

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Marquis Collier, John Doe I, John Doe II, and John Doe III, individually and on behalf of all others similarly situated,	20 Civ. 2183
Petitioners,	
v.	
RALPH SOZIO, United States Marshal, Southern District of New York; BRYAN T. MULLEE, Acting United States Marshal, Eastern District of New York; THE GEO GROUP, INC.; WILLIAM ZERILLO, Facility Administrator, Queens Detention Facility,	DECLARATION OF DEIRDRE D. VON DORNUM
Respondents.	
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I, Deirdre D. von Dornum, an attorney admitted to practice in the Eastern District of New York, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. I am the Attorney-in-Charge for the Eastern District of New York at the Federal Defenders of New York, Inc. (the “Federal Defenders”).
2. I submit this Declaration upon personal knowledge in connection with the Class Action Petition Seeking Writ of Habeas Corpus.
3. The Queens Detention Facility (“GEO Queens”) is the only private correctional facility that houses federal pretrial defendants from the Southern and Eastern Districts of New York. It is located near the John F. Kennedy International Airport and owned and operated by The GEO Group, Inc. (“GEO”).
4. I have visited GEO Queens for legal visits, spoken to staff who currently work there, spoken to Federal Defenders’ clients currently or recently housed there, spoken to numerous

Criminal Justice Act (“CJA”) appointed lawyers with clients currently housed there, and spoken to medical professionals with relevant knowledge regarding COVID-19.

5. The current situation at GEO Queens is dire. Despite extensive efforts by the Federal Defenders, GEO Queens’ response to the COVID-19 pandemic has been irrational and inadequate, including but not limited to, because:

- a. With the exception of eight solitary detention cells, GEO Queens has continued to house inmates who are symptomatic for COVID-19 in open dormitories with inmates who are not yet ill;
- b. For an extended period after the pandemic began, GEO Queens was neither testing nor isolating symptomatic inmates, thereby exposing nearly the entire population to COVID-19;
- c. GEO Queens temporarily increased testing, but only for inmates who exhibited elevated temperature readings, despite medical studies showing that people can be positive for COVID-19 without fevers, and has stopped testing inmates altogether as of on or about April 21, 2020;
- d. Numerous symptomatic inmates remain untested at GEO;
- e. GEO Queens has now declared all 38 inmates who have tested positive to have recovered, despite several of those inmates still being symptomatic (and 1 of those 38 having tested positive a second time last week after being hospitalized);
- f. No effort has been made to separate inmates who have pre-existing conditions that render them at higher risk from COVID-19 from the general population;

- g. No effort has been made to otherwise provide special protection for inmates who have pre-existing conditions that render them at higher risk from COVID-19;
- h. GEO Queens has not provided positive inmates with sufficiently protective masks or with any gloves;
- i. GEO Queens has not undertaken contact tracing of staff who have tested positive for COVID-19, preventing identification of other staff and inmates who should be isolated or quarantined;
- j. GEO Queens has not increased sanitation measures;
- k. GEO Queens has not addressed its serious shortage of medical staff and equipment necessary to prevent or address a more serious COVID-19 outbreak; and
- l. GEO Queens' public reports on its actions have been at times inaccurate, raising questions about the actual situation inside the facility.

6. Unless immediate action is taken to address these and other conditions, the GEO Queens facility risks becoming an unmitigated public health disaster.

Efforts of the Federal Defenders to Address Impact of Coronavirus on Persons Detained at GEO Queens

7. Beginning on March 11, 2020, after hearing from a client at an in-person legal visit at GEO Queens that another inmate had contracted COVID-19 and had been placed in the Special Housing Unit ("SHU"), the Federal Defenders asked the Court, the U.S. Attorney's Office and the U.S. Marshals Service for the EDNY and the SDNY to obtain information as to the protocols in place at GEO Queens for identifying, caring for and testing people symptomatic for COVID-19, as well as protocols in place for preventing the spread of COVID-19 into and throughout GEO

Queens.¹ GEO Queens responded by telephone that no inmates were currently symptomatic and that the facility had (unspecified) protocols in place.

8. On March 12, 2020, at a special meeting of the SDNY Criminal Justice Advisory Board regarding COVID-19 and the jails, led by Chief Judge Colleen McMahon of the U.S. District Court for the Southern District of New York, and participated in by Federal Defenders, U.S. Attorney's Office in the SDNY, Criminal and Civil Divisions, and the U.S. Marshals' Service for the Southern District of New York, Federal Defenders raised concerns regarding the lack of information from GEO Queens regarding COVID-19 protocols, and asked if the Court, Marshals' Service and U.S. Attorney's Office could set up a channel of communication for regular reporting. Federal Defenders' ability to do this directly with GEO is limited by the fact that numerous persons held at GEO Queens have active conflicts with Federal Defenders' clients in their underlying criminal cases.

9. Individuals working at and/or detained at other correctional facilities run by GEO were publicly reported to have tested positive for COVID-19 beginning March 5, 2020.²

¹ The first confirmed case of COVID-19 in the United States was on January 21, 2020. *See* Roni Caryn Rabin, *First Patient with Wuhan Coronavirus Is Identified in the U.S.*, N.Y. Times (Jan. 21, 2020), <https://www.nytimes.com/2020/01/21/health/cdc-coronavirus.html>. The first death from COVID-19 in the U.S. was reported on February 29, 2020. *See* Mike Baker, et al., *Washington State Declares Emergency Amid Coronavirus Death and Illnesses at Nursing Home*, N.Y. Times (Feb. 29, 2020), <https://www.nytimes.com/2020/02/29/us/coronavirus-washington-death.html?action=click&module=RelatedLinkes&pgtype=Article>. The first confirmed case of COVID-19 in New York City was on March 1, 2020. *See* Joseph Goldstein and Jesse McKinley, *Coronavirus in N.Y.: Manhattan Woman Is First Confirmed Case in State*, N.Y. Times (Mar. 1, 2020), <https://www.nytimes.com/2020/03/01/nyregion/new-york-coronavirus-confirmed.html>.

² *See, e.g.*, Elise Schmelzer, *ICE Employee at Aurora Immigration Detention Facility Tests Positive for COVID-19*, The Denver Post (Mar. 25, 2020), <https://www.denverpost.com/2020/03/25/aurora-detention-ice-employee-coronavirus> (employee at Aurora, Colorado GEO-run facility tested positive on March 25); Jim Melwert, *Coronavirus Cases in Delaware County Jail Prompt Officials to Expedite Release of Inmates*, KYW News Radio (Mar. 27, 2020), <https://kywnewsradio.radio.com/articles/news/coronavirus-in-delco-jail->

10. On March 27, 2020, the Federal Defenders contacted the Marshals for the EDNY, and the Criminal Division of the U.S. Attorney's Office in the EDNY, after receiving a report from a client at GEO Queens that three inmates from his dormitory had been removed because they were coughing, and asked the Marshals and the U.S. Attorney's Office to inquire if there were any symptomatic inmates. The U.S. Attorney's Office did not respond, but the Marshals for the EDNY immediately responded that they would call the facility and report back. The Marshals then informed the Federal Defenders that they had spoken to the Facility Administrator of GEO Queens, William Zerillo, and been told there were no confirmed cases of COVID-19 at GEO Queens.

11. On March 29, 2020, the Federal Defenders contacted the Chiefs of the Criminal Divisions of the U.S. Attorney's Offices for the EDNY and SDNY, as well as supervisors from the Civil Divisions of both offices, and informed them that we had heard that at least one GEO Queens inmate (a SDNY defendant) was awaiting test results for COVID-19 and that three of the

spurs-expedited-release-of-inmates (asymptomatic employee at GEO-run facility in Pennsylvania infected with COVID-19 on March 5, and “[s]ince then, at least nine employees and three inmates have tested positive”); Ali Gostanian and Caitlin Fichtel, *“Like Sitting Ducks”*: Amid Coronavirus, Families, Attorneys Sound Alarm Over ICE Detainees, NBC News (Mar. 29, 2020), <https://www.nbcnews.com/news/latino/sitting-ducks-amid-coronavirus-families-attorneys-sound-alarm-over-ice-n1169656> (employee at GEO-run facility in Texas tested positive on March 23); Debbie Nathan, *Women in ICE Detention, Fearing Coronavirus, Make Video to Protest Unsafe Conditions*, The Intercept (Mar. 30, 2020), https://theintercept.com/2020/03/30/coronavirus-ice-detention/?fbclid=IwAR1jVcVvohigYMqNP54zZ8Y8Q2IHkM85Q-S-y_MO53ysHQA9ztegKUyEFYA (reporting on suspected COVID-19 cases in South Louisiana ICE Processing Center run by GEO Group, including detainee housed in medical unit “with a sign on the window that says, ‘confirmed or suspected Covid-19,’” during week of March 23); Maria Clark, *ICE Detainee Tests Positive for COVID-19 in Pine Prairie, Louisiana*, Daily Advertiser (Apr. 3, 2020), <https://www.theadvertiser.com/story/news/american-south/2020/04/03/coronavirus-ice-detainee-tests-positive-pine-prairie-louisiana/2946110001> (detainee at GEO-run facility in Louisiana tested positive on April 3); Ana Ceballos, *Two Florida Inmates Die from COVID-19, First Casualties in the State Prison System*, Tampa Bay Times (Apr. 15, 2020), <https://www.tampabay.com/news/health/2020/04/15/two-florida-inmates-die-from-covid-19-first-casualties-in-state-prison-system/> (two employees at GEO-run facility in Florida tested positive on March 30; first inmate fatality on April 9).

seven dorm units in the facility were quarantined. We also raised a concern that the inmates had been told by guards that one or more people who worked in the kitchen at GEO Queens preparing food are currently symptomatic. We expressed concern about the continuing lack of information from GEO Queens, including the lack of a notification procedure—despite the Facility Administrator’s assurance that there would be immediate notification. We asked the Criminal Division Chiefs if they could push for information from GEO Queens. No response was received. Panicked phone calls from inmates at GEO Queens continued to come to both the Federal Defenders and CJA counsel regarding numerous sick inmates.

12. Unlike the Federal Bureau of Prisons, GEO, a private corporation, does not publicly post statistics about positive COVID-19 cases in its facilities.

13. Accordingly, on March 30, 2020, the Federal Defenders asked Chief Judge McMahon and Chief Judge Roslynn R. Mauskopf of the U.S. District Court for the Eastern District of New York, copying the Chiefs of both Criminal Divisions, the Chief of the Civil Division of SDNY, and the Deputy Chief of the Civil Division of EDNY, and Marshals, from both districts if they would direct GEO Queens, with the assistance of the Marshals to (1) generate a list of “at risk” inmates, like the ones the Court had obtained from Metropolitan Correctional Center (“MCC”) and Metropolitan Detention Center (“MDC”), using the Centers for Disease Control and Prevention (“CDC”) criteria; (2) require GEO to provide specific information about its protocols; and (3) require GEO to make specific notification about any positive staff tests or inmate tests. Chief Judge Mauskopf immediately indicated that she would follow up with the Marshals and with GEO Queens. Chief Judge Mauskopf subsequently entered an administrative order requiring GEO

Queens to file a twice-weekly report regarding its “[p]rotocols for screening and testing inmates, staff, and other[s] entering or leaving” the facility.³

GEO Queens’ Reponses And Reported Efforts To Protect Detained Persons

14. In response to inquiries by the U.S. Marshals for the EDNY, Mr. Zerillo called the Federal Defenders on March 27, 2020, and stated that he wanted us to know that there have been no positive COVID-19 tests at GEO Queens, and that GEO is a multi-billion dollar corporation with a robust COVID-19 strategy. He acknowledged that several inmates with flu-like symptoms were put in isolation (but not “the box”, according to him), but stated they did not have COVID-19 symptoms and thus were not tested. He stated that the second there is a positive test, he would notify the Marshals.

15. On March 30, 2020, the Chief of the Civil Division of SDNY informed the Federal Defenders and the Chief Judges that he and a Deputy U.S. Marshal from SDNY had spoken to Mr. Zerillo that morning and been told by the Facility Administrator that:

- a. No inmates have tested positive to date for COVID-19.
- b. There are five inmates in isolation (SHU): two of these inmates are awaiting test results, one inmate is running a high temperature, and two inmates are new arrivals to the facility.
- c. Three of the dorms are currently in quarantine because that is where the three inmates in isolation who are feeling ill were housed.
- d. The facility changed out the kitchen crew because the inmates working there were from units that are in quarantine.

³ Administrative Order No. 2020-14, Status of Detention Facilities Housing Defendants in Cases Filed in the Eastern District of New York (E.D.N.Y. Apr. 2, 2020) (Mauskopf, C.J.).

- e. The facility is being sanitized three times per day on top of regular cleaning. Soap, access to water, and hand sanitizer is being provided.

16. On March 30, 2020, the Chief of the Civil Division of SDNY further informed us that his office intended to be in daily contact with the Facility Administrator to receive regular updates.

17. The U.S. Marshal for the EDNY similarly informed Federal Defenders on or about March 30, 2020, that he is regularly requesting updates from GEO Queens and has received assurances that the Facility is following all CDC protocols.

18. On or about April 2, 2020, the U.S. Attorney's Offices in both SDNY and EDNY received a list from GEO Queens of the inmates who met the CDC criteria for elevated risk of suffering acute symptoms of COVID-19. Federal Defenders was not provided with the list, but we were informed regarding specific clients of ours who were identified on the list. CJA counsel and private counsel were also informed if their clients were on the list, although this does not appear to have been done uniformly or immediately. It is Federal Defenders' understanding that over half the population of GEO Queens was identified by GEO as having at least one risk factor. GEO Queens and its medical staff have not informed inmates if they are on the high-risk list.

19. On April 3, 2020, Mr. Zerillo informed Chief Judge Mauskopf that four inmates had been given COVID-19 tests and one inmate had tested positive.⁴ The Facility Administrator further reported that three staff members had tested positive.⁵

⁴ Memorandum from GEO Queens to Hon. Roslynn R. Mauskopf (Apr. 3, 2020), <https://img.nyed.uscourts.gov/files/reports/qdf/20200403%20QDF%20Report.pdf>.

⁵ *Id.*

20. The Facility Administrator further indicated that GEO Queens was no longer testing symptomatic individuals based on the New York City Department of Health Guidance that symptomatic inmates need not be tested, just confined.⁶ The Facility Administrator did not explain how GEO Queens' keeping symptomatic persons in open dormitory units was consistent with this guidance.

21. Four days later, on April 7, 2020, Mr. Zerillo informed Chief Judge Mauskopf that GEO Queens had changed course and decided to test all symptomatic inmates.⁷

22. On April 10, 2020, Federal Defenders was informed by the Civil Division of SDNY that 16 people had tested positive at GEO, 10 to 13 others were awaiting test results, and only 4 of those presumptively positive 26 to 29 people were in isolation, while the other 22 to 25 ill individuals remained in the open dormitories, mixed in with the other inmates.

23. By April 14, 2020, 25 inmates and 10 staff at GEO Queens had tested positive.⁸

24. On April 16, 2020, the Facility Administrator claimed in writing to Chief Judge Mauskopf that “[i]ndividuals who are at a higher risk of illness, have been placed into single occupancy cells with solid walls and doors, isolated from the general population,” but, in the same memorandum stated that GEO Queens has only eight single-cells, and otherwise inmates are housed in large open dormitories.⁹ The Facility Administrator did not explain how the assertion

⁶ *Id.*

⁷ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 7, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200407_041757.pdf.

⁸ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 14, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200414_041032.pdf.

⁹ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 16, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200416_053144.pdf.

that people at higher risk had been placed in the eight available single cells comported with the large number of individuals whom GEO Queens had previously identified as meeting CDC criteria for higher risk of suffering severe illness from COVID-19. In the two days since the Facility Administrator's prior report, an additional 11 inmates had tested positive, bringing the total to 36.¹⁰

25. On April 21, 2020, GEO Queens reported that it had begun "cohorting" symptomatic inmates and had purchased eight high-power air scrubbers in an effort to cleanse the virus from the air in the housing units. Despite these efforts, the number of positive inmates had risen again, to 38, and the number of positive staff had risen substantially, from the 10 positive staff reported on April 16, 2020, to 21 positive staff members.¹¹

26. On April 30, 2020, no additional inmates had been tested, but four additional staff members had tested positive, bringing the total to 25 positive staff members.¹²

27. In its two most recent reports, on May 7 and May 12, 2020, GEO Queens reported that all 38 inmates had recovered, however, 1 of the 38 inmates had tested positive again; no new staff positives were reported.¹³

¹⁰ *Id.*

¹¹ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 21, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200421_050924.pdf.

¹² Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 30, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200430_053615.pdf.

¹³ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (May 7, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200507_034813.pdf; Letter from William Zerillo to Hon. Roslynn R. Mauskopf (May 12, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200512_034142.pdf.

Sick Inmates Left Untreated and Not Isolated

28. Throughout the first four weeks of April and the first week of May, as the number of positive and symptomatic inmates at GEO Queens continued to rise, Federal Defenders spoke to a number of clients at GEO Queens, as well as to CJA lawyers with clients at GEO Queens. They described:

- a. Masks were not provided to the inmates until April 7, 2020, three weeks after Governor Andrew Cuomo and New York City Mayor Bill de Blasio declared a state of emergency—before inmates received masks, they covered their faces with unwashed t-shirts;¹⁴
- b. The masks received by the inmates are loose-fitting, thin masks that cannot be washed;
- c. Staff are inconsistently wearing masks and gloves on the housing units, despite their travel in and out of the facility every day and the growing number of staff positives;
- d. Terror at being held in large open dormitories with multiple symptomatic people;
- e. An inability to obtain medical care other than Tylenol unless they exhibited a high temperature, even when they were in respiratory distress, coughing, and experiencing a loss of taste and smell;
- f. Being left in open dormitories while awaiting COVID-19 test results;

¹⁴ Memorandum from GEO Queens to Hon. Roslynn R. Mauskopf (Apr. 7, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200407_041757.pdf.

- g. Fear at the number of staff already reported positive and no tracing being done as to persons, both other staff and inmates, that positive staff members may have come into contact with before testing positive;
- h. No one listening to their lungs with stethoscopes or asking them to blow into a peak flow tube;
- i. The facility being short-staffed, with at times a single officer left to patrol two units;
- j. Cold temperatures in the dormitories;
- k. A lack of disinfecting wipes or other sanitizing equipment to use on telephones and other shared surfaces in between individual uses; and
- l. Only one doctor available, and at very limited times.

29. Federal Defenders has continued to raise concerns about GEO Queens' failure to isolate symptomatic inmates and failure to provide adequate medical care with the U.S. Marshals and the U.S. Attorney's Offices for the EDNY and SDNY.

30. Federal Defenders and CJA counsel have filed bail motions, where feasible, for several persons housed at GEO Queens based on the risk posed to them by COVID-19 and the conditions at GEO Queens. However, for many individuals detained at GEO Queens, the particular circumstances of their criminal cases make pretrial release difficult.

Conditions at GEO Queens Create a Risk of Widespread Outbreak and GEO Queens Is Not Medically Equipped to Address the Outbreak

31. Beginning on March 25, 2020 and continuing through May 11, 2020, my colleagues and I have spoken with at least 20 clients currently detained in GEO Queens and with eight individuals recently released from the facility. The following information is offered upon information and belief.

32. The CDC has issued Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities. This Guidance emphasizes the need for (a) adherence to cleaning and disinfection of shared areas and equipment several times daily with soap and hot water; (b) provision of free hygiene products such as soap and tissues, as well as alcohol-based hand sanitizer where permitted; (c) social distancing; (d) constant use of personal protective equipment by staff and inmates; (e) medical isolation of confirmed and suspected cases and quarantine of persons in contact with those confirmed and suspected cases; and (f) special protection for at-risk individuals.¹⁵

33. GEO Queens has submitted this guidance to Chief Judge Mauskopf as part of its “protocols”; however, it is not following this guidance.

34. There are currently approximately 175 people detained at GEO Queens. The facility has a capacity of 222. As of May 12, 2020, out of 41 inmates tested for COVID-19, 38 inmates tested positive. At least 60 inmates have exhibited symptoms of COVID-19 and GEO has reported that 25 staff members have tested positive for COVID-19.

35. The number of detainees testing positive for COVID-19 has increased precipitously since the facility’s first report to Chief Judge Mauskopf on April 3, 2020. GEO Queens reported one positive inmate on April 3, 2020,¹⁶ and 36 cases just two weeks later on April 16, 2020.¹⁷

¹⁵ See *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*, Centers for Disease Control and Prevention, at 2 (updated March 23, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-correctional-detention.pdf>.

¹⁶ Memorandum from GEO Queens to Hon. Roslynn R. Mauskopf (Apr. 3, 2020), <https://img.nyed.uscourts.gov/files/reports/qdf/20200403%20QDF%20Report.pdf>.

¹⁷ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 16, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200416_053144.pdf.

Between April 16 and April 28, 2020, GEO Queens only gained 2 more positive cases, bringing the total to 38 positive tests,¹⁸ but also stopped widespread testing during that time period.

36. GEO Queens reported that as of April 30 all 38 detainees had recovered from COVID-19, but has not explained how it determines whether an individual is infectious or recovered. This is particularly worrisome because, since then, I have spoken to detainees who describe continuing to have acute symptoms of COVID-19. In addition, the most recent guidance from the World Health Organization advises that there is no evidence that people who have recovered from COVID-19 are protected from reinfection.¹⁹ Indeed, on May 7, 2020, GEO Queens reported that 1 of the 38 positive but recovered inmates had once again tested positive (and was only tested because he was hospitalized).²⁰

37. At GEO Queens, people are predominately housed in seven large, open dormitory housing units, each of which contain between 20 and 46 beds. The beds are bunked, and each bunk is only approximately two to three feet apart from another. There are no dividers—permanent or temporary—between the bunks. GEO Queens has reported that the facility has restricted movement in common and recreational areas and limited group activities, but it is impossible for inmates to properly practice social distancing or isolate themselves within their assigned dormitories due to the size of the facility's open floorplans and the number of people housed on

¹⁸ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (Apr. 28, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200428_052447.pdf

¹⁹ See *“Immunity Passports” in the Context of COVID-19*, World Health Organization (Apr. 24, 2020), <https://www.who.int/news-room/commentaries/detail/immunity-passports-in-the-context-of-covid-19>.

²⁰ Letter from William Zerillo to Hon. Roslynn R. Mauskopf (May 7, 2020), https://www.nyed.uscourts.gov/pub/bop/QDF_20200507_034813.pdf.

each dormitory unit. Phones, computers, toilets, showers, and tables are all shared by everyone housed in the dormitory.

38. While GEO Queens recently reported having moved inmates who have tested positive into a separate dormitory unit (as of on or about April 20, 2020), there are currently fewer than 20 inmates housed in that unit (F Dorm)—far fewer than the total number of positive inmates reported. GEO Queens has provided no explanation of why the other positive inmates were not also cohorted in F Dorm.

39. When GEO Queens decided to “cohort” inmates who had tested positive together in F Dorm, the inmates previously housed in F Dorm, who had been repeatedly exposed to positive inmates already in that dormitory, were scattered across the other six dormitories, increasing the likelihood of spreading the virus further.

40. Multiple symptomatic and positive-tested inmates remain mixed in the other six dormitory units. Numerous individuals complaining of coughs, fevers, shortness of breath, sore throats, nausea, dizziness, vomiting, body aches and lost senses of smell and taste have not been tested for COVID-19, have not been isolated from others, and have not received adequate medical treatment. Rather, they are instructed to simply take Tylenol, drink hot water and rest in their dormitories, close beside other inmates. Other inmates report repeatedly asking the nurse for care for sick inmates who cannot get out of bed.

41. GEO Queens has not separated individuals at higher risk of becoming seriously ill, either because of their age or because of pre-existing medical conditions, from the population at-large in the facility.

42. GEO Queens has kept air conditioning on a high level within the dormitories at all times. The facility did not implement air filtration systems recommended by the CDC until on or

about April 21, 2020, after entire dormitories of detainees already had been exposed to COVID-19.

43. Inmates at GEO Queens do not have access to disinfectant wipes or hand sanitizer.

44. Inmates at GEO Queens are responsible for cleaning the housing units, bathrooms, kitchen and all common areas, and frequently lack adequate cleaning supplies to do so. Due to a lack of cleaning supplies since the start of the COVID-19 pandemic, inmates have been forced to fill bottles of cleaning solution with water. No part of the facility has been professionally sanitized since the start of the pandemic.

45. Inmates at GEO Queens must frequently share or touch objects used by others. Toilets, sinks, and showers are shared, without disinfection between each use. Telephones, computer terminals, television remotes, and tables, which are used by the entire GEO Queens population, are not sanitized between uses. The orderlies clean them at most once a day.

46. Inmates have limited access to fresh bed linens.

47. Meals are eaten together in groups in each dormitory.

48. Staff are not uniformly wearing face masks and gloves when working with inmates. Some wear N-80 masks; others wear no mask.

49. Inmates are not provided with new masks on a regular basis and are expected to reuse their masks for an extended period of time. Moreover, inmates are issued masks by staff who are not wearing gloves or other adequate personal protective equipment.

50. GEO Queens is already short-staffed. The staffing shortage has increased since the start of the COVID-19 pandemic as staff have stopped coming to work and have not been replaced. This staffing shortage will only increase as more staff will need to stay home to attend to either their personal health or the health of family members. There is far more work to be done in GEO

Queens than before, given the number of sick inmates. With fewer staff, correctional officers are less able to monitor inmates' health and safety. At times, a single officer has been left to patrol two units, leaving inmates unmonitored for an hour at a time.

51. GEO Queens has only one physician on staff. The physician is not on-site every day and usually only sees patients on Sundays. The physician does not visit the housing dormitories on a regular basis, but instead sees detainees who have elevated temperatures in the medical unit, limiting his ability to assess the population as a whole.

52. Detainees are regularly brought to the doctor's office in groups of six or more and placed in a small waiting area together, in which it is impossible to socially distance.

53. The medical support staff consists of only one Registered Nurse ("RN") on staff, who has come to the facility infrequently since the start of the COVID-19 pandemic. There are several Licensed Practical Nurses ("LPNs") on staff, but at least four LPNs have stopped coming in to work at the facility since the start of the COVID-19 pandemic. Currently, only one LPN visits the facility on a daily basis to make cursory clinical rounds to monitor inmates. LPNs are not licensed to prescribe medicine or perform most medical procedures. Inmates have been denied or delayed necessary medical treatments, including asthma inhalers and pumps.

54. Inmates also report that in some instances, their symptoms or elevated temperature or blood pressure test results are not recorded by the medical staff or reflected in the medical records kept by GEO. They have also reported staff repeatedly taking their vitals and recording only the "best" result obtained.

55. In the last two weeks, GEO Queens has stopped taking temperatures daily or doing other symptom checks.

56. No medical staff are in the facility overnight, and are there only irregularly on weekends.

57. Should an inmate go into respiratory distress, GEO Queens does not have the ability to intubate anyone on-site.

58. GEO Queens has no ventilators on-site.

59. There is no separate medical facility for ill inmates. Unlike many Federal Correctional Institutions and even Rikers' Island, GEO Queens has no physical space in which an ill inmate can convalesce that is separate from other inmates, warm, clean, and has access to fresh water and regular hand-washing.

60. The Facility Administrator, Mr. Zerillo, has not visited the housing units since the pandemic began.

61. Although GEO Queens reported to Chief Judge Mauskopf on April 3, 2020, that as of March 13, 2020, all legal and social visitation had been suspended in order to protect detainees from the virus,²¹ on May 2, 2020, Mr. Zerillo informed Federal Defenders that legal visitation had never been suspended, and was open every day from 9 am to 9 pm.

62. As detailed above, Federal Defenders has taken extensive measures in order to mitigate the potential impact of a more widespread COVID-19 outbreak in the facility, and to ensure adequate medical care for those held at GEO Queens. We have explored and attempted all available avenues to protect all persons detained there. However, Federal Defenders remains deeply concerned that our clients and the other detainees will be exposed, sickened, or potentially face serious illness or death because of GEO Queens's inadequate and slow response to this public

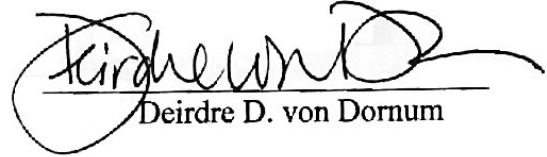
²¹ Memorandum from GEO Queens to Hon. Roslynn R. Mauskopf (Apr. 3, 2020), <https://img.nyed.uscourts.gov/files/reports/qdf/20200403%20QDF%20Report.pdf>.

health crisis, and its lack of adequate testing, tracing, treatment, separation of symptomatic inmates, and additional care for at-risk inmates.

63. We cannot wait for someone to die in order to take seriously the situation at GEO Queens. For example, I spoke, on May 11, 2020, to an individual who reported falling ill in early April, before GEO Queens began any temperature checks. He told the nurse his throat was itching and he had a headache for three days. The nurse gave him Tylenol and did no symptom checks on him. Four days later, he had a fever, and told the nurse that he could not move out of bed. The nurse did not check his temperature or do any other symptom checks. On April 10, 2020, the nurse checked his temperature for the first time: it was very high. The nurse left and came back with a nasal swab test. After testing him, she returned him to his open dormitory where he lay on his bed, close to other inmates. On April 13, 2020, he had still not received his test results and no one had come back to check on him. He continued to have a fever and was struggling to breathe. Another inmate went and got the nurse and told her that he could not breathe. When the nurse checked him, his temperature was over 102 degrees and his oxygenation level was down below 75%. He was rushed to Jamaica Hospital, where doctors told him that if he had not come to the hospital when he did, he likely would have died. He remained hospitalized for a week. When he came back to GEO Queens, he asked to be isolated because he was still symptomatic. Instead, he was placed in an open dormitory with other sick people. Two days later, he saw the doctor, who told him he was “recovered.” The inmate asked to be tested, because he was still symptomatic. The doctor refused. As recently as last week, he saw another “recovered” inmate rushed to the hospital with symptoms.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: Brooklyn, New York
May 13, 2020


Deirdre D. von Dornum