

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
C.A. No. 2084CV00295

CARL LAROCQUE, ET. AL,

Plaintiffs,

v.

THOMAS TURCO, SECRETARY OF THE EXECUTIVE OFFICE OF PUBLIC  
SAFETY AND SECURITY, ET AL.,  
Defendants.

**AFFIDAVIT OF STEVEN KENNEWAY**

I, Steven Kenneway, being duly sworn, do hereby depose and state as follows:

1. I am currently the Superintendent of Souza-Baranowski Correctional Center ("SBCC"). I have held this position since February 3, 2019.
2. SBCC is a maximum security prison run by the Department of Correction ("DOC"). SBCC is the only maximum security prison in Massachusetts.
3. As Superintendent, I am responsible for the overall operation of SBCC, including the care, custody, and control of inmates, the physical plant of the institution, and the safety of inmates, staff, visitors, and the public.
4. This Affidavit is based upon my personal knowledge and upon my review of DOC records which are kept in the normal course of business.
5. On January 10, 2020, SBCC inmates on the North side of the institution seriously assaulted correction officers on the housing unit. Four correction officers were severely injured. All four officers were taken to the emergency room at the hospital. Two officers' injuries were so severe that hospitalization was required, one for a head trauma and a

badly broken nose and one for a broken jaw, and broken vertebrae in his neck. A video of the assaults is attached to this Affidavit for the Court to view. See video attached as Exhibit A.

6. These assaults led to the immediate lockdown of the institution; the institution was put into Disorder protocol per the DOC's Disorder Management Policy, 103 DOC 560. No out of cell activity occurs during an institutional lockdown. Due to the Disorder, the inmate telephone system was turned off until January 24, 2020. As Superintendent, I needed to ensure that the perpetrators of the assaults were separated and that there were no other assaults planned. In investigating the assaults, credible threats to staff were discovered. The lockdown ended on February 3, 2020.

7. There are numerous types of disorders that trigger DOC's Disorder protocol, including, but not limited to emergency incidents such as inmate insurrections, inmate work stoppages, inmate dining hall boycotts, inmate demonstrations, escapes, and hostage situations. Inmate insurrections are inmate disorders, which may include riots, major fights, and/or random property destruction.

8. On December 4, 2019, there was an earlier assault on a staff member at SBCC. This assault led to a lockdown of the prison. Intelligence information gathered after this assault determined that the December 4 assault was planned by four inmates. After the December 4 assault, we received multiple credible threats of future planned assaults on staff. Intelligence gathering determined that the assaults on staff "were not over" and were "going to happen again."

9. On January 10, 2020, those threats culminated in the vicious and severe assaults on four staff members. Several inmates assaulted four correction officers, and 23 inmates



were identified as combatants. Intelligence information gathered after the assaults has shown that the assaults were planned; the inmates even held planning meetings. It did not matter in what block the staff assaults were to occur, just that the inmates involved wanted to severely assault staff.

10. Several inmates involved in the January 10 assaults tried to take one of the officers hostage. They dragged him into a cell, but he was able to break free.

11. By January 10, 2020, the inmates had escalated their behavior from threats to actions.

12. After the January 10, 2020 attack, DOC staff received threats from inmates that they were going to rape, murder, and take hostages. These threats were coming from inmates in almost every block at SBCC; both South side and North side blocks.

13. It is my understanding that the Worcester District Attorney's Office is planning on prosecuting the 23 inmates for the January 10 assault.

14. I have had inmates tell me that "they are running the facility," not the DOC.

15. Attorney visits were reinstated on January 17, 2020, with the exception of one day, Tuesday, January 21, when it was necessary to screen and update every inmate's risk assessment for housing placement consideration within the facility. By January 24, inmates had access to the telephones. By January 31, all inmates had their legal materials back.

16. The Commissioner of Correction, Carol Mici, determined that changes needed to be made at SBCC, based on the severe attacks on January 10 and the credible threats we were receiving. The Commissioner was extremely concerned regarding the safety of inmates, staff, visitors, and the public. Due to the need to separate inmates from one

another in an effort to prevent future disturbances and attacks on staff and inmates, inmates needed to be screened to determine appropriate housing placements. Numerous inmates were transferred to other institutions.

17. The North side of SBCC now houses inmates with serious disciplinary infractions. Inmates without disciplinary infractions are housed on the South side. An inmate can be moved from the North side to the South side if he remains discipline-free.

18. Due to SBCC being in Disorder protocol, attorney visits were not allowed beginning on January 10 (after the assault) through January 16, 2020. DOC officials were still in the process of gathering intelligence information and assessing threats so the institution remained on lockdown. As of the afternoon of January 17, 2020, attorney visits were allowed, if necessary. It was left to the judgment of individual attorneys whether they felt it necessary to meet with their client during the institutional lockdown. SBCC records reflect that only one attorney visited a client during the Martin Luther King, Jr. holiday weekend; that visit occurred on January 20, 2020. See attorney visits from January 17, 2020 to February 4, 2020 attached as Exhibit B.

19. As noted above, on January 21, 2020, inmates were being moved throughout the facility based on their updated housing risk assessments, so no attorney visits were allowed on that day.

20. On January 22, 2020, attorney visits were fully reinstated. SBCC records reflect that from January 20, 2020 to February 4, 2020, 126 attorney visits took place. See Exhibit B.

21. SBCC records reflect that inmate Carl Larocque received attorney visits on January 27 and 30. See Exhibit B.



22. SBCC records reflect that inmate Robert Silva-Prentice received attorney visits on January 29 and February 2. See Exhibit B.
23. Court trips were not impacted by the institutional lockdown and proceeded as scheduled, pursuant to court-issued writs of habeas corpus received by SBCC. No court trips were canceled by SBCC following the January 10 assaults on officers. SBCC records reflect that from January 10 to February 5, 2020, inmates were transported to Court 36 times. See Court Scheduling attached as Exhibit C.
24. SBCC records reflect that inmate Tamik Kirkland was transported from SBCC to Clinton District Court on January 17, 2020 and to Hampden Superior Court on January 28, 2020. See Exhibit C.
25. On January 28, 2020, the SBCC Property Officer wheeled a flatbed containing inmate Kirkland's legal materials into his cell prior to Kirkland leaving on his court trip. Inmate Kirkland took the legal materials he wanted from his vast materials, and they accompanied him to court. Inmates like Mr. Kirkland with extensive legal materials in their cells are able to exchange them for legal materials in storage upon request, pursuant to the DOC's Inmate Property policy, 103 CMR 403. See 103 CMR 403, Inmate Property attached as Exhibit D.
26. No unescorted out of cell activity is permitted during a lockdown for security reasons. Under the Disorder protocol, an inmate is only allowed out of his cell with a two-person officer escort. Examples of when an inmate would be allowed out of his cell include visits with mental health staff, trips to the Health Services Unit, outside medical trips, and court trips. Approximately 1,500 escorts of inmates were made from January 10 until January 24, 2020.

27. From January 24 to February 2, 2020, inmate Larocque made and completed 15 phone calls. See Larocque phone calls attached as Exhibit E.
28. From January 24 to February 4, 2020, inmate Silva-Prentice made and completed 10 phone calls. See Silva-Prentice phone calls attached as Exhibit F.
29. From January 24 to January 31, 2020, inmate Kirkland made and completed 38 phone calls. See Kirkland phone calls attached as Exhibit G.
30. North side inmates are presently allowed out of their cells a total of two hours and fifteen minutes a day; these inmates are housed within seven blocks. There are three set time periods a day - morning, afternoon and evening - between the hours of 8:30 a.m. and 11:00 p.m. - in which 12 inmates per block are allowed out of their cells at one time. Six of the inmates are allowed on the housing flats with access to the telephones, while the other six inmates are given recreation time outside. Each North side inmate is given one period with access to the telephones and one period with access to recreation, on a daily basis. Inmates' times out of cell are rotated on a 31 day schedule, with different time periods each day, to ensure that each inmate has approximately the same amount of access to the telephones to call their lawyers, family, etc. throughout the month.
31. Inmates can send and receive email to/from their attorneys (and family and friends) from the kiosks that are located on the housing flats. Inmates who own personal tablets can also send and receive emails from their tablets when they are in their cells.
32. Inmate mail was never impacted by the Disorder. There were no delays in inmates sending outgoing mail or with inmates receiving their incoming mail. An inmate could have written a letter to his attorney if he wished to contact the attorney, and the attorney could have written the inmate.



33. On January 21, 2020, the DOC Tactical Team came to SBCC to conduct an institution-wide search. Every inmate's property was taken and searched for weapons drugs and other contraband, including other unauthorized property. The Tactical Team conducted a thorough and methodical search – they went block by block and searched every inmate's property. Inmates in the South side blocks received their property back either the same day or the next day. The entire South side had their property back by January 24, 2020. Inmates on the North side received all their approved property back by January 31, 2020.

34. Pursuant to 103 CMR 403.10(2)(c), Approved Inmate Property, inmates are allowed to possess one cubic foot of legal materials in their cells. Legal materials in excess of one cubic foot are kept in storage and inmates are allowed to make an exchange of legal materials upon request. See Exhibit D, specifically CMR 403.05, 403.10(2)(c).

35. I recall authorizing two or three inmates who so requested, to keep more than one cubic foot of legal materials in their cells. If an inmate has a pending criminal case on appeal, for example, I will allow him to keep more than one cubic foot of legal materials in his cell.

36. Attorney visits at SBCC are contact visits, barring any foreseeable conflict. Attorney visits for North side inmates were temporarily non-contact due to the Disorder. Attorney visits were non-contact at this time due to the credible intelligence information received. I was concerned for the safety of inmates, staff, and visitors. Contact visits for attorneys were reinstated for North side inmates on February 3, 2020. Attorney visits for South side inmates have always been contact visits, and remained contact visits following the January 10 assaults on correctional staff.

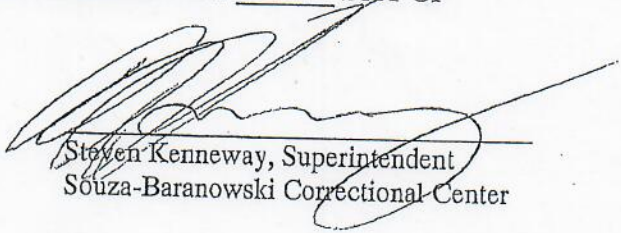
37. SBCC has three attorney visiting rooms, all of which permit contact. SBCC has 14 non-contact rooms which can be also used for attorney visits. The first three attorneys who visit during a specific time have access to those attorney visiting rooms that permit contact. If all three attorney visiting rooms are being used and a fourth attorney arrives for a visit, the attorney will be placed in the non-contact visiting area. The fourth attorney can choose to wait until one of the three attorney visiting rooms becomes available if he or she so chooses, or conduct a non-contact visit with the client.
38. For a non-contact visit, the inmate and his attorney are separated by a partition that is half-wall, half-plexiglass; with the plexiglass being on top. The inmate and the attorney will be able to see at least the head and shoulders of one another, depending on the heights of the inmate and of the attorney.
39. If there are two inmates who are known enemies of one another and both want an attorney visit at the same time – then the first attorney and inmate are allowed to use the contact visiting room. The second attorney and inmate will have a non-contact visit unless they choose to wait until the first inmate and his attorney are done. The reason for this is that enemies cannot be in close proximity to each other for their own safety, plus the safety of staff and their attorneys.
40. When an inmate has a non-contact visit with his attorney, correction officers are available to facilitate the passage of legal materials between the attorney and the inmate.
41. On Tuesday, February 4, 2020, an inmate assaulted another inmate in a general population housing unit at SBCC.
42. The inmate who was assaulted had just returned from a visit with his attorney.



43. The inmates at SBCC are volatile and dangerous, as evident from the January 10 attack. Inmates assault staff or other inmates for a multitude of reasons – which could include a minor issue or occur for no verifiable reason at all.

44. As of the date of my signature on this Affidavit, I can attest that contact attorney visits, access to legal materials, and phone calls have been reinstated. It is entirely possible that a new Disorder could arise which would lead to temporary restrictions. Unfortunately, due to the nature of this maximum security facility, every day presents a possible changing situation. My job is to keep staff, inmates and visitors at this facility safe at all times. Neither I nor anyone in the DOC wants to limit an inmate's access to his attorney or to the courts, but the safety of the inmates, staff, and visitors must always be paramount.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 7 DAY OF  
FEBRUARY, 2020.



Steven Kenneway, Superintendent  
Souza-Baranowski Correctional Center