

Exhibit G

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

ALEXANDER GRINIS, MICHAEL GORDON, and ANGEL SOLIZ, on behalf of themselves and those similarly situated, <div style="text-align: right; padding-right: 20px;">Petitioners,</div>)	
v.)	Civil Action No. 1:20-cv-10738
STEPHEN SPAULDING, Warden of Federal Medical Center Devens, and MICHAEL CARVAJAL, Director of the Federal Bureau of Prisons, in their official capacities, <div style="text-align: right; padding-right: 20px;">Respondents.</div>)	

SUPPLEMENTAL DECLARATION OF DR. JOE GOLDENSON

Pursuant to 28 U.S.C. § 1746, I, Dr. Joe Goldenson, declare as follows:

1. I previously submitted a declaration in this case based on my experience and my review of the declarations of Alexander Grinis, Michael Gordon, and Angel Soliz and the April 8, 2020 letter submitted by the United States Attorney in *United States v. James Turner*, No. 17-132. In that declaration, I detailed the particular danger that COVID-19 poses in carceral settings; described the central role that social distancing must play in any effort to effectively reduce the transmission of COVID-19; offered my professional opinion that FMC Devens was at high risk of a COVID-19 outbreak at its current population levels; and recommended that it must sufficiently reduce the prisoner population to allow for effective social distancing to meaningfully reduce this risk.

2. I am submitting this supplemental declaration to provide my professional opinion in response to the declaration that Dr. Megan Shaw, Clinical Director at FMC Devens, submitted in this case. Based on my review of the measures described in Dr. Shaw’s declaration, it is clear to me that although FMC Devens has instituted changes at the facility, it has not meaningfully addressed the fundamental component of social distancing. As a result, it continues to be my professional opinion that to meaningfully reduce the risk of COVID-19 infections at FMC Devens, the facility must sufficiently reduce the prisoner population to allow for effective social distancing.

3. As noted above, Dr. Shaw’s declaration describes some positive measures at FMC Devens including the distribution of masks and the provision of additional hygiene

supplies. *See, e.g.*, Shaw Decl. ¶ 31, 46-48. However, the facility’s actions are critically deficient with respect to social distancing, which the CDC describes as a “cornerstone of reducing transmission of respiratory diseases such as COVID-19.”¹

4. Dr. Shaw also describes ways in which the facility has reduced contact between different housing units, including staggering recreation, mealtimes, programming and commissary for different units, and dispensing medication within each unit. Shaw Decl. ¶ 12, 31. However, although this allows for some separation *between* the different units, Dr. Shaw does not describe any social distancing *within* each unit, which she herself describes as composed of approximately 150 prisoners.
5. As a result, it is my understanding that each housing unit of approximately 150 prisoners still eat, sleep, recreate, shower and use the bathroom under conditions where it is effectively impossible to follow the CDC’s recommendation to maintain six feet of distance between themselves. “Sheltering in place” under these conditions cannot effectively mitigate the risk of COVID-19 transmission, particularly within the vulnerable population housed at FMC Devens.
6. Dr. Shaw’s declaration references “additional physical barriers, currently under construction, in order to decrease the number of inmates in each ‘shelter in place’ designated location.” Shaw Decl. ¶ 31. It is not clear to me what this means, nor do I see any accounting for the effects of any “physical barriers” on the existing mechanical ventilation systems in the facility. It is my understanding that plastic sheets are being placed within some units to divide the space. Even if this could create a barrier against COVID-19 transmission—and I am not sure how that would be possible without complete and proper sealing, as well as regular cleaning of this additional contact surface—enclosing fewer people in a smaller space will not increase their ability to maintain six feet of distance from each other. The same would be true of a more permanent wall erected within a unit; indeed, this would likely *decrease* the overall available space because of physical footprint of the wall itself. Unless FMC Devens undertakes construction to substantially *increase* the overall available space, it will not enhance the facility’s ability to allow for social distancing at current population levels.
7. In preparation for this supplemental declaration, I have also reviewed the Respondents’ omnibus response filed in this case. Its comparison of a 150-prisoner housing unit to a “closed family unit” is entirely inapt. *See* Resp. Br. at p. 29. No family unit is sheltering in place with scores of individuals in a single home. And if they were, they would not be

¹ Centers for Disease Control and Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

in compliance with the CDC’s recommendation to limit “mass gatherings” to ten people where, as at FMC-Devens, there is a high risk population.²

8. What is more, unlike a closed family unit, FMC-Devens is *not* a closed environment. Medical staff and correctional officers are entering the facility every single day. Taking their temperature and asking about their symptoms, while a good thing to do, does not preclude the possibility that they will bring the disease into the facility. *Cf.* Shaw Decl. ¶ 25. To the contrary, pre-symptomatic people can transmit the virus, as can what the CDC estimates to be the up to 25% of people infected with COVID-19 that remain asymptomatic throughout the entirety of their infection.³
9. Dr. Shaw describes the process by which prisoners who enter the facility are first “quarantine[d]” from the rest of the population for 14-days even if they do not have any symptoms. Shaw Decl. ¶ 26. But the officers who routinely enter the facility without any quarantine-period pose the exact same danger of transmission. Thus, there is a daily risk that these officers will unknowingly bring the disease into the facility with them, where it could spread like wildfire among the vulnerable population that is unable to practice effective social distancing.
10. My understanding is that as of April 22, 2020, FMC Devens had one confirmed positive case of COVID-19. *See* Resp. Br. at p. 5 n.3. In light of the incidence of asymptomatic and pre-symptomatic infections, and the fact that FMC Devens apparently does not test asymptomatic prisoners, this number is not a meaningful indicator of how many people are actually infected with COVID-19 at FMC Devens.
11. At least as important, whatever the current number of COVID-19 infections at FMC-Devens may be, there is also the potential for daily ingress of the virus through the staff. Given the continued inability to effectively practice social distancing at the facility, it is therefore still my professional opinion that persons currently detained at FMC Devens are at significantly greater risk of contracting COVID-19 than if they were permitted to shelter in place in their home communities.
12. The Respondents’ contention to the contrary is entirely unsupported. It is true that “[e]very person in the United States, whether in prison or not, faces the risk of COVID-19 exposure.” Resp. Br. at p. 41. But the *degree* of that risk varies greatly. From both a practical and epidemiological standpoint, sheltering at home with a handful of people in a space without daily staff shift changes is qualitatively different from living in a

² Centers for Disease Control and Prevention, *Interim Guidance for Coronavirus Disease 2019 for Event Planners*, <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>.

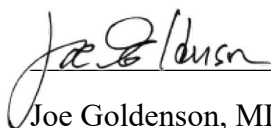
³ Apoorva Mandavilli, *Infected but Feeling Fine: The Unwitting Coronavirus Spreaders*, N.Y. Times (Mar. 31, 2020), <https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html>.

congregant environment with 150 other people and staff that circulate between the facility and the community every single day.

13. For that reason, taking into account all of the measures articulated in Dr. Shaw's declaration, it is still my professional opinion that FMC Devens is at high risk of a COVID-19 outbreak at its current population levels. As a result, taking into account all of the measures articulated in Dr. Shaw's declaration, my public health recommendation remains that in order to meaningfully decrease the risk of COVID-19 infections at FMC Devens, the facility must reduce the prisoner population sufficiently to ensure social distancing and permit personal hygiene in compliance with CDC guidelines.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 26th day of April 2020.



Joe Goldenson, MD