

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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ANTHONY BAEZ et al.,	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil No. 20-10753-LTS
	)	
ANTONE MONIZ,	)	
	)	
Respondent.	)	
_____	)	

ORDER

May 1, 2020

SOROKIN, J.

Pending before the Court are the petitioners' Application for an Emergency Temporary Restraining Order and Motion for Preliminary Injunction, Doc. No. 9, and the respondent's Motions to Dismiss, Doc. Nos. 21, 39.¹ After consideration of the papers submitted by both parties as to those motions, all affidavits and other exhibits supporting the Petition and the motion papers, the respondent's several status reports, and oral argument by counsel on both motions yesterday, the Court concludes that this action sounds, at least in part, in habeas.² However, serious factual issues bearing on the complex legal questions raised in the pending

¹ The petitioners also seek class certification, Doc. No. 6, the consideration of which the respondent has sought to stay pending resolution of the jurisdictional questions raised in his motions to dismiss, Doc. No. 15. The Court has temporarily stayed the class certification question, Doc. No. 16, and will further whether to lift the stay and establish a briefing schedule after reviewing the respondent's answers to the questions identified in this Order.

² In reaching this conclusion, the Court has not resolved the issues raised by the pending motions, including whether the record supports the petitioners' factual assertions and, if so, whether release or "enlargement" would be available and/or appropriate remedies.

motions are either disputed or unclear on the present record. The Court requires further information in aid of resolving those factual issues.

Accordingly, the respondent is hereby ORDERED to provide answers to the following questions by the close of business on Wednesday, May 6, 2020:

A. Social Distancing³

1. Describe the housing arrangements for all members of the proposed class, including whether each member of the proposed class sleeps at least six feet apart from all other detainees, the maximum capacity for each cell or dorm, and the present number of detainees per cell or dorm?
2. Describe in detail the arrangements for meals for all detainees in the proposed class, including those in the intake quarantine area. Specify whether each detainee in the proposed class can eat meals at least six feet from all other detainees.
3. Describe in detail the arrangements for recreation for all detainees in the proposed class, including those in the intake quarantine area. Specify whether each detainee in the proposed class can participate in recreation while remaining at least six feet from all other detainees.

B. Face Masks

1. Describe the present policies and/or practices governing the use of face masks for detainees and staff.

³ If necessary, responses to each of the questions under this heading shall distinguish between different dorms, housing units, or areas within the facility.

2. Explain the reason(s) and rationale for the existing face mask policies as to staff and detainees, including the rationale for not requiring masks for staff who enter and leave the facility each day?
3. Describe the information PCCF has provided to detainees and staff about when and how to wear the face masks they have received, when and how to clean or replace them, and when and how they may request additional or replacement face masks.
4. How many requests has the facility received from detainees for additional masks, and how many such requests have been granted? How many face masks does PCCF presently have available to fulfill such requests, and what kind are they? How does PCCF obtain more masks?

C. Testing

1. How many total COVID-19 test kits, of any kind, does PCCF presently have? How does PCCF obtain more tests?
2. Since March 10, 2020, how many detainees (whether in the proposed class or not) have exhibited a fever or complained of symptoms of respiratory illness (e.g., cough, shortness of breath, sore throat, runny nose).

D. Cleaning and Hygiene

1. Explain in detail present cleaning policies and procedures for common areas, the medical unit, the intake unit, showers, telephones, and any other high-touch areas. How does the respondent monitor and ensure consistent and effective implementation of such policies and procedures?

2. Describe in detail the cleaning supplies that are available to detainees upon request for cleaning their own living spaces and explain the procedure by which detainees can request and use such supplies. How are detainees informed of the availability of such supplies and the procedure for requesting them? What instruction is given to staff members as to whether and when to permit detainees to use such supplies? Who is responsible for monitoring and replenishing such supplies?
3. Is there presently hand sanitizer available in every housing unit? Since when? Who is responsible for monitoring and refilling it?

E. Other

1. How many grievances has the respondent received since March 10, 2020 raising complaints related to COVID-19 and the facility's response thereto; the availability of hand sanitizer, soap, or other hygiene supplies; the availability of cleaning supplies; and/or the availability of face masks or other PPE? Summarize the nature of the grievances and describe the response or resolution thereof.
2. What, if any, changes to operations or policy has the respondent undertaken as a result of the three confirmed cases of COVID-19 at PCCF that have been reported to the Court this week? Include any changes related to cleaning, sanitization, use of PPE, testing, and quarantine or other medical services.

3. Describe in detail any present COVID-19-related procedures governing each staff member prior to or upon entering PCCF, besides those described in paragraph 6(m) of Doc. No. 23-1.

SO ORDERED.

/s/ Leo T. Sorokin
United States District Judge