/bangkok-weather-history/krung-thep/th.aspx retrieved on August 25, 2020

[OPINION](#)

Drought will test the military government

PUBLISHED : 9 FEB 2016 AT 04:20

NEWSPAPER SECTION: [NEWS](#)WRITER: [JOHN DRAPER & PEERASIT KAMNUANSILPA](#)

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A fierce drought caused by climate change and El Niño has put Thailand at risk of a human catastrophe of a scale not witnessed for decades. The problem is exacerbated by poor water management. The situation is particularly acute in the Northeast, where the Ubolratana Dam in Khon Kaen is at only 27% of capacity and farmers have been ordered not to grow second crops or farm fish as water must be reserved for drinking.

In desperate attempts to sustain illicitly grown second crops, farmers are directly sinking wells into dried-up river beds. These supplement the 4,300 wells the National Water Board is drilling at temples, schools and farms, with 1,250 already drilled since October. With the drought forecast to end in early June, water rationing, announced in three provinces, is set to test the military government's mettle as multiple districts in 14 provinces nationwide have been declared disaster zones.

In Thailand, water was a deciding factor for people in search of settlement. However, the 13-fold increase in population in the last century led to massive deforestation for rice cultivation. This has transformed land from a "sponge" nature to one with rapid runoffs. Use of irrigation has intensified to coax crops from normally arid soil and to support an increasing trade in fish and shrimp. Moreover, a major initiative to build dams for water supplies and electricity, begun in the 1960s, has supported the development of cities and industrial estates, especially since the 1990s.



4 Warning Signs Of Dementia. #2 Is Scary



A national drought presents challenges to these man-made systems at multiple levels. At the local level, the drilling of community wells is one response, though in the Northeast, such wells have to be drilled up to 300 meters deep in order to reach the water table. As the area was once a sea, the risk exists of pumping salty water onto crops and killing them. Moreover, over-pumping from the water table can cause sinkholes, as with Florida strawberry farming. In the long run, more village reservoirs need to be dug, and existing local water catchments need to be deepened, to utilise rain water.

At the provincial level responses must counter the impact the drought will have on people's protein intake, as water supplies will not be enough to support basket fish farming in rivers, shrimp farming or even opportunistic fishing. The resulting drop in available protein will impact Thailand's poor most heavily, with the risk of permanently affecting children's development. One in six Thai children under five, or 16.3%, already suffer from stunting, meaning they are too short for their age, with

from starting in 2012 compared to 2005, with the mother's education and children left with elderly relatives being contributing factors.

Another malnutrition-related disease of the poor is wasting, children who are too thin for their age. This affects 6.7% of children under five nationally. Thus, provincial administrative offices need to provide supplemental protein, especially in the form of milk, and to begin monitoring drought-affected districts for these poverty-related diseases.

At the regional level, there is a need to avoid water conflicts, as with the drought last year when upstream farmers ignored government directions not to pump water from rivers and the military had to be dispatched to protect scarce water resources. An adequate flow rate in Thailand's major riverine resources into the Central Plains is essential for agriculture in Thailand's rice basket as well as for tap-water in major cities, particularly Bangkok.

Nationally, water management has become politicised, with politicians intervening to control sluice gates. However, this is one area where technocrats need to be trusted, and, if they fail, fired. Thailand has a long history of developing expertise in water management, and certain areas of central government are implementing well-directed plans.

The Department of Agricultural Extension, for example, is transitioning tens of thousands of farmers to alternative crops which require less water, such as sugar cane, maize, and mung beans. These programmes need to be sustained for decades to wean farmers off rice mono-cropping.

Finally, long-term planning ideas such as sea walls to cope with rising sea levels need to be reconsidered. Additional "monkey cheek" water-retention basins, pursued by the present government to combat flooding, can also ensure regions are self-sufficient in water for the long-term, as can a sensitively-implemented national reforestation plan.

Crucially, these measures must be responsive to constituents, accountable, and equitably distributed to prevent intra-regional water conflicts along political or ethnic lines. Disasters such as drought and flooding are associated more with authoritarian regimes, whether due to a "parliamentary dictatorship" or military governments, as compared to

advantage . This is due to democracies having better feedback mechanisms including elections, public criticism and a freer media.

As both flood and drought in a semi-tropical country are direct consequences of poor water management, it is appropriate to recall the classic example of a highly-responsive democratic government to a water disaster. In response to the 1953 North Sea flood, which killed 1,836 people in the Netherlands, the Dutch government vowed "never again" and developed the Delta Programme. Over 45 years, this completely re-engineered the landscape through a system of dams and storm barriers.

For the counter-example of an unresponsive government, Thailand need look no further than the Bangkok governor, who suggested Bangkokians move to mountains following a March 2015 flash flood, and who has resisted calls from his own political party to resign and instead developed an autocracy.

Thailand is not alone in experiencing water-related crises. A worsening cycle of extreme meteorological conditions worldwide due to greenhouse gases from industrialisation fits scientific predictions by the International Panel on Climate Change. Each additional climate-related catastrophe should be a reminder to governments, whether present or future, to increase the use of alternative energy and to be responsive to the public. The stewardship of countries is at stake.

John Draper is Project Officer, Isan Culture Maintenance and Revitalisation Programme (ICMRP), College of Local Administration (COLA), Khon Kaen University. Peerasit Kamnuansilpa, Phd, is founder and former dean of the College of Local Administration, Khon Kaen University.



Do you like the content of this article?  45  2

 COMMENT (3)

[THAILAND](#) > [GENERAL](#)

Water office warns drought is spreading

more than half non-irrigated land said to be affected

PUBLISHED : 10 APR 2016 AT 09:00

NEWSPAPER SECTION: [NEWS](#)

WRITER: [PATSARA JIKKHAM](#)

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More than half of the country outside of irrigation zones is close to a drought crisis, according to the Royal Irrigation Department.



The drought has left a water retrenchment pond depleted in Wiset Chai Chan district, Ang Thong. Farmers are counting on this week's forecast rain.

The crisis is looming large for non-irrigated areas in 152 districts of 42 provinces, Thongplew Kongchan, the department's deputy chief, conceded.

Areas outside the irrigation zones rely principally on water from natural sources, many of which are fast receding.

Speaking at a seminar on the drought organised by the Isra News Institute on Saturday, he said drought was also threatening energy security.

water, it might have to lower its power production.

However, the RID deputy chief said the government has prioritised the use of water, which is supplied first to farmlands that grow crops from the previous season.

Farmers have been asked to suspend rice planting if their land is not served by irrigated water and encouraged to switch to drought-resistant crops.

Some rice farms can survive better than others because they have underground water sources available, he said.

Mr Thongplew said the management of water for farmland had so far not encountered any major problems. There is no need to delay the first rice growing season, due to start next month, he said. He gave assurances that there is enough water for irrigation until July, which marks the onset of the rainy season.

There are 33 large-scale reservoirs and dams nationwide, and 448 medium-sized reservoirs, each capable of holding less than 100 million cubic metres of water. The rest are small-scale reservoirs mostly supervised by local administration organisations.

Water currently held in irrigated zones amounts to 22% of the country's total water supply.

In the Chao Phraya river basin, with four large dams covering 22 provinces, water in the dams this year is at about 12%, or two billion cubic metres less than last year.

Rawee Rungrueng, president of the Thai Farmers Network, said the government's policy on crop substitution during the drought has been problematic in practice because it was rushed and lacked the input of farmers.

Also, decision-making power was centralised, which slowed budget disbursements.

He said the policy should have been planned and executed well in advance.

Thailand, said the use of water by industrial estates would not cause any disruption to supplies.

The estates were now recycling their water and exploring underground sources.

Niphon Puapongsakorn, of the Thailand Development Research Institute, urged the government to map out a long-term management plan rather than try to tackle problems every year.

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COMMENT (12)

MOST RECENT >>

WORLD

Clues sought in fatal Air India Express crash

KOZHIKODE, India: Investigators have recovered the “black box” flight recorders from an Air India Express plane that crashed in southern India killing at least 18 people, the country’s aviation minister said on Saturday.

8 Aug 2020



THAILAND

Skywalk flash mob repeats three demands

Hundreds of people joined an anti-establishment flash mob near the BTS Skywalk in Bangkok in Saturday to repeat their protest movement’s demands for political change.

8 Aug 2020



THAILAND

Female army captain charged in knife attack

CHACHOENGSARO: A 45-year-old army captain has been charged in connection with a knife attack on her 83-year-old neighbour in Bang Pakong district on Saturday morning. The victim sustained serious multiple knife wounds.

8 Aug 2020



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FEDERAL DEFENDERS OF NEW YORK, INC.,
on behalf of itself and its clients detained at the
Metropolitan Detention Center – Brooklyn.

Plaintiff,

- against -

Civil Action
No. 19-CV-660

FEDERAL BUREAU OF PRISONS, et al.,

(Brodic, J.)
(Gold, M.J.)

Defendants.

----- X

DECLARATION OF WARDEN HERMAN QUAY

I, Herman Quay, do declare and state as follows:

1. I am a Warden employed by the United States Department of Justice, Federal Bureau of Prisons (BOP), and I am assigned to the Metropolitan Detention Center in Brooklyn, New York (MDC). I have been Warden at MDC since December 2015.
2. As Warden, I supervise all aspects of the operation and function of MDC. My responsibilities include ensuring the safety of all in the institution and ensuring the orderly running of the institution. MDC currently houses approximately 1,650 federal inmates.
3. MDC policies currently provide for attorney legal visits five days a week for 11.5 hours per day, and on weekends and holidays for six hours per day. Additionally, all of MDC's general population housing units have dedicated, unmonitored phones that inmates can use to contact the Federal Defenders of New York.

4. Although there are slight variations in our local policies, generally, the MDC's attorney visitation schedule is from 8:00 a.m. until 7:30 p.m., Monday through Friday, and from 8:00 a.m. until 2:00 p.m., Saturday and Sunday.
5. Attorney visits are typically held in visitation rooms in the East and West buildings of MDC, each of which also contain private conference rooms for attorney-client meetings. Because the visitation rooms are often crowded during social visiting hours, the hours from 8:00 a.m. until 12:00 p.m. on Monday through Friday are reserved exclusively for attorney visitation. We encourage attorneys to conduct their visits during those hours if possible.
6. The visitation rooms are the only place at MDC where inmates are permitted to interact with members of the general public. This area requires extremely close monitoring to assure the physical safety of inmates and members of the public, and to prevent the exchange of weapons, drugs, and other prohibited contraband.
7. BOP regulations require that inmates have reasonable access to counsel and legal materials, and I am acutely aware of the importance of attorney visits at MDC. During my time as Warden, the only times when inmate visitation is cancelled is when doing so is necessary to ensure the safety and good order of the institution. To the best of my memory, and based on our visitor logs, inmate visitation was cancelled for a full day on fewer than 10 days in all of 2018.
 - A. **Cancelation of Inmate Visitation On January 4 & 5, 2019**
8. On January 4, 2019, I was informed by MDC management and staff that the West Building had experienced a partial power outage and was operating on emergency lighting in numerous areas. I was informed by my facilities staff that the power outage

likely would be repaired by the next day.

9. A power outage of this scale significantly impacts the safe and orderly operation of the institution. The emergency lighting in the West visiting room is intermittent, dim, and can result in certain areas of near total darkness. There are also no external windows in that room to provide additional natural lighting during the daytime hours. In addition, when power is lost at MDC's visitor lobby, as it was on these days, the security equipment, including a metal detector and a wave millimeter machine used to scan visitors for weapons and other contraband, could not be used.
10. In my determination, these conditions made it unsafe for inmates to meet with visitors, especially because our visiting area had greatly reduced lighting. As a result, I cancelled all inmate visitation until our staff was able to fully restore power to the West Building.
11. Power was restored in the West Building in the evening of January 5, 2019. As a result, I ordered the resumption of normal inmate visitation on January 6, 2019.

B. Cancellation of Inmate Visitation on January 14, 2019

12. From December 22, 2018 through January 25, 2019, MDC, along with the rest of BOP and certain other federal governmental agencies, was operating under a lapse of funding. During this time, correctional staff were required to report to work. Nevertheless, during this period there were several days that more staff than usual called in sick and did not report to work.
13. Every morning, my Captain, who is in charge of the personnel roster for custody staff, reports to me regarding staffing levels. If MDC has an unexpected staffing shortage, we have to address such shortages by shifting staff from postings that are considered less essential (in terms of providing for the safety and security of the institution) to postings

that are considered more essential.

14. Staffing shortages rarely impact inmate visitation because, for the reasons I have noted above, security for the visitation rooms is considered a high priority. In general, we are able to reallocate staff from other areas to prevent any interruption of visits.
15. On January 14, 2019, we had approximately double the usual number of staff not come to work because they reported being sick. As a result, we did not have enough staff to cover the supervision of inmate visitation without leaving other essential posts in the facility, such as inmate housing areas, inadequately staffed.
16. In order ensure the safety of the inmate housing areas, and other essential areas of MDC, I cancelled inmate visitation for January 14, 2019.
17. This was the only day during the shutdown that we had to cancel inmate visitation on account of staffing shortages.

C. The January 27, 2019 Fire and Subsequent Power Outage

18. On January 27, a major electrical fire impacted the MDC.
19. After learning of the fire that occurred in the MDC on January 27, 2019, my staff reported to me regarding the impact to the institution. By late that same day, I learned that the fire had destroyed the "Priority 3" power distribution equipment, one of three power distribution systems in the West Building. I was informed by staff that, for the time being, repairs were more feasible and quicker than replacement, and that the repairs would likely take at least a week.
20. Throughout this emergency, we continued to assess the operational and security challenges presented by the facility issues on a day-by-day basis. I was informed, for instance, that only essential systems, such as security equipment, fire equipment, health

equipment, electrical doors, and emergency lighting systems had power.

21. The power outage resulting from the January 27, 2019 fire again left the visiting area without sufficient lighting, and left critical security equipment in the visitor lobby without the necessary electricity to operate. Again, these conditions meant that inmate visitation in the West Building would present a serious security risk to MDC's staff, inmates, and visitors. Accordingly, on each day while electrical systems remained compromised, from January 27, 2019 through February 2, 2019, I made the decision, on a day-by-day basis, to cancel all inmate visits.
22. Despite these conditions, and during this entire time, all inmates in the general population had access to dedicated, unmonitored phones to contact the Federal Defenders. These phone lines were operational throughout this period despite the lack of power and lighting in many areas. When inmates were on lockdown in their cells, however, they were not able to access these phones.
23. During the ensuing days, I continued to assess the status of the institution and alternative arrangements to meet inmates' needs, including visitation, while maintaining institutional order and security.
24. One option I considered was to allow for inmates housed in the West Building to receive legal visitors in the East Building, which did not lose power. This option presented many challenges and risks. For example, West Building inmates would need to be escorted through a narrow, winding hallway linking the East and West Buildings. The west side of the link was affected by the power outage and had several areas of total darkness that would have posed a significant safety risk for both inmates and staff. Accordingly, additional staff would have been required to escort inmates safely. Furthermore, per

practice and in order to ensure safe movement, the remainder of inmate movement in the institution is restricted when individual inmates are escorted throughout the building in order to prevent inadvertent contact with separatees. This could impact movement to and from health services and program areas. Thus, escorting inmates from their housing units in the West Building to the East visiting room would require more time and more staff. The extra staff was a consideration because we already had additional staff on the housing units during the day due to the limited lighting.

25. Additionally, approximately 1,600 male inmates live in the West Building. Currently, the East Building houses only female inmates. Because MDC's male and female inmates are separated from one another, using the East Building visiting area for male inmates would limit the time available for female inmate visits in the East Building.
26. Finally, as with all inmate movement, we would have needed to ensure that we never moved inmates together who, for various security or other reasons, were required to be kept separate from one another.
27. For all these reasons, I determined that, given the security risks and operational challenges with this proposal, and given the estimated time remaining to complete repairs to the power system, visitations for inmates in the West Building could not be relocated to the East Building. Despite the challenges described above, I had determined that if the power outage was going to continue for longer than one week, MDC would make plans to restart legal visiting.
28. By Saturday, February 2, 2019, my staff was able to restore sufficient lighting to the visiting area in the West Building to resume inmate visitation. Accordingly, on Sunday, February 3, 2019, we were able to allow inmate legal visitation to resume under the

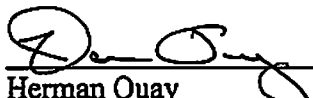
normal schedule in the West Building.

29. Later on Sunday, February 3, 2019, I was informed that a large group of protestors who had gathered outside MDC had breached the entrance to the facility. As a result, for security reasons, we decided to cancel visitation and ordered staff to safely evacuate the visitors currently in the facility.
30. Later that same day, February 3, 2019, electrical power was fully restored to the West Building.

D. Cancellation of Inmate Visitation on February 4, 2019

31. On Monday, February 4, 2019, with power restored, I expected visits to proceed as usually scheduled. However, at some point that morning, the MDC received a bomb threat and when reported to NYPD, they confirmed they also received a bomb threat.
32. As a result of the bomb threat, I ordered certain mandatory security protocols to take effect. These protocols included the safe evacuation of visitors and outside contractors, and the cancellation of inmate visiting until staff could ensure that there was no threat to the facility.
33. Later that day, my staff reported that the building was clear. Visitation resumed that evening after the 4:00 p.m. count cleared, and once again, on February 5, 2019, we were able to resume normal visiting hours.
34. Since that day, per MDC policy, daily inmate visitation at MDC has proceeded each and every day.

I declare under penalty of perjury in accordance with the provisions of 28 U.S.C. § 1746 that the above is accurate to the best of my knowledge and belief.



Herman Quay
Warden, MDC Brooklyn

2-15-19
Date

EXHIBIT B

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 04 2019 ★

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

BROOKLYN OFFICE

FEDERAL DEFENDERS OF NEW YORK, INC.,
on behalf of itself and its clients detained at the
Metropolitan Detention Center – Brooklyn,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS and
WARDEN HERMAN QUAY, in his official
capacity,

Defendants.

No. _____

CV 19 -
BRODIE, J.

660

GOLD, M.J.

DECLARATION OF DEIRDRE D. VON DORNUM

I, Deirdre D. von Dornum, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney duly licensed and admitted to practice law in the State of New York and the United States District Court for the Eastern District of New York.

2. I am the Attorney-in-Charge for the Eastern District of New York at the Federal Defenders of New York, Inc. (the "Federal Defenders").

3. I submit this declaration upon personal knowledge in support of the Federal Defenders' application for a temporary restraining order and preliminary Injunction.

I. Fire at the MDC

4. On Sunday, January 27, 2019, I received an email from Nicole McFarland, an attorney at the Bureau of Prisons ("BOP"), stating that "[t]here will be no visits on Monday January 28 at MDC Brooklyn." That email is attached hereto as Exhibit A.

5. I now understand that the power source for the West Building of the Metropolitan Detention Center ("MDC") caught fire that day.

6. Following the fire, legal visiting at the West Building of the MDC was cancelled each day between January 27 and February 2, 2019, and substantially curtailed on February 3.

7. However, a telephone from which inmates at the MDC could call the offices of the Federal Defenders continued to operate during that period. As a result, throughout the week, during the limited hours they were permitted out of their cells, numerous inmates called our offices to report problems at the MDC. We also heard about the conditions at the facility from inmates brought from the MDC to court.

8. We received calls from men in various housing units in the West Building at MDC reporting that there was little or no heat, no or limited hot water, and no electricity in their units, except for the "emergency lights." Their cells were entirely dark.

9. Inmates reported being denied access to phones, televisions, and computers. The lack of any telephone access except to our office meant that inmates had no means to contact their families or CJA or private lawyers. The lack of computer access meant that inmates have been unable to contact their family members or lawyers by email because they could not access CorrLinks, the BOP's email system. Without CorrLinks, inmates with medical conditions were also unable to refill medications or request medical care.

10. Inmates reported that there was no access to laundry or to commissary. Without commissary, inmates could not purchase stamps to write to their families or lawyers; they could not purchase sweatshirts or thermal underwear; and they could not purchase flashlights or additional food.

11. We also received reports from inmates that they had been smelling noxious fumes, and that they had seen BOP officers wearing masks, but that no masks had been offered to inmates.

12. Throughout that week, my colleagues at the Federal Defenders and I sought to engage with BOP officials so that we could get information about the issues at MDC and the complaints we had received. BOP officials were largely non-responsive to our inquiries, and refused to provide detailed and accurate information about the conditions at MDC or the reasons for the cancellation of legal visiting.

13. On January 28, 2019, Adam Johnson, an attorney at the BOP, replied to an email asking for an update about what was happening at the MDC by stating: "I do not have a lot of details at this time, but I have been informed that the heat is operational and that the inmates are currently out of their cells in the units." That email is attached hereto as Exhibit A.

14. On January 29, 2019, Mr. Johnson informed me and my colleagues that "MDC Brooklyn legal visiting remains suspended today." When asked for additional information, Mr. Johnson reported that there was a "current institutional emergency situation at MDC Brooklyn, which resulted in temporary suspension of legal visitation." When we asked Mr. Johnson for additional information about the fire, and about whether medical treatment was being provided to our clients, Mr. Johnson responded: "To my knowledge, no inmates or staff were injured during the incident, which occurred in an area in which I understand no inmates were present. I have also been informed that the power outage did not impact the heating in the institutions. We will update you once we have more information." That email chain is attached hereto as Exhibit B.

15. I responded to inquire about complaints our office had received from inmates at the MDC, and to ask why visiting, email, social calls, and commissary had reportedly also been cancelled for inmates held in the building at MDC that was not affected by the fire (the East Building). The BOP officials, and attorneys from the United States Attorneys' Offices for the

Southern and Eastern Districts, to whom I sent that email never responded. That email chain is attached hereto as Exhibit C.

16. The next day, Wednesday January 30, 2019, Ms. McFarland sent me and my colleagues an email stating that “[t]here will be no west side legal visiting today.” That email is attached hereto as Exhibit D.

17. Later that same day, Ms. McFarland sent another email to me and my colleagues: “While I cannot give an exact date for the reopening of the west visiting room, and it will reopen as soon as it is usable, if visitation is not returned to normal by next week, a temporary procedure will be implemented to allow for legal visits to take place in the east visiting room.” Ms. McFarland also told us that there would be no legal visits on January 31, and that “[i]f there is any change before next week, I will let everyone know as expeditiously as possible.” That email is attached hereto as Exhibit E.

18. The BOP did not provide any update about the status of legal visiting on Thursday January 31 or Friday February 1, 2019. As a result, that Friday, my colleague Michelle Gelernt emailed Ms. McFarland and Mr. Johnson: “We did not receive an update about legal visiting yesterday. Please advise whether legal visiting is suspended today and when and if it will resume.” When there was no response, Ms. Gelernt wrote again: “Can someone please respond to my email from earlier this morning? We have not received any updates regarding legal visiting since Wednesday. We need to know whether legal visiting has resumed and, if not, when it is expected to resume.” That email chain is attached hereto as Exhibit F.

19. My colleagues at the Federal Defenders and I reported this information, in sum and substance, to the Chief Judges of the Eastern and Southern Districts of New York. We also

reported it to individual judges assigned to cases involving inmates held at the MDC or being evaluated for bail or detention at the MDC.

II. Response from the Warden of the MDC

20. On February 1, 2019, I learned that Defendant Herman Quay, the Warden of the MDC, had reported to the Southern District of New York about conditions at the facility.

21. Warden Quay reported, in sum and substance:

They had a fire on the 26th that was caused by wiring. As a result, the power from that system was turned off. The power from that system remains off and is being repaired. What this means is there is no power to the outlets which includes lighting in the cells, however the rest of the cell blocks have lights. Inmates have not been confined to their cells and are still allowed leisure/recreational activities. There is currently no TV/Internet. Inmates still have access to Public Defender Phones which are working. Heat has never been impacted and is monitored regularly due to the cold weather. Heat is in the high 60s and low 70s. Hot water has not been impacted as it is on the same system as the heat. There are no problems with meals, prisoner are still receiving hot meals. There is no problem with medical, medications are still delivered twice daily. The only issue related to medication is that the computers are not working so you can not request medical through the computers. Medical still can be requested through their units and also during the twice daily medical runs. The visiting room is without power which is why there was no visitations. The staff has temporary wiring in place and should have attorney visiting up today.

III. Inspection of the Conditions at the MDC

22. On February 1, 2019, my office requested that someone from the Federal Defenders be permitted to tour the MDC, but Warden Quay refused.

23. Chief Judge Irizarry then issued an administrative order requiring that I and an employee of the United States Attorney's Office for the Eastern District of New York be permitted access to all housing units in the West Building at MDC and be permitted to speak directly to inmates. A copy of the administrative order is attached hereto as Exhibit G.

24. That day, pursuant to that order, I arranged to meet an employee of the United States Attorney's Office at the MDC. I arrived there at approximately 4:15 p.m.

25. When I entered the lobby of the building, I immediately felt the cold. There were BOP officers at a desk in the lobby wearing multiple layers, including scarves wrapped around their heads for warmth. There were lights on in the lobby, but the lighting was dim.

26. I waited in the lobby for John Ross, an investigator from the United States Attorney's Office, to arrive. While I was waiting, a female BOP officer entered the lobby from a door in the rear of the lobby. One of the officers at the desk asked her whether the inmates were receiving meals, and she responded "we are going to let them out one at a time to get their meal, and otherwise lock their asses in."

27. Investigator Ross arrived shortly after I did, and the two of us were admitted into the facility at approximately 4:30 p.m. Throughout our visit, we were escorted by Assistant Warden King, Nicole McFarland from the MDC legal department, and another attorney from MDC's legal department, Holly Pratesi.

28. I requested access to the Special Housing Unit ("SHU") on the ninth floor of the MDC, and to the housing units on the sixth, seventh, and eighth floors of the MDC, because the reports my office received throughout the week suggested that conditions were worse on those floors than on the lower floors.

29. When I arrived at the SHU at the start of the tour, the Lieutenant in that unit, Lieutenant Ramos, explained that the main power conductor for the building had burned down on the evening of Sunday, January 27, 2019.

30. The availability of heat and hot water varied from unit to unit, as did the amount of time inmates reported having been locked down since the fire. But I observed certain conditions that were uniform across all of the housing units I toured.

A. Conditions Consistent Across All Units

31. Throughout all of the housing units I toured, the lights were not functioning in any individual cells. As a result, the cells were pitch black. It was too dark to read the labels on any medications or to see the food that inmates were given. Inmates reported that when they were locked in their cells they were therefore required to eat in total darkness without being able to see their food when they were locked in their cells.

32. Inmates in each of the housing units I toured reported that they had been unable to obtain refills of any medications they had run out of, because the medical computer system has been down. Although most inmates were continuing to receive medications they had been prescribed, they were not able to request new medical care or refills of existing prescriptions. There were, in addition, several inmates who stated they had not received existing prescriptions, including for psychiatric medications.

33. Administrative grievances are also submitted electronically, on computers. Inmates reported that the computers have been down since the fire. As a result, inmates are unable to submit administrative grievances challenging the conditions of their confinement or raising concerns about the lack of medical care.

34. Inmates in each of the housing units I toured reported that they had not received access to legal or social visitation, to CorrLinks, or to phones (other than the phones that dial directly to the Federal Defenders, as discussed above), at any time since Sunday, January 27, 2019.

35. Inmates in each of the housing units I toured reported that they had not received access to clean clothing or bedding since the fire, and that the commissary had been closed since Friday, January 25, 2019. As a result, inmates have not had the ability to obtain new clothing, or to buy food or stamps. They reported that no extra blankets or clothing had been provided.

36. I observed that inmates who had not previously been able to purchase additional clothing from the commissary were wearing only short-sleeved shirts and light cotton pants.

37. Throughout all of the housing units I toured, the inmates I spoke to reported requesting, but not receiving, needed medical care. Particular ailments varied, but I spoke to one inmate who appeared emaciated, reported suffering from Crohn's Disease, and repeatedly asking for, but not receiving medical treatment. Another inmate suffered from ulcerative colitis, and his bedding was bloody but had not been replaced due to the lack of laundry. This same inmate had a swollen leg with an open, infected wound on it. Two inmates reported suffering seizures over the last week, and pressing the emergency button for help, but no one came.

38. Numerous inmates reported being unable to obtain refills of prescribed medications, ranging from medications for psychiatric conditions to antibiotic creams for open, infected wounds. I spoke with multiple inmates suffering from infected wounds that were not being regularly treated. One man showed me a pus-covered bandage on a gunshot wound on his hand, and reported that he had not been able to change his bandages for two weeks.

B. Conditions in SHU (9th Floor)

39. The only lighting in the SHU was emergency lighting in the hallways. The cells are pitch black inside, and inmates do not have flashlights. Even the medical room was without lighting.

40. The east side of the SHU was relatively warm – perhaps around 60 degrees Fahrenheit. But the west side (which faces the Upper New York Bay) was significantly colder. I observed that while many inmates on the east side of the building were dressed normally, inmates on the west side appeared to be wrapped in blankets and towels in an effort to keep warm. I tested the water in a shower in an empty cell, and although it never got hot, it did

become tepid after a few minutes. One inmate reported having hot water in the shower in his cell.

41. Lieutenant Ramos reported that no one in the SHU had been allowed out of their cells at all – with the exception of a few cases in which inmates required medical treatment – since Sunday, January 27. Although people held in the SHU typically, by BOP regulation, have access to one hour of recreation outside of the cell per day, that had not been provided since the fire, for reasons he did not specify.

42. Lieutenant Ramos also confirmed that people in the SHU had not received family calls, access to legal visits or calls, or access to laundry or extra blankets. He also reported that although inmates ordinarily receive hot food, the food heater is not functioning due to the lack of electricity. He said that the BOP officers are making efforts to serve food coming up from the kitchen as rapidly as they can, before it grows cold.

43. Some inmates in the SHU reported that water was leaking from the ceiling, from rain or melting snow, and wetting their beds. One inmate reported that a leak over his bed had wet his sheets, and that his cell was so cold that the sheets were freezing. He had no other place to sleep, as the floors of the cells are cold concrete. Lieutenant Ramos confirmed that several cells had ceiling leaks that had not been repaired.

44. Inmates reported that they were suffering from medical issues for which they were not being treated. One inmate reported that he had not received medical care despite suffering from sickle cell anemia. Another inmate reported that he was having difficulty breathing. A third reported that he felt his mental health was degrading because he had been sitting in a dark cell for a week straight.

C. Conditions in Eighth Floor Housing Units

45. When we arrived on the eighth floor, I observed that all of the inmates were locked in their cells. Associate Warden King claimed that this was only because of an ongoing count. (There is a daily 4:00 p.m. count at the MDC.)

46. The temperature was normal in the common rooms in each of the eighth-floor units that we visited. There was only emergency lighting in the common areas, and no lighting in the cells, which were pitch black.

47. We were not permitted to enter any of the cells or talk to any of the inmates. I was only able to talk to the orderlies on the unit.

48. While we were on the eighth floor, Associate Warden King stated to me and Investigator Ross that the inmates had received hot meals every day. The orderlies – who are responsible for serving the food to the other inmates – then stated that today was the first day there had been hot food, and that previously inmates had received only cold food for every meal since the fire. They then looked at Associate Warden King and asked, “are we going to get in trouble for saying that?”

D. Conditions in Seventh Floor Housing Units

49. By the time we arrived on the seventh floor, the count had ended. However, all of the inmates in housing units on the floor were still locked in their cells, with the exception of one unit that was let out of their cells just as our visiting group arrived. Associate Warden King claimed that this was because some of the elevators had been down that morning.

50. I spoke to many of the inmates through their cell doors. They said that they had been locked in their cells all day, without explanation. Inmates in some units also reported that they had been locked down throughout the prior day, other than when they were temporarily allowed to leave their cells to shower or eat meals.

51. In one of the housing units on this floor, Associate Warden King told me and Investigator Ross that the inmates on the unit had been allowed out of their cells as usual every day since the fire other than February 1. Every inmate on the unit that I spoke with contradicted this. Inmates uniformly – and in multiple different languages – told me that they had been locked into their cells each day since the fire, except for a few hours each morning and afternoon.

52. Associate Warden King again claimed, to me and Investigator Ross, that inmates on the seventh floor had received hot food every day. Inmates, including orderlies who served food, contradicted this report, and informed me that February 1 had been the first day since the fire that any inmates had received hot food.

53. As on the higher floors, there was emergency lighting in the common areas but the lights in individual cells were not working. It was pitch black in the cells.

54. It was also again significantly colder on the side of the building facing the Upper Bay. Inmates on the western side of the building were wrapped head to toe in blankets and towels for warmth. I could feel cold air from the cells blowing out the cracks in cell doors and into the warmer common rooms.

55. Inmates told me that they were not being permitted daily access to showers, and that there was only scant hot water that did not last long enough for everyone to shower. When I tested the water in a shower, it became fairly hot after a few minutes.

E. Conditions in Sixth Floor Housing Units

56. On the sixth floor, it was again much colder on the west side of the building. On that side, I could feel cold wind through the cracks in the doors, and the inmates were covered head to toe with blankets and towels. Associate Warden King confirmed that no extra blankets had been supplied, but said she would check the heat when I pointed out the gusts of cold air

coming from the cells. In one of the units on this floor, I noticed that there was cold air actively blowing out of the vents in the cells.

57. Many inmates were wearing multiple layers of clothing – some as many as eight layers. Others did not have enough clothing due to their inability to access the commissary.

58. I noticed an acrid smell on this floor, particularly in the upper tier.

59. The units on the sixth floor had a panicky feeling. Many inmates reported untreated colds and flu, as well as other untreated medical conditions. Many people on this floor told me that they were frustrated that they were being treated like they were in SHU, even though they were pre-trial and had no disciplinary issues.

60. Inmates told me they were upset because they were not being permitted access to the common areas, which at least had functioning emergency lights.

61. Several inmates showed me cups of brown or cloudy water from the tap, and reported that the water was not drinkable. They requested clean water to take medicines.

F. Legal Visiting on February 3, 2019

62. The next day, February 2, I received an email from Nicole McFarland stating “Brooklyn will resume legal visiting tomorrow Sunday February 3. Any questions let me know.”

63. Ms. McFarland stated that only legal visits – not social visits – would be permitted “at this time,” and provided no answer to the question “Do you expect to have power and lighting for that space?” The email exchange is attached hereto as Exhibit H.

64. On February 3, a number of my colleagues arrived at the MDC. The legal visiting session began later than scheduled. Each lawyer was permitted to see only one client, despite requesting access to several clients each, which is ordinarily permitted.

65. After only a few hours, legal visiting was disrupted for reasons not explained by BOP officials, and the Federal Defenders and other attorneys present were forced to leave the facility.

66. The BOP has not indicated whether legal visiting will continue to be available in the days and weeks to come.

IV. Impact on the Federal Defenders

67. The Federal Defenders are a non-profit corporation dedicated to offering public defense services to indigent persons in federal criminal cases in the Eastern and Southern Districts of New York.

68. The recent events at MDC have caused a significant drain on the Federal Defenders' resources. We have been forced to spend significant time attempting to address the issues at MDC, have fielded numerous calls from inmates – both our clients and other individuals detained at MDC – and have spent as much time as we reasonably could attempting to contact counsel for and family members of the individual inmates we have spoken to over the course of the last week.

69. We have also been stymied from rendering counsel to numerous criminal defendants, because we have been unable to meet with or speak privately to our clients who are housed at MDC, unless they are produced for court appearances. This has impaired our ability to review discovery with clients deciding whether to go to trial – the courthouse cellblock attorney rooms are not set up to permit the passing of documents or the viewing of computer files – as well as our ability to prepare clients for guilty pleas and sentencings. Presentence interviews scheduled to occur at the MDC were all cancelled, which will lead to sentencings being postponed. We had several experts scheduled to evaluate clients at the MDC, which had to be cancelled. Clients being considered for reentry programs, such as substance abuse inpatient

treatment, could not be interviewed and, thus, could not be released to the programs, lengthening their stay at the MDC.

70. Our clients, of course, have also suffered tremendous hardship because of the conditions of confinement at MDC. That hardship is detailed above. Many of our clients have been denied necessary medical care – some for potentially life-threatening conditions. They have been housed in highly restrictive conditions, cells with no light and inadequate heat in the dead of winter. They are not receiving clean clothes, or clean drinking water, or warm meals. And substantially all of our clients held at MDC have been denied legal and social visitation, or indeed any meaningful contact with loved ones.

71. These conditions violate our clients' constitutional rights. And because legal visitation has not been permitted and our clients have been denied access to both communication systems and the BOP's administrative grievance system, there is no meaningful way for them to redress those violations, or the other injuries they have suffered.

72. Absent immediate judicial relief, both the Federal Defenders and the inmates housed at MDC will continue to suffer irreparable harm.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Brooklyn, New York
February 4, 2019


Deirdre D. von Dornum