

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SUFFOLK, ss.

No. SJC-12935

STEPHEN FOSTER, et al.,)
Plaintiffs,)
)
v.)
)
CAROL MICI, COMMISSIONER OF CORRECTION, et al.,)
Defendants.)

SUPPLEMENTAL AFFIDAVIT OF CAROL MICI

I, Carol Mici, hereby depose and state as follows:

1. I am the Massachusetts Commissioner of Correction. I was appointed Acting Commissioner of Correction on December 6, 2018, and then appointed Commissioner of Correction on January 22, 2019. I have worked for the Massachusetts Department of Correction (Department) since 1987. The statements in this affidavit are based upon my own personal knowledge, my discussions conducted in the course of my professional duties, and my review of records maintained in the usual course of the Department.
2. As Commissioner, I am responsible for administration of all state correctional facilities.
M.G.L. c. 124, § 1.
3. I submit this supplemental affidavit to address informational requests made during my testimony at yesterday's hearing on this matter and in response to the additional affidavit submitted by Robert Peacock on behalf of the plaintiffs.

Inmate Population

4. As of Monday, April 27, 2020, there are 7,466 people in the custody of the Department of Correction. Of those housed in a single or double-bed cell, 3,173, or forty-two percent (42%), of the cells are occupied by one individual. Exhibit 1.

Personal Protective Equipment (PPE) and Cleaning Supplies

5. The Department of Correction reconstituted the correctional industries program over a decade ago, which was rebranded as Massachusetts Correctional Industries, or MassCor. MassCor operates seventeen manufacturing operations within seven correctional institutions, ranging from clothing shops, furniture shop, metal shop, optical shop, upholstery shop, and janitorial shop. MassCor's mission is subsidizing the cost of incarceration while providing a meaningful vocational training experience to inmates. MassCor janitorial products feature nature-based scented cleaners and concentrates, as well as floor products, hand and body wash, and glass cleaner. Before the COVID-19 pandemic, MassCor did not produce alcohol-based hand sanitizer.
6. In early March, 2020, well before the first known case of COVID-19 in a state correctional facility, DOC designated clinical isolation areas for inmates who might test positive; screened and surveyed all inmates; and dramatically increased cleaning and sanitizing operations across all facilities – especially high-touch surfaces such as doorknobs, handrails, and telephones. These elevated health and safety protocols all remain in place.

7. In further preparation, on March 11, 2020, I ordered alcohol-based hand sanitizer from Custom Chemical and Simplex Chemical, outside vendors, to be distributed to all facilities.
8. Jobs were created at MCI-Shirley minimum for inmates. These inmates separate the large bottles of alcohol-based hand sanitizer into smaller jugs to be distributed in the facilities.
9. Between March 11, 2020 and April 7, 2020, the Department spent approximately \$81,373.81 on hand sanitizer distributed to the institutions. Exhibit 2.
10. On March 16, 2020, MassCor began working on the hand sanitizer initiative and worked with a local chemical distributor that was willing to mix the product according to the World Health Organization specifications. MassCor began bottling the product on March 20, 2020. As of April 28, 2020, MassCor has filled over 88,854 bottles of hand sanitizer, totaling over 4,603 gallons. Exhibit 3.
11. As of April 28, 2020, approximately 831 gallons of hand sanitizer have been distributed by MassCor to the institutions, including approximately 78 gallons to MCI-Framingham, 107 gallons to MCI-Norfolk, 31 gallons to Old Colony Correctional Center, 27 gallons to Pondville Correctional Center, and 53 gallons to Massachusetts Treatment Center. Exhibit 4.
12. Between March 26, 2020 and April 27, 2020, a total of 175,011 pieces of PPE, including gowns, N95 masks, surgical masks, and gloves, were distributed throughout all Department facilities. These distributions were in addition to any PPE each institution had in stock before the COVID-19 pandemic. Exhibit 5.

13. Upon making the decision to modify operations and place institutions on quarantine status, a decision was also made at that time to permit a number of inmate workers in each institution. Those workers include some of the core function areas, such as hazmat cleaners, laundry workers, and food service workers. In addition to being screened by medical staff daily, they were also provided PPEs, such as gloves, exam gowns, face masks, and, in some areas such as laundry, face shields as well.
14. On April 24, 2020, 30,000 generic surgical masks were received by the Department. That same day, 8,000 masks of these masks were delivered to each correctional facility so that all inmates could be issued masks. A directive to each facility that the masks be issued no later than Monday, April 27, 2020. As of April 27, 2020, all inmates have been issued a surgical mask. Exhibit 6.
15. An additional 100 masks were delivered to the Department's intake facilities (MCI Cedar Junction and MCI Framingham) in order to issue a mask to any potential new admission.
16. DOC still has 22,000 masks in stock, which will be distributed over time in the same process. The reaction to the masks has been uncertain; I note that ten inmates at MCI-Cedar Junction flushed their masks down the toilet upon receipt.
17. On April 28, 2020, I issued a memorandum in English and Spanish to all inmates and patients containing guidelines regarding the masks that were issued. In this memorandum, inmates and patients were advised that the guidelines need to be adhered to in order to continue to keep everyone safe and healthy. Inmates living in dormitory settings were advised to wear masks whenever possible. Inmates and patients living in a two-person or single cell were advised to wear their masks whenever out of cell. The memorandum strongly encouraged each inmate to wear a mask, and noted that those who

choose not to wear a mask while out of their cell will not be allowed out of their cell, with the exception of bathroom trips. Exhibit 7.

18. As of April 28, 2020, cleaning products and hand sanitizers are in stock in DOC's Milford warehouse, including 51 cases of disinfectant concentrate containing 4 gallons of disinfectant concentrate per case, 10 cases of liquid hand soap containing 4 gallons of liquid hand soap per case, 1,750 cases of hand sanitizer (4, 6 or 8 ounce bottles) containing 24 bottles of hand sanitizer per case, and 78 cases containing 4 gallon-size hand sanitizer bottles for refill purposes. Exhibit 8.

MASAC- Robert Peacock

19. The Massachusetts Alcohol and Substance Abuse Center in Plymouth (MASAC), Massachusetts is operated by the Department of Correction. It is a secure facility that houses men civilly committed pursuant to G.L. c. 123, § 35 due their substance use disorder.
20. On April 24, 2020, Robert Peacock was committed from Plymouth District Court to MASAC. According to his commitment paperwork, the petitioner was an Emergency Room Doctor from Beth Israel Deaconess in Plymouth, Massachusetts. Mr. Peacock's blood alcohol level upon admission was .453, and it was noted that he had numerous hospital admissions due to his severe alcohol consumption and withdrawal, as well as significant injuries sustained due to intoxication.
21. In accordance with CDC recommendations, MASAC is requiring that all new patients self-quarantine for fourteen days. MASAC utilizes the observation rooms for the first seventy-two hour, and then the patient moves to a single room in C dorm if they are not symptomatic. All patients are monitored twice per day for symptoms. Patients remain in

a single room for the balance of self-quarantine and are moved to A Dorm if they remain non-symptomatic.

22. As late as 5:20 A.M. on April 28, 2020, Mr. Peacock was observed by MASAC Superintendent Pamela MacEachern to be exhibiting signs of withdrawal, including being confused and disoriented, and trying to leave the housing unit “to catch a bus.” He was placed in an observation room so that he could not attempt to leave the facility.
23. Mr. Peacock’s Substance Abuse Counselor attempted to introduce herself to him, but was advised by mental health staff that he was not detox cleared and was exhibiting signs of confusion. Mr. Peacock was detox cleared on April 28, 2020 in the afternoon. On April 29, 2020, Mr. Peacock’s Substance Abuse Counselor, Kristen Dixon, met with him, gave him an overview of expectations and the program, and provided him with initial homework, containing materials related to substance use treatment, mental health, and wellness. However, because Mr. Peacock is still in quarantine, he does not participate in groups.
24. Mr. Peacock’s housing unit, including bathrooms, is cleaned twice daily by SJ Services, a private vendor which provides cleaning services at MASAC Patients are not asked to clean the bathrooms.
25. All patients receive hand soap, and additional soap is available upon request. There is also hand sanitizer available in the unit.
26. The role of correction officers in medication distribution is to ensure that patients take their medications. Officers observe the patients take the medication and then use a small flashlight to check the patients’ open mouths. Officers do not physically touch patients during the inspection.

Signed under the pains and penalties of perjury this 30 day of April, 2020.

A handwritten signature in cursive script, appearing to read "Carol A. Mici", positioned above a horizontal line.

Carol A. Mici