

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK
NWAUZOR, FERNANDO AGUIRRE-
URBINA, individually and on behalf of all
those similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

No. 3:17-cv-05769-RJB

**DECLARATION OF JAMAL N.
WHITEHEAD IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

I, JAMAL N. WHITEHEAD, declare as follows:

1. I am over the age of eighteen, competent to testify in this matter, and do so based on personal knowledge.

2. Attached as **Exhibit A** is a true and correct copy of The GEO Group, Inc.'s September 2017 ACA Audit Welcome Book, marked as Exhibit 348 to Bruce Scott's deposition. Pursuant to the Protective Order, Docket No. 163, Exhibit A is filed under seal.

1 3. Attached as **Exhibit B** is a true and correct copy of the Award/Contract between
2 The GEO Group, Inc. and Immigration Customs Enforcement, marked as Exhibit 356 to the
3 Rule 30(b)(6) deposition of The GEO Group, Inc. Pursuant to the Protective Order, Docket
4 No. 163, Exhibit B is filed under seal.

5 4. Attached as **Exhibit C** are true and correct copies of excerpts of testimony from
6 the deposition of The GEO Group, Inc. taken on December 10, 2019, including the court
7 reporter's certification

8 5. Attached as **Exhibit D** is a true and correct copy of the Northwest ICE
9 Processing Center Facility Financial Summaries, marked as Exhibit 360 to the Rule 30(b)(6)
10 deposition of The GEO Group, Inc. Pursuant to the Protective Order, Docket No. 163, Exhibit
11 D is filed under seal.

12 6. Attached as **Exhibit E** are true and correct copies of excerpts of testimony from
13 the deposition of Fernando Aguirre-Urbina taken June 11, 2018, including the court reporter's
14 certification.

15 7. Attached as **Exhibit F** is a true and correct copies of article published April 15,
16 2017 by author James Black titled "Tacoma immigration detention center is misunderstood."

17 8. Attached as **Exhibit G** are true and correct copies of excerpts of testimony from
18 the deposition of Erwin DelaCruz taken December 2, 2019, including the court reporter's
19 certification. Mr. DelaCruz is currently GEO's Assistant Food Production Manager at the
20 Northwest Detention Center (NWDC).

21 9. Attached as **Exhibit H** are true and correct copies of excerpts of testimony from
22 the deposition of Marc A. Johnson taken December 2, 2019, including the court reporter's
23

1 certification. Mr. Johnson is currently a Detention Officer at the NWDC, but he previously
2 served at NWDC as a Lieutenant.

3 10. Attached as **Exhibit I** are true and correct copies of excerpts of testimony from
4 the deposition of David Tracy taken December 3, 2019, including the court reporter's
5 certification. Mr. Tracy is currently a Detention Officer at the NWDC, but he previously served
6 at NWDC as a Sergeant.

7 11. Attached as **Exhibit J** is a true and correct copy of the Commission on
8 Accreditation for Corrections' Standards Compliance Reaccreditation Audit for The GEO
9 Group at the Northwest Detention Center, dated September 2017. The document was marked
10 as Exhibit 349 to the deposition of Bruce Scott, Jr. Pursuant to the Protective Order, Docket
11 No. 163, Exhibit J is filed under seal.

12 12. Attached as **Exhibit K** are true and correct copies of excerpts of testimony from
13 the deposition of Bruce Scott, Jr. taken December 9, 2019, including the court reporter's
14 certification. Mr. Scott is currently the Assistant Warden at NWDC.

15 13. Attached as **Exhibit L** is a true and correct copy of ICE's 2008 Performance-
16 Based National Detention Standards § 5.8 (VWP).

17 14. Attached as **Exhibit M** is a true and correct copy of ICE's 2011 Performance-
18 Based National Detention Standards § 5.8 (VWP), marked as Exhibit 361 to the Rule 30(b)(6)
19 deposition of The GEO Group, Inc.

20 15. Attached as **Exhibit N** is a true and correct copy of ICE's 2019 Performance-
21 Based National Detention Standards § 5.8 (VWP).

22 16. Attached as **Exhibit O** is a true and correct copy of a Memorandum dated April
23 12, 2012 titled "Voluntary Work Program 2011 PBNDS Standards," marked as Exhibit 330 to

1 Michael Heye's deposition. Pursuant to the Protective Order, Docket No. 163, Exhibit O is
2 filed under seal.

3 17. Attached as **Exhibit P** is a true and correct copy of an email from Charles L.
4 Howard to Bill McHatton, et al., dated August 27, 2014, marked as Exhibit 364 to the Rule
5 30(b)(6) deposition of The GEO Group, Inc. Pursuant to the Protective Order, Docket No. 163,
6 Exhibit P is filed under seal.

7 18. Attached as **Exhibit Q** is a true and correct copy of a Voluntary Work Program
8 Agreement, marked as Exhibit 314 to David Tracy's deposition. Pursuant to the Protective
9 Order, Docket 163, Exhibit Q is filed under seal.

10 19. Attached as **Exhibit R** is a true and correct copy of the Declaration of Trae D.
11 Johnson, Docket No. 91 from *State of Washington v. The GEO Group, Inc., Cause No. 3-:17-*
12 *cv-05806-RJB*.

13 20. Attached as **Exhibit S** is a true and correct copy of GEO Corrections Policy
14 Number 5.1.2, marked as Exhibit 313 to David Tracy's deposition.

15 21. Attached as **Exhibit T** is a true and correct copy of The GEO Group, Inc's
16 billing to ICE, marked as Exhibit 358 to the 30(b)(6) deposition of The GEO Group, Inc.
17 Pursuant to the Protective Order, Docket No. 163, Exhibit T is filed under seal.

18 22. Attached as **Exhibit U** is a true and correct copy of defendant The GEO Group's
19 response to Request for Admission No. 67 in the *State of Washington v. The GEO Group, Inc.,*
20 *Cause No. 3-:17-cv-05806-RJB*.

21 23. Attached as **Exhibit V** are true and correct copies of excerpts of testimony from
22 the deposition of Michael Heye taken December 4, 2019, including the court reporter's
23 certification. Mr. Heye is currently a Classifications Officer at NWDC.

1 24. Attached as **Exhibit W** is a true and correct copy of a spreadsheet titled
2 “Detainee Worker Average Hours.xls,” marked as Exhibit 325 to Michael Heye’s deposition.
3 Pursuant to the Protective Order, Docket No. 163, Exhibit W is filed under seal.

4 25. Attached as **Exhibit X** are true and correct copies of excerpts of testimony from
5 the deposition of Alisha Singleton taken January 31, 2019, including the court reporter’s
6 certification, from *State of Washington v. The GEO Group, Inc., Cause No. 3-:17-cv-05806-*
7 *RJB*.

8 26. Attached as **Exhibit Y** is a true and correct copy of various detainee job
9 descriptions at the Northwest Detention Center, marked as exhibit 315 to David Tracy’s
10 deposition.

11 27. Attached as **Exhibit Z** is a true and correct copy of a Detainee Worker Roster,
12 marked as exhibit 309 to Erwin DelaCruz’s deposition. Pursuant to the Protective Order,
13 Docket No. 163, Exhibit Z is filed under seal.

14 28. Attached as **Exhibit AA** is a true and correct copy of a document titled “Daily
15 Detainee Worker Pay Sheet,” marked as Exhibit 308 to Erwin DelaCruz’s deposition. Pursuant
16 to the Protective Order, Docket No. 163, Exhibit AA is filed under seal.

17 29. Attached as **Exhibit BB** is a true and correct copy of The GEO Group, Inc.’s
18 sergeant job description, marked as Exhibit 311 to Marc Johnson’s deposition. Pursuant to the
19 Protective Order, Docket No. 163, Exhibit BB is filed under seal.

20 30. Attached as **Exhibit CC** is a true and correct copy of The GEO Group, Inc.’s
21 food service supervisor job description, marked as Exhibit 300 to Erwin DelaCruz’s
22 deposition. Pursuant to the Protective Order, Docket No. 163, Exhibit CC is filed under seal.
23

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2020, I electronically filed the foregoing, together with its supporting pleadings and attachments thereto, with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Devin T. Theriot-Orr
OPEN SKY LAW, PLLC
20415 – 72nd Avenue South, Suite 110
Kent, WA 98032
devin@opensky.law
Attorney for Plaintiff

R. Andrew Free
THE LAW OFFICE OF R. ANDREW FREE
PO Box 90568
Nashville, TN 37209
andrew@immigrantcivilrights.com
Attorney for Plaintiff

Meena Menter
MENTER IMMIGRATION LAW PLLC
8201 – 164th Avenue NE, Suite 200
Redmond, WA 98052
meena@meenamenter.com
Attorney for Plaintiff

Joan K. Mell
III BRANCHES LAW, PLLC
1019 Regents Boulevard, Suite 204
Fircrest, WA 98466
joan@3brancheslaw.com
Attorney for Defendant

Colin L. Barnacle
Ashley E. Calhoun
Christopher J. Eby
Adrienne Scheffey
Allison N. Angel
AKERMAN LLP
1900 Sixteenth Street, Suite 1700
Denver, CO 80202
colin.barnacle@akerman.com
ashley.calhoun@akerman.com
christopher.eby@akerman.com
allison.angel@akerman.com
adrienne.scheffey@akerman.com
Attorneys for Defendant

Christopher M. Lynch
US DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
1100 “L” Street NW
Washington, D.C. 20005
christopher.m.lynch@usdoj.gov
Attorneys for Interested Party

DATED at Seattle, Washington this 2nd day of January, 2020.

s/ Virginia Mendoza

VIRGINIA MENDOZA, Legal Assistant
Schroeter Goldmark & Bender
810 Third Avenue, Suite 500
Seattle, WA 98104
Tel: (206) 622-8000
mendoza@sgb-law.com

WHITEHEAD DECLARATION
EXHIBIT A
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT B
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of)
all those similarly situated,)
)
Plaintiffs,)

vs.)

THE GEO GROUP, INC., a Florida)
corporation,)
)
Defendant.)

No. 17-cv-05769-RJB

VIDEO DEPOSITION UPON ORAL EXAMINATION OF
BRUCE A. SCOTT, JR.
AS A RULE 30(b)(6) DESIGNEE OF
THE GEO GROUP, INC.

810 Third Avenue, Suite 500
Seattle, Washington

DATE: Tuesday, December 10, 2019

REPORTED BY: Donald W. McKay, RMR, CRR, CCR 3237

1 A. After.

2 Q. And \$27.12, were there ever any other offset
3 amounts reached or discussed by GEO?

4 A. No.

5 Q. Walk me through how GEO arrived at the amount of
6 \$27.12 per hour as the offset amount.

7 A. We looked at total 2016 data, and took the total
8 participants in the Voluntary Work Program for 2016, and
9 we multiplied that by an estimated hours worked and
10 average hours worked per detainee during that time
11 period, to determine a total number of hours worked in
12 that year; and divided that by the total expenditures of
13 equipment, services, building costs, taxes, a number of
14 other factors, divided -- that equated out to the \$27.12
15 an hour.

16 Q. In 2016, what was the total number of
17 participants in the program?

18 A. I can't recall off the top of my head. I know
19 it's listed on some documentation somewhere.

20 Q. Do you have those documents with you today?

21 A. I do not.

22 Q. All right. And the estimated hours worked by
23 detainee, I believe you said was part of the formula.
24 Did I get that right?

25 A. Yes.

1 Q. What was the estimated hour or hours worked by
2 detainees used in your formula?

3 A. The estimated average hours worked by detainees,
4 I believe, was 1.72 hours.

5 Q. How was that estimate reached?

6 A. That is purely an estimate. Most Voluntary Work
7 Program assignments only last 30 minutes, sometimes not
8 even 30 minutes. We don't have time records of each
9 individual work period. It was not a requirement and is
10 not a requirement of the ICE PBNDS standards for
11 voluntary work. It's our best estimate of the number of
12 hours that each individual spent on average, working any
13 day for the Voluntary Work Program.

14 Q. What sources of information did GEO consult to
15 reach that 1.72 hours estimate?

16 A. Really just knowledge of the program, of what
17 detainees actually do in the Voluntary Work Program.

18 Q. And in estimating 1.72 hours, was it GEO's
19 intent to be accurate in its estimate?

20 MS. MELL: Object to the form.

21 THE WITNESS: As accurate as available since the
22 ICE standard, nor contract require any such
23 documentation of time spent within the Voluntary Work
24 Program.

25 BY MR. WHITEHEAD:

1 Q. Well, I guess what I'm driving at is that this
2 wasn't an arbitrary number. 1.72 hours represents GEO's
3 best estimate. Is that correct?

4 MS. MELL: Object to the form.

5 THE WITNESS: Based on available knowledge and
6 without any detailed information from the Voluntary Work
7 Program that's not required, it's our best estimate.

8 BY MR. WHITEHEAD:

9 Q. And is 1.72 hours still GEO's best estimate of
10 the average detainee shift?

11 MS. MELL: Object to the form of the question.

12 THE WITNESS: It's hard to answer. The
13 Voluntary Work Program from day-to-day is very fluid.
14 It's hard to come up with a specific set of hours. It
15 probably would not be the same from day-to-day if we
16 actually counted hours in the Voluntary Work Program.

17 BY MR. WHITEHEAD:

18 Q. Well, for purposes of deriving GEO's offset
19 amount, is GEO sticking with or changing the 1.72 hours
20 detainee shift estimate?

21 MS. MELL: Object to the form of the question.

22 THE WITNESS: Based on -- when more available
23 information is known about the -- how many detainee
24 workers or what the overall end process wants to be --
25 it's hard to know. It's a number right now. The 1.72

1 hours is our best estimate within the Voluntary Work
2 Program.

3 BY MR. WHITEHEAD:

4 Q. So that's yes, that is still GEO's estimated
5 hours for the average detainee shift?

6 MS. MELL: Object to the form of the question.

7 THE WITNESS: Based on the documentation in
8 front of me, yes.

9 BY MR. WHITEHEAD:

10 Q. Well, it's not based on the documentation in
11 front of you. Like I said at the outset, it's a
12 30(b)(6) deposition, so it's a little bit different.
13 You're speaking on behalf of the company. So my
14 question is a yes or no one. On behalf of the company,
15 is 1.72 hours still the company's estimate for the
16 average detainee shift? Yes or no.

17 MS. MELL: Object to the form of the question.
18 Move to strike.

19 And don't tell my client what to do.

20 THE WITNESS: I've answered the question. As of
21 right now, based on the documentation and the
22 information that we have, 1.72 hours is the number.

23 BY MR. WHITEHEAD:

24 Q. And then you said that the total number of
25 participants multiplied by the estimated hours worked is

1 A. I see that.

2 Q. Since September 24, 2015, can you tell me about
3 any revisions to the contract?

4 A. There has been a number of revisions to the
5 contract. I don't know how many or what those specific
6 changes were or what they changed.

7 Q. Let's look at the second page of Exhibit 356.
8 Towards the bottom there, there is a reference to,
9 "Detention bed days, guaranteed minimum beds, 1,181
10 beds/day." Do you see that?

11 MS. MELL: I object to the form. I'm not
12 following you.

13 THE WITNESS: Do you have a line item that
14 you're looking at?

15 BY MR. WHITEHEAD:

16 Q. 0001A.

17 Are you with me now?

18 A. I see that line item.

19 Q. What is the reference, "Detention bed days"?

20 A. There is a definition to a bed day on page 46,
21 which is Bates No. 096345 of that document. The
22 contract defines what the bed day is.

23 Q. And the bed day, does that form the basis for
24 how GEO is paid by ICE?

25 A. That's just one of a series of numbers in this

1 A. I think the owners of the contract, the ICE
2 contracting officers, may know the answer to that
3 question.

4 Q. All right. To the question, though, the bed-day
5 rate, looking at page 46 of the contract, Exhibit 356 --
6 are you on that page?

7 A. Yes.

8 Q. I'm looking at line item 6 there, the Bed-Day
9 Rate. It reads, "Bed-day rate is an all-inclusive
10 burdened rate to include all costs inclusive of direct
11 cost, indirect costs, overhead and profit necessary to
12 provide the detention and food service requirements
13 required in the PWS." Did I read that correctly?

14 MS. MELL: Object to the form.

15 THE WITNESS: The requirements described in the
16 PWS?

17 The document speaks for itself. That's what the
18 words are on the page.

19 BY MR. WHITEHEAD:

20 Q. So, that's my question, the bed-day rate, it
21 includes direct costs, the indirect costs, overhead and
22 profit.

23 A. In accordance with the ICE contract, that's the
24 definition of a bed-day rate.

25 Q. And ICE pays GEO the bed-day rate. Correct?

1 A. As one line item in a multi-line-item contract,
2 we do get paid a bed-day rate.

3 Q. To the extent that GEO seeks, as part of its
4 offset, food, hygiene, and housing costs, as part of its
5 offset, is GEO seeking to recover twice for the same
6 amounts?

7 MS. MELL: Object to the form of the question.

8 THE WITNESS: I don't know how you would
9 determine twice -- the spreadsheet is here. The numbers
10 that we determined the offset are all listed.

11 BY MR. WHITEHEAD:

12 Q. Well, looking at the spreadsheet -- and by
13 "spreadsheet," you're referring to Exhibit 355.
14 Correct?

15 A. Yes.

16 Q. Let's look at the last page, fiscal year 2016.
17 Are you with me?

18 A. Yes.

19 Q. The first line item there shows "Meals/Food
20 Expense." Do you see that?

21 A. Yes.

22 Q. Meals/food expense, is that a component of the
23 bed-day rate? Yes or no?

24 MS. MELL: Object to the form of the question.

25 THE WITNESS: Again, sir, there is various other

1 in the record and identify the answer.

2 BY MR. WHITEHEAD:

3 Q. The transcript isn't ready yet. Is it yes, no,
4 or I don't know?

5 MS. MELL: No, we're not going to do that.

6 THE WITNESS: I've already answered that
7 question, sir.

8 (Exhibit 360 marked for identification.)

9 (Discussion off the stenographic record.)

10 BY MR. WHITEHEAD:

11 Q. Mr. Scott, I've just handed you Exhibit 360.

12 What are we looking at here?

13 A. 360 is titled, "Northwest ICE Processing Center
14 Facility Financial Summaries."

15 Q. Have you seen this document before?

16 A. No.

17 Q. Do you know whether this was made by someone at
18 GEO?

19 A. Well, there is no author on this, but I
20 recognize items on this page. I would not have any
21 reason to believe it was not made by somebody at GEO.

22 Q. Looking at the top there, we see a line item for
23 Total Revenue. Do you see that?

24 A. Yes.

25 Q. What does that figure represent or those figures

1 represent? We see them on a year-by-year basis. What
2 does that line item Total Revenue represent?

3 A. It represents the total earned revenue.

4 Q. Meaning all money coming into GEO at the
5 Northwest Detention Center on its contract with ICE?

6 MS. MELL: Object to the form of the question.

7 THE WITNESS: The document speaks for itself. I
8 read earned revenue and a number of different dollar
9 amounts per year on this form.

10 BY MR. WHITEHEAD:

11 Q. Let's look toward the bottom. Do you see a
12 reference to Total Operating Expenses? Do you see that?

13 A. I see that.

14 Q. What does Total Operating Expenses refer to?

15 A. I would equate that to the line item -- the
16 individual line items right above that, in that area
17 that they total these listed line items on this page,
18 totaling the operating expenses.

19 Q. And the next line item down, Gross Margin, what
20 does that refer to?

21 A. Without doing the math on the form, it looks
22 like a formulaic entry computing a couple of different
23 data points on this form.

24 Q. I haven't done the math either, but perhaps
25 revenue minus expenses.

1 A. As a potential, but without doing the math, to
2 speak plainly --

3 Q. Fair enough.

4 We see Indirect Costs underneath Gross Margin.
5 What does that refer to?

6 A. The line item -- there is an asterisk which
7 indicates on this form a 2009 Pricing Index (sic)
8 Allocation. All I can read is what this form says.

9 Q. What about Facility Use Costs? What does that
10 mean?

11 A. Again, it's a line item on this report, Facility
12 Use Costs, with a number of dollar amounts over the
13 years.

14 Q. And then, lastly, we see Net Margin. What does
15 that mean?

16 A. There is a number of -- a number of dollar
17 amounts assigned to net margin. I again would assume
18 it's a formulaic entry on the form, computing some
19 different numbers on this page.

20 Q. Based on what you see here and what you know of
21 GEO's operations, both in your capacity as a 30(b)(6)
22 designee and associate warden, does this figure
23 represent GEO's profit on a year-by-year basis?

24 MS. MELL: Object to the form.

25 THE WITNESS: GEO is a for-profit business. I

1 would say that this indicates, in some fashion, some of
2 the profit based on the numbers that I see on this page.

3 BY MR. WHITEHEAD:

4 Q. So looking at fiscal year 2018, we see a net
5 margin of \$8,466,791. Correct?

6 A. That's what this individual page says, yes, sir.

7 Q. Was that GEO's net profit for 2018?

8 A. Based on this report that I'm reading, it was
9 the net margin for 2018. I see \$8,466,791.

10 Q. That was GEO's take-home based on what it made
11 on the contract less its expenses. Correct?

12 MS. MELL: Object.

13 THE WITNESS: That, I don't know. I'm just
14 reading what this report says.

15 BY MR. WHITEHEAD:

16 Q. Do you have any reason to believe that this
17 figure of \$8.4 million is anything other than GEO's
18 profit for the year?

19 A. I don't know everything that goes into the
20 profit in the multi-line-item contract. I can suspect
21 that it says the net margin for 2018 was \$8,466,791
22 based on this singular report.

23 Q. Well, setting aside Exhibit 360, do you know
24 GEO's profit for last year?

25 A. I do not.

1 Q. Yes, no, or I don't know, did GEO make a profit
2 for 2014?

3 MS. MELL: Object to the form.

4 THE WITNESS: Yes.

5 BY MR. WHITEHEAD:

6 Q. Yes, no, or I don't know, has GEO been
7 profitable so far this year, 2019?

8 MS. MELL: Object to the form.

9 THE WITNESS: I don't have any information to
10 speculate on that.

11 BY MR. WHITEHEAD:

12 Q. Would you be surprised if GEO did not make a
13 profit this year?

14 A. I would not like to speculate without numbers
15 and facts. Again, contract line items change, task
16 orders change. I would not like to guess at what ends
17 up happening.

18 Q. What is the Voluntary Work Program?

19 A. The Voluntary Work Program is required by the
20 contract and the ICE Performance-Based National
21 Detention Standards as a program that allows detainees
22 to perform voluntary work, earning a compensation of one
23 dollar a day, in an effort to have them help out in the
24 facility, spend time, not be idle. That's what the
25 voluntary program is.

1 Q. What are the basic job categories?

2 MS. MELL: Object to the form.

3 THE WITNESS: There are no basic job categories
4 as listed by the standard. There is a number of program
5 activities that detainees can volunteer into in various
6 parts of the facility.

7 BY MR. WHITEHEAD:

8 Q. You're referring to job activities. Isn't it
9 true that GEO creates job descriptions for the detainee
10 worker programs?

11 A. There are descriptions of the activities that
12 they can perform under that program that list what they
13 should do in that program, so they know what they're
14 doing and what they're volunteering for.

15 Q. And they're referred to as job descriptions.
16 Correct?

17 A. They have been referred to as job descriptions.
18 I think the new policy changed some terminology in that
19 and they're called work program assignments -- voluntary
20 program assignments now.

21 Q. When was that change made?

22 A. I don't know the exact date of the change, but
23 there has been a policy change.

24 Q. Well, I'll represent to you this lawsuit was
25 filed September 2017. Do you know whether the change

1 was made before or after the lawsuit?

2 A. I would say that would be after that lawsuit.

3 Q. Do you know why the change occurred?

4 A. I don't know. I'm not a policy developer for
5 GEO.

6 Q. Do detainee workers work in the kitchen?

7 A. Detainees volunteer to work in the kitchen.

8 Q. Do detainee workers work in the laundry unit?

9 A. Detainees volunteer to work in the laundry.

10 Q. Do detainee workers perform janitorial services?

11 A. Detainee workers clean portions of the facility
12 in multiple different areas. Janitorial services is a
13 broad term.

14 Q. Do detainee workers work in the barber shop?

15 A. We do have detainee workers that volunteer in
16 the barber shop.

17 Q. Do detainee workers paint?

18 A. We do have detainees that volunteer to paint.

19 Q. Now, if you were to take the detainee worker
20 labor out of the equation, how would GEO carry forward
21 its operations with respect to each of the job
22 categories we just discussed?

23 MS. MELL: Object to the form of the question.

24 THE WITNESS: I have trouble with your question.

25 Can you restate the question, please.

1 up.

2 Q. How?

3 A. If no detainees show up to the kitchen, we have
4 other available staff that could do other items like
5 clean dishes. Not work with food, because you're
6 required a food handler card to cook the food. We would
7 assign additional staff members into the kitchen or call
8 on other staff members, incur some overtime, the kitchen
9 staff, to ensure that the standards and feeding of the
10 detainees are met.

11 Q. And would that be sustainable over the long
12 haul?

13 MS. MELL: Object to the form.

14 THE WITNESS: I don't want to speculate on what
15 the long haul would be.

16 BY MR. WHITEHEAD:

17 Q. I understood, from your testimony yesterday,
18 that GEO has contingency plans in place in the event of
19 detainee worker stoppages. Did I get that right?

20 A. Yes.

21 Q. So is there a contingency plan in place in the
22 kitchen in the event that there is a long-term detainee
23 worker stoppage?

24 A. The contingency plan in place would look at many
25 variables in accordance with that, and the appropriate

1 decisions would be made as needed based on the
2 information available for that work stoppage.

3 Q. So that's yes, there is a plan?

4 A. There is a plan available.

5 Q. Tell me, what does that plan entail?

6 A. The plan entails looking at different variables
7 of an emergency situation and making an informed
8 decision based on the information provided during that
9 event.

10 Q. How long could a plan that entailed pulling GEO
11 personnel from other parts of the facility into the
12 kitchen last in the event of a long-term detainee worker
13 stoppage?

14 A. I don't want to speculate on how that -- there
15 is other options that we could look at.

16 Q. You would agree with me, though, that pulling
17 personnel from other parts of the facility into the
18 kitchen could impact the operations of other parts of
19 the facility?

20 MS. MELL: Object to the form.

21 THE WITNESS: No, sir. We would not rob posts
22 to fill another one. We would offer overtime, we would
23 seek possibly TDY staff from other facilities -- I'm
24 sorry -- seek TDY staff, temporary duty staff. There
25 are a number of options available. Speculating on the

1 potentials of anything would just be that, it would be
2 speculating and planning for potential occurrences.

3 BY MR. WHITEHEAD:

4 Q. What about in the barber shop? What if --
5 strike that.

6 In the barber shop, do or does GEO personnel cut
7 hair?

8 A. No.

9 Q. It's only the detainee workers. Correct?

10 A. We have volunteer detainee barbers that work in
11 the barber shop.

12 Q. And if the detainee workers did not cut hair,
13 who would?

14 MS. MELL: Object to the form.

15 THE WITNESS: Again, with contingency plans,
16 we've never -- as far as my knowledge, we've never had
17 that happen. There is always detainees on that
18 volunteer for activities. If one person doesn't want to
19 do it, there is usually somebody else that volunteers
20 for that activity. There is usually people on a waiting
21 list, waiting to do that.

22 BY MR. WHITEHEAD:

23 Q. But taking detainee work out of the equation,
24 what would GEO's plan be or what is GEO's plan in the
25 barber shop?

1 MS. MELL: Object to the form.

2 THE WITNESS: Again, I don't want to speculate
3 on what the overall plan would be. Are we taking
4 detainee workers out of the equation for a day or --
5 there is many different variables to determine an
6 effective solution for that occurrence.

7 BY MR. WHITEHEAD:

8 Q. Well, if you'll indulge me, assume three months.
9 What would GEO do in that scenario?

10 A. That's assuming nobody else wants to volunteer?

11 Q. Correct.

12 A. We would look at the emergency plan. We would
13 determine if there is still -- we would go to the
14 client, determine if there is still a need to perform
15 the haircuts under the standard, look at different
16 options, and an informed decision would be made based on
17 all the relevant facts and variables that were contained
18 therein. I don't want to speculate on a future event
19 and planning, because there is always many different
20 ways you can plan and overcome obstacles.

21 Q. Presumably, though, the answer would include
22 trying to pull in other GEO personnel to do the work?

23 A. I don't think we would pull in other GEO
24 personnel to perform barber duties. We would seek out
25 to the client, potentially look for a waiver of that

1 line item, of barber shop activities for three months,
2 if we knew it was going to be three months. There could
3 be other options that GEO looks at.

4 Q. In terms of the options that GEO would look at
5 in the event of a long-term volunteer worker stoppage,
6 whether it be in the kitchen or any of the other jobs,
7 would one of the considerations be looking to an outside
8 contracting agency to perform the functions that were
9 previously performed by the detainee workers?

10 MS. MELL: Object to the form.

11 THE WITNESS: That could be one of many options
12 that were weighed.

13 MR. WHITEHEAD: Lane, can I see your 314.

14 MR. POLOZOLA: 314.

15 MR. WHITEHEAD: Yes, please.

16 Joan, I'm happy to print off another copy, if
17 you'd like. But Exhibit 314 is the Volunteer Work
18 Program Agreement. This is a copy of it. May I show
19 the witness or would you prefer that we print another
20 copy and check it in as another exhibit?

21 MS. MELL: I'm not sure what you're asking.
22 It's already an exhibit, you're just pulling it out of
23 your exhibit binder?

24 MR. WHITEHEAD: Because we don't have the -- the
25 court reporters did not bring the previous exhibits --

1 contribution in maintaining the Northwest Detention
2 Center?

3 A. Detainees often take very much pride in the work
4 that they do. This is just a way of thanking them for
5 volunteering and working inside the facility, that is on
6 a voluntary basis.

7 Q. And it's an important part of the facility's
8 operations. Correct?

9 A. It covers a number of required standards in the
10 ICE contract and standards. Cleanliness is an important
11 role in any facility, and detainees take great pride in
12 living in a clean facility.

13 Q. Do they play an important role in keeping the
14 Northwest Detention Center clean?

15 A. They're one of many roles that assist in that,
16 but -- again, I can read the sentence. I don't want to
17 read outside the sentence. The sentence says, "We thank
18 you for your important contributions to maintaining this
19 facility." We appreciate the voluntary activities that
20 they do to keep themselves from not being idle and doing
21 the great work that they do.

22 Q. Is it true that GEO assigns detainee workers to
23 individual work details?

24 A. No.

25 Q. How does that work?

1 A. Detainees volunteer for the work program
2 assignment that they would like to perform.

3 Q. And then GEO approves or not the work
4 assignment. Is that fair to say?

5 A. The only approval process that comes in, whether
6 or not a detainee, in accordance with the standards, can
7 perform a certain work detail. There are certain
8 standards that do not permit detainees into certain work
9 program assignments. But otherwise, we do not
10 discriminate in any reason, race, disability, sex, age,
11 religious preference, sexual preference, into that
12 program assignment.

13 Q. GEO sets the schedule for detainee workers.
14 Correct?

15 A. The schedule is set on a number of items, not
16 only GEO, but the healthcare department, healthcare
17 requirements, healthcare schedules, what they're doing
18 at a certain time. There is other variables that play
19 into effect with a daily work schedule. Some detainees
20 cannot be commingled with other detainees in accordance
21 with the standard. So it's an ebb and flow of when
22 detainees can work, based on standard requirements, to
23 make sure that we don't violate any other portion of the
24 standards.

25 Q. I understand that aspect of your testimony. My

1 question is a little bit different. It's not so much
2 how the schedule is created, but whether GEO sets the
3 schedule. Does GEO set the work schedule for the
4 detainee workers?

5 A. The schedules are set based on need, with all
6 the other parameters, to ensure that we can have
7 detainees where they're allowed to be at certain times
8 of the day.

9 Q. And it's GEO that does that. Correct?

10 A. We may write the schedule based on information
11 from a lot of different things; courts, asylum cases,
12 facility movement schedule, classification levels, many
13 different variables.

14 Q. But in each of those scenarios, it's GEO that
15 writes the schedule. Correct?

16 A. The master facility program schedule and the
17 hours of work, we write.

18 Q. And GEO provides detainees with training
19 necessary to do their work assignments within the worker
20 program. Correct?

21 MS. MELL: Object to the form.

22 THE WITNESS: Yes.

23 BY MR. WHITEHEAD:

24 Q. To the extent one is necessary, GEO provides
25 uniforms to the detainee workers. Correct?

1 A. Yes.

2 Q. So, in the kitchen, GEO provides those uniforms
3 to the kitchen detainee workers. Correct?

4 A. Yes. As a requirement of the ICE standard.

5 Q. And detainee workers do not have the discretion
6 to deviate from their job assignments. Correct?

7 A. When you say "deviate from their job
8 assignments" -- should they want to volunteer for
9 another program assignment?

10 Q. Well, if a detainee worker is scheduled to work
11 in the kitchen, they don't have discretion to perform
12 their kitchen functions elsewhere in the facility, for
13 example.

14 A. Well, I don't think you would want to cook food
15 elsewhere in the facility, but there are job
16 descriptions and normal things to be done in the
17 kitchen. We can't have a detainee do something outside
18 those job descriptions.

19 Q. And GEO's expectation is that the detainee
20 workers perform the tasks that are on their job
21 descriptions. Correct?

22 A. As a matter of the Voluntary Work Program, in
23 accordance with the ICE standards and ACA, yes.

24 Q. GEO supervises the detainee workers as they go
25 about their work?

1 A. Yes. The contract requires supervision of all
2 detainees while they're housed at the Northwest ICE
3 Processing Center.

4 Q. If detainee workers do not perform their job
5 satisfactorily, they can be terminated. Correct?

6 A. The standard says removal from a Voluntary Work
7 Program assignment. If a detainee say is doing an
8 unsafe act or is otherwise doing something that would
9 violate a standard or a health code, they may be removed
10 from that work program assignment.

11 Q. And GEO may initiate the process to have that
12 worker removed. Correct?

13 A. Typical removals work under the disciplinary
14 standard, which is a completely different set of
15 standards where a detainee can be removed from a work
16 program.

17 Q. Again, without talking about the ins and outs of
18 the standards, the disciplinary procedures or
19 proceedings, my question is whether GEO may initiate
20 removal proceedings against a detainee worker for doing
21 a bad job.

22 A. In accordance with the established standards,
23 yes.

24 Q. And detainee workers cannot earn more money by
25 demonstrating exceptional skill in their job role.

1 Correct?

2 A. Under the standard in the contract, offer of
3 compensation for one dollar a day.

4 Q. Everyone is paid the same, regardless of their
5 skill and experience.

6 A. Yes.

7 Q. Can detainee workers seek employment outside the
8 Northwest Detention Center?

9 A. I do not recall anything in the contract or the
10 ICE standard that would permit that.

11 Q. And GEO pays the detainee workers directly.

12 Correct?

13 MS. MELL: Object to the form.

14 THE WITNESS: GEO places a dollar a day in the
15 detainee's trust account, which the detainees have
16 access to.

17 BY MR. WHITEHEAD:

18 Q. And then GEO seeks reimbursement for that amount
19 from ICE. Correct?

20 A. Yes.

21 MR. WHITEHEAD: All right. Let's take a break.

22 THE VIDEOGRAPHER: We're now going off the
23 record. The time is 12:44 p.m.

24 (Lunch recess taken from 12:44 to 1:38.)

25 THE VIDEOGRAPHER: We're now back on the record.

1 The time is 1:38 p.m.

2

3 E X A M I N A T I O N (continued)

4 BY MR. WHITEHEAD:

5 Q. Mr. Scott, before the break, I had asked you
6 some questions about different work stoppage scenarios,
7 work stoppage on the part of detainee workers, and you
8 told me about some of the considerations or
9 contingencies that GEO had in place. Do you recall
10 having that discussion?

11 A. I remember talking about detainee work
12 stoppages.

13 Q. And if I understood you correctly -- this is not
14 to put words in your mouth -- but that you listed off
15 several options, one being overtime for existing
16 workers. Is that correct?

17 A. That could be a potential option.

18 Q. You had mentioned pulling in workers from other
19 parts of the facility. Did I get that right?

20 A. As far as overtime periods, yes.

21 Q. As well as pulling in GEO workers from other GEO
22 facilities to work at the Northwest Detention Center.
23 Did I get that right?

24 MS. MELL: Object to the form.

25 THE WITNESS: I did say that TDY options would

1 be available.

2 BY MR. WHITEHEAD:

3 Q. What does TDY stand for?

4 A. Temporary duty.

5 Q. You mentioned that a third-party contracting
6 agency would be an option. Did I get that right?

7 A. That could be an option.

8 Q. Beyond what we just discussed, are there any
9 other options or considerations that GEO would have to
10 address a detainee worker stoppage of a prolonged
11 nature?

12 MS. MELL: Object to the form.

13 THE WITNESS: Again, it would be difficult to
14 outline every potential option based on the relevant
15 information that would be with any event. The options
16 that I've listed now are the options that I can think of
17 that would be considered in any prolonged detainee work
18 stoppage.

19 BY MR. WHITEHEAD:

20 Q. You also mentioned that GEO pays the detainee
21 workers directly for their participation in the
22 Voluntary Work Program, but that ICE then reimbursed GEO
23 for the cost. Did I get that correct?

24 MS. MELL: Object to the form.

25 THE WITNESS: Yes.

1 BY MR. WHITEHEAD:

2 Q. When did that become the case, that ICE paid
3 directly and then sought reimbursement from GEO?

4 MS. MELL: Object to the form.

5 THE WITNESS: Restate it. I think you have it
6 backwards.

7 BY MR. WHITEHEAD:

8 Q. I did. I apologize.

9 Has it always been the case that GEO paid
10 directly and then sought reimbursement from ICE for the
11 Voluntary Work Program?

12 A. That's typically how it is. If that's been the
13 case since the inception of the contract, I could not
14 state that. But there has always been a line item in
15 the contract for Voluntary Work Program. Whether that
16 was paid to the detainee trust fund by GEO or through
17 another vendor that runs the detainee trust account --
18 typically, we pay the detainee trust account, and then
19 we seek reimbursement through ICE for that dollar
20 amount.

21 Q. And then, to your knowledge, has that always
22 been the sequence or was it different at some point?

23 A. I don't believe it to be different at any
24 portion, but I don't have the relevant information to
25 specify that throughout the entire term of the number of

1 contracts that we have had.

2 Q. What is GEO's policy with respect to detainee
3 worker pay in the Voluntary Work Program at the
4 Northwest Detention Center?

5 MS. MELL: Object to the form.

6 THE WITNESS: You're asking for the policy
7 number or just -- I'm not sure what you're asking, sir.

8 BY MR. WHITEHEAD:

9 Q. Well, regarding the rate of pay, what is it?

10 A. The compensation allowable under the contract is
11 one dollar per day.

12 Q. How was that rate of pay determined?

13 A. It is what's listed in the ICE PBNDS standard,
14 and there is a line item in the contract, I believe,
15 that states one dollar a day.

16 Q. Anywhere else in terms of where GEO derives its
17 understanding that detainee worker pay is a dollar a
18 day?

19 A. GEO would rely on the contract and the allocable
20 standards for that dollar amount.

21 Q. So the contract, itself, and the PBNDS are the
22 two sources. Correct?

23 A. Yes.

24 Q. Is there a specific section within the PBNDS
25 that you're thinking of?

1 Q. In reading that language, does GEO read that to
2 limit GEO to paying one dollar a day?

3 A. GEO reads this as the minimum acceptable
4 allowance within the ICE PBNDS standard is one dollar a
5 day.

6 Q. So this amount is the minimum, but it does not
7 represent a maximum.

8 MS. MELL: Object to the form.

9 THE WITNESS: I read the sentence, the
10 compensation is least one dollar per day.

11 BY MR. WHITEHEAD:

12 Q. And that phrase, "at least," what does that mean
13 within the context of this sentence?

14 MS. MELL: Object to the form.

15 THE WITNESS: In the context of -- this sentence
16 is taken in the context of the standard where there are
17 expected practices and minimum acceptable limits of
18 work. One dollar a day is the required amount in
19 accordance with the PBNDS standard.

20 BY MR. WHITEHEAD:

21 Q. And to clarify, one dollar is the minimum
22 amount. Correct?

23 MS. MELL: Object to the form.

24 THE WITNESS: The minimum amount -- as read, the
25 compensation is at least one dollar per day.

1 BY MR. WHITEHEAD:

2 Q. Has GEO ever paid more than a dollar a day to
3 detainee workers at the Northwest Detention Center?

4 A. To my knowledge, per activity, we pay one dollar
5 a day. There was an occurrence in the barber shop where
6 there was very limited hours where we may pay a detainee
7 for two activities in a day.

8 Q. And when was that in the barber shop that
9 certain barbers may have been paid more?

10 A. The barbers -- barbers in the barber shop, based
11 on some of the -- or the standard language that we
12 referred to earlier, where certain classification levels
13 can't be mixed with other classification levels, it
14 really -- not everybody can be out at the same time,
15 meaning barbers can only cut within their certain
16 classification levels, and that only -- doesn't happen
17 every day of the month. So a determination was made
18 that we would allow them to have another task when they
19 were not cutting hair; but I can't sit here and say that
20 they never did two tasks during the same day, but the
21 understanding was they would be able to cut hair and
22 then have another voluntary program work assignment,
23 earning a dollar a day, when they were not cutting hair.

24 Q. Other than what you've just described for me
25 concerning barbers in some cases working more than one

1 worker activity, can you think of another time that GEO
2 paid more than one dollar a day to a detainee worker?

3 A. My recollection I have -- another time that we
4 looked at something similar was in the kitchen where we
5 were going to offer the females a chance at working in
6 the food service department, but that wasn't an everyday
7 event. So kind of under the same premise, when they
8 were -- since it wasn't an available everyday detail,
9 they would be allowed to work in the kitchen and they
10 were allowed to have another voluntary program
11 assignment earning a dollar a day on days they weren't
12 working in the kitchen.

13 Q. Anything else?

14 A. To my knowledge, that's all I can remember at
15 this time.

16 (Exhibit 362 marked for identification.)

17 BY MR. WHITEHEAD:

18 Q. You've just been handed Exhibit 362. What are
19 we looking at here?

20 A. This is titled a Batch Listing. It seems to
21 indicate a detainee earning certain transaction amounts
22 on various days.

23 Q. Let's back up a step. What is or what are batch
24 listings?

25 A. It's just a transaction term. This batch looks

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned Washington Certified Court Reporter, hereby certify:

That the foregoing deposition upon oral examination of the witness named herein was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully;

That the transcript of the deposition is a full, true and correct transcript to the best of my ability;

That I am neither an attorney for, nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days upon its completion and submission, unless waiver of signature was indicated in the record.



Donald W. McKay, RMR, CRR
Washington Certified Court Reporter No. 3237
License effective until: 07/02/2020

WHITEHEAD DECLARATION
EXHIBIT D
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT E

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THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

CHAO CHEN, individually and)	
on behalf of all those)	No. 3:17-cv-05769-RJB
similarly situated,)	
)	
Plaintiff,)	
)	
v.)	
)	
THE GEO GROUP, INC., a)	
Florida corporation,)	
)	
Defendant.)	

DEPOSITION UPON ORAL EXAMINATION OF
FERNANDO AGUIRRE-URBINA
June 11, 2018
Tacoma, Washington

Taken Before:

Laura A. Gjuka, CCR #2057
Certified Shorthand Reporter

1 A Probably my whole life.

2 Q How long have you lived at the Northwest Detention
3 Center?

4 A Since 2012.

5 Q Have you been in and out of the detention center?

6 A Do you mean released?

7 Q Yes.

8 A No, I have been transferred.

9 Q All right. What's your birth date?

10 A 7/1/█.

11 Q How old are you?

12 A I'm about to be 30.

13 Q What's your highest level of education?

14 A I graduated high school.

15 Q Where?

16 A Mabton.

17 Q What high school?

18 A Mabton alternative high school. Focus.

19 Q It's called Focus?

20 A Yes.

21 Q Why were you in the alternative high school?

22 A I -- missed school.

23 Q Why didn't you go to school?

24 A I don't have a complete answer about why I missed school
25 at that time. My mind-set was totally different at that

C E R T I F I C A T E

1
2 I, Laura Gjuka, a Certified Court Reporter in
3 and for the State of Washington, residing at
4 University Place, Washington, authorized to administer
5 oaths and affirmations pursuant to RCW 5.28.010, do
6 hereby certify;

7 That the foregoing Verbatim Report of Proceedings
8 was taken stenographically before me and transcribed
9 under my direction; that the transcript is a full, true
10 and complete transcript of the proceedings, including
11 all questions, objections, motions and exceptions;

12 That I am not a relative, employee, attorney or
13 counsel of any party to this action or relative or
14 employee of any such attorney or counsel, and that I am
15 not financially interested in the said action or the
16 outcome thereof;

17 That upon completion of signature, if required, the
18 original transcript will be securely sealed and the same
19 served upon the appropriate party.

20 IN WITNESS HEREOF, I have hereunto set my hand this
21 13th day of June, 2018.

22
23
24
25 _____
Laura Gjuka, CCR No. 2057

WHITEHEAD DECLARATION
EXHIBIT F



OPINION

Tacoma immigration detention center is misunderstood

BY JAMES BLACK

APRIL 15, 2017 1:30 PM

Recent actions by city leaders in Tacoma have unfortunately conflated local zoning matters with national immigration policy, and as is often the case in political debates, facts have regrettably been largely absent from the discussion.

The Northwest Detention Center has operated in Tacoma for more than 13 years under both Democratic and Republican presidential administrations. The center has a longstanding record providing high quality, culturally responsive services in a safe, secure and humane environment. The center meets the nonpenal, nonpunitive needs of residents who are in the custody and care of federal immigration authorities.

The center also provides office space for federal government personnel, immigration attorneys, immigration court judges, nongovernmental organizations and other groups with access to the facility.

It is subject to routine and unannounced audits and inspections pursuant to national performance-based standards issued by the federal government. It also complies with guidelines and standards set by leading independent accreditation entities such as the American Correctional Association, which gave the center a perfect score of 100 percent.

The center was designed and built to meet the high standards of care set by the federal government, and it is easily accessible to the attorneys who represent residents, and to advocacy groups and nongovernmental organizations that provide them support services.

The recent actions by Tacoma City Council members are not based on the center's record; their intent is to make a political statement in a broader national debate about immigration policy.

To be clear, our company has not historically taken a position on or advocated for or against any immigration detention policies. And while we do not

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intend to take a position in the future, we recognize that local leaders anywhere in the U.S. have a right to advocate for different policy positions to their elected representatives at the federal level.

However, Tacoma's local land-use authority is not an appropriate mechanism for expressing opposition to a set of federal policies.

Banning a private immigration detention facility in Tacoma will not stop or change federal immigration policies, and in fact such a disruption could hurt the very residents in the care of immigration authorities.

In the absence of a facility like the Northwest Detention Center, individuals going through the immigration review process would likely be transferred to local jails, which do not meet national performance standards and are often located out of state. This would separate immigrants from their families and make it harder for them to access legal and support services.

The Northwest Detention Center must continue to be responsive and capable of adapting to the federal government's needs. This may include providing additional space for offices, courtrooms, medical areas, religious services, educational opportunities, etc., all of which would only enhance the services provided.

Halting improvements in those areas would hurt the center's residents and directly contradict some of the concerns expressed by Tacoma city leaders.

We are proud of our longstanding commitment to be a part of the Tacoma community. We contribute to the local tax base, employ area residents, and give back through annual donations to local scholarships and charitable organizations.

Local leaders and residents may rightfully have concerns with and objections to federal policies related to immigration and a host of other matters. But utilizing city land-use authority to voice those concerns or objections is not the appropriate process or venue.

The city of Tacoma and its leaders should instead invest their time, energy and resources on advocating for policy changes to federal government representatives who are responsible for setting those policies.

James Black is the Western Region Office vice president for the GEO Group, which operates the Northwest Detention Center on the Tacoma Tideflats.

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WHITEHEAD DECLARATION
EXHIBIT G

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of all)
those similarly situated,)
Plaintiffs,)

vs.

) No. 17-cv-05769-RJB

THE GEO GROUP, INC., a Florida)
corporation,)
Defendant.)

Videotaped
Deposition Upon Oral Examination of
ERWIN K. DELACRUZ

9:33 a.m.

Monday, December 2, 2019

1019 Regents Blvd., Suite 204

Fircrest, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 A. -- yes, that's fine.

2 Q. -- we're talking about the same facility.

3 A. Mm-hm.

4 Q. All right. And I think this brings up two
5 situational rules.

6 It's really important that you let me finish my
7 question before you go into your answer. We've got a court
8 reporter, she's taking down everything that we say, but the
9 transcript just looks really jumbled if we're talking over
10 one another.

11 A. Okay.

12 Q. The second thing is, please answer my questions
13 with words. Uh-huhs, head nods, head shakes, again, they
14 just won't be captured on the written transcript. So will
15 you answer my questions with words?

16 A. Sure. Yes, sir.

17 Q. So tell me, who's housed at the Northwest
18 Detention Center?

19 A. It's -- it's all -- how do I say that?
20 These are all people that have not been --
21 that's either seeking asylum or have not -- are not U.S.
22 citizens, and this is just one way of processing or --
23 processing the people that have not -- that are either
24 illegal aliens or not U.S. citizens.

25 Q. Is it your understanding that people are being

1 held there as punishment?

2 A. No.

3 MS. SCHEFFEY: Object to form.

4 Q. No?

5 A. No.

6 Q. Do you believe there's any penal or punishment
7 component at all to the people that are being housed there?

8 A. No.

9 Q. What do you understand about this lawsuit?

10 A. Not -- I don't get into the politics or any of
11 that. I just -- I just go to work there.

12 Q. Is there a lot of gossip or talk at work about
13 this?

14 A. Not really. I just do my job.

15 Q. Have you ever had any conversations with any of
16 your coworkers about this lawsuit?

17 A. No.

18 I'm totally just -- I'm mostly by myself trying
19 to get my job done.

20 Q. And Ms. Henderson, did you talk to her about her
21 deposition?

22 A. No.

23 Q. And do you know who I'm referring to when I say
24 Ms. Henderson?

25 A. Yes.

1 MS. BRENNEKE: Are you doing continuing
2 exhibits?

3 MR. WHITEHEAD: Sure.

4 Can we call this -- so this will be 299?

5 MS. BRENNEKE: I think it's 298, but if you want
6 to be safe --

7 MR. WHITEHEAD: 298.

8 MS. BRENNEKE: -- you can go with 299.

9 MR. WHITEHEAD: Let's call it 300.

10 MS. BRENNEKE: Okay.

11 MR. WHITEHEAD: All right, to be safe, we're
12 going to call this Exhibit-300.

13 (Exhibit-300 marked.)

14 Q. You've just been handed Exhibit-300.

15 Have you seen this document before?

16 A. It probably was in July, when I first started.

17 Q. Does this appear to be the job posting that you
18 responded --

19 A. Correct --

20 Q. -- to?

21 A. -- yeah.

22 Yes, it is.

23 Q. And then on the back side of the document, it
24 gives a summary of the primary duties and responsibilities;
25 do you see that?

1 A. Yes.

2 Q. Is that an accurate statement of your duties and
3 responsibilities?

4 A. Yes, it is.

5 Q. Is there anything that you would add to the
6 list?

7 A. No, it pretty -- it's -- it's accurate.

8 Q. If you look there, I think it's the sixth dash
9 down, it says "Directs work, provides training and performs
10 inspection of work performed by detainee food service
11 staff."

12 Do you see that?

13 A. Yes.

14 Q. Can you tell me, how is it that you direct the
15 work of the detained workers?

16 A. For my -- I'll get -- let's say rations will
17 roll in, will come in, because I come in on a swing shift,
18 starts at 1, 1300, and I'll have maybe ten pallets to 12
19 pallets of rations to bring in, and I'll bring in as many
20 through the corridor, and once I bring them through the
21 corridor, I'll have detainees, two, at the minimum of two,
22 to help me pull the rations through the double door to
23 bring it into the kitchen for the -- so we can take them
24 and place them into the refrigerators, in their proper
25 refrigerators.

1 And there's a lot of times, when there's not
2 enough detainees, I push them to -- I let them -- the cooks
3 have -- have all the detainees, and I will then doing it by
4 myself.

5 Q. And so that's one example, the rations.

6 I guess what I'm looking for is a list, and you
7 can speak at a high level, but I'm looking for the type of
8 work that you direct the detainee workers in.

9 A. Yeah, it's rotating rations, bringing them in,
10 rotating the -- all the rations that are coming in.

11 And then -- then the cleanup phase, checking
12 behind my supervisors to making sure that the objectives of
13 cleaning and sanitizing the kitchen is complete. And if I
14 see anything wrong, I just -- okay, this needs to get done,
15 or empty the trash, or as easy as wiping down a table.

16 Q. Okay, anything else?

17 A. Or even the breakdown for the next day. Pulling
18 items from the dry room, putting them on carts so it makes
19 the next day a much smoother operation in getting all the
20 food out on time and just -- and the prep work, a lot of
21 the prep work needs to get done.

22 And we direct the detainees to helping us
23 offload, load, retrieving bags, boxes from the freezer, and
24 the dry room, and so forth.

25 Q. Anything else?

1 A. No.

2 Q. All right, so to summarize, you said rotating
3 rations --

4 A. Mm-hm.

5 Q. -- work in the cleanup phase, breaking down for
6 the next day --

7 A. Yes.

8 Q. -- prep work?

9 A. Prep work.

10 Q. Did I get that right?

11 A. Yes.

12 Q. Now, in directing the detained workers through
13 these various tasks, are you expecting the detained workers
14 to follow your directives?

15 MS. SCHEFFEY: Object to form.

16 A. If they -- if I ask them to come to help me,
17 it's because I've already went through their cook
18 supervisor to see if they need them, and this is -- can you
19 give me -- or can you loan me two -- because we're moving
20 rations, and -- and they would always send me two. And
21 even if they do or they don't, it doesn't -- if they don't
22 want to feel like working, you know, during that time, then
23 you can have them and I'll just take the one. Sometimes
24 it's just because I know they won't be able to do it or
25 they might not need to do it. I don't -- I don't judge

1 A. No.

2 Q. In directing the detainee workers, are you also
3 directing them to comply with GEO's rules and regulations?

4 A. Only for food service, if I see any not wearing
5 beard nets or not washing your hands. Keeping sanitation
6 is the utmost for feeding the people in the facility. So
7 sanitation would be the number one.

8 Q. And if a detainee worker was not complying with
9 these rules and regulations -- well, strike that.

10 Why is it important for the detainee workers to
11 comply with GEO's rules and regulations in the kitchen?

12 A. That's more of a -- I would say a federal
13 guideline, but you would want to maintain a clean
14 environment. So we -- we tell them politely, Could you
15 please put your beard net on, and they -- they really do.
16 They follow what we tell them to do. Go wash your hands,
17 make sure that you put fresh gloves on, or okay, everybody
18 get off the line, wash your hands, change your gloves,
19 clean the line, so we can do the next rotation of trays,
20 and they do it, and they follow directions.

21 Q. And you -- I said that these were GEO's rules
22 and regulations, and you said that you think some of them
23 are federal; did I get that right?

24 A. It's a federal guideline, but you know, we do
25 follow the policies that are given to us, and -- and that's

1 MS. SCHEFFEY: Yes, of course.

2 MR. WHITEHEAD: Thank you.

3 Q. So when you're talking about the manager in your
4 job and ensuring compliance, you're talking about
5 compliance in the kitchen with rules and regulation;
6 correct?

7 A. Yes.

8 Q. And when it comes to the kitchen, these rules
9 and regulations are final; is that correct?

10 MS. SCHEFFEY: Object to form.

11 A. We follow the -- the guidelines for sanitation
12 and making sure that the job is complete and that we follow
13 compliance.

14 Q. Well, let's look at the next line down, 6.2.

15 A. Sure.

16 Q. "Ensure every man has beard guards, hairnets,
17 facility grooming requirements."

18 Do you see that?

19 A. Yes.

20 Q. Is there any wiggle room in that?

21 A. All of them should be wearing beard guards,
22 hairnets, and if -- and the beard net is -- it's -- I mean,
23 it's -- they all wear it, they all wear it, and they have
24 to wear it. You wouldn't want hair in your food. So these
25 are the -- these are just part of the compliance.

1 Q. So in that way, the detainee workers have no
2 discretion to disregard these rules?

3 MS. SCHEFFEY: Object to form.

4 A. No, we tell them, and we always -- before they
5 even start work, that's why it's important for the
6 beginning of the workday to make sure you got your hairnet,
7 beard net on before you enter the facility -- or the food
8 production area.

9 Q. Well, you began your answering by saying no, but
10 I think you're agreeing with me.

11 Do you agree that the detainee workers have no
12 discretion to deviate from the sanitation rules?

13 MS. SCHEFFEY: Object to form.

14 A. That's what -- I -- I guess I could be saying
15 that, but maybe I mis -- miscommunicated or did not
16 understand the question.

17 Q. All right, well here comes one of those yes or
18 no questions I talked about in the beginning.

19 A. So --

20 Q. Do the detainee workers have discretion to
21 deviate from --

22 A. No.

23 Q. -- GEO's --

24 A. Sorry.

25 Q. I'll start over.

1 Do the detainee workers have discretion to
2 deviate from GEO's sanitation rules and regulations; yes or
3 no?

4 A. No.

5 (Exhibit-302 marked.)

6 THE COURT REPORTER: This is Exhibit-302.

7 Q. You've just been handed Exhibit-302. It's
8 titled Policy and Procedure Manual, Chapter: Food Service,
9 Title: Food Service Operations, Number: 4.3.1.

10 Have you seen this before?

11 A. Yes.

12 Q. And what are we looking at here?

13 A. This is the -- the policy and procedures on the
14 manual for the PBN -- PBNSE. It's 4 dash --

15 (Reporter requested clarification.)

16 Q. PBN --

17 A. D.

18 MS. SCHEFFEY: S.

19 A. S.

20 Sorry.

21 Q. Performance-Based National Detention --

22 MS. SCHEFFEY: Detention.

23 Q. -- Standards?

24 A. Correct.

25 Sorry.

1 A. I'm -- I'm kinda in between.

2 Q. Okay.

3 A. Because it says -- because it is a assistant
4 food service manager, but it -- I can take that role as fit
5 to when the manager is not available.

6 Q. Okay.

7 A. But it's kind of like there's two paragraphs, so
8 the bottom paragraph would be more my job title.

9 Q. And when you say bottom paragraph, it's the one
10 that begins --

11 A. It's the second one.

12 Q. -- begins "The Food Service Manager is" --

13 A. Is also responsible, planning, controlling --
14 (Reporter requested clarification.)

15 THE WITNESS: Oh, I'm sorry. Sorry about that.

16 Q. We're looking at the second paragraph that says
17 "The Food Service Manager is also responsible for planning,
18 controlling, directing, and evaluating food service," and
19 then it continues on?

20 A. Yes.

21 Q. And you believe that second paragraph there is
22 more in line with what you do?

23 A. Yes.

24 Q. What about the cook supervisors, what do they
25 do?

1 A. They -- they prepare -- they prepare the next
2 meal as they come in, and serve, bring in the detainees,
3 also get everything set up for that meal to be served.

4 Q. Do they do the actual cooking?

5 A. Yes.

6 Q. And that's true even when there are detainee
7 workers in the kitchen --

8 A. Yes, they do.

9 Q. And the cook supervisors, they report to Ms.
10 Henderson?

11 A. Yes.

12 Q. How many cook supervisors are there currently?

13 A. There's three on each shift, but there's --
14 there's ten -- ten cook -- ten cook supervisors, one
15 manager, one assistant manager, and one clerk. There's 13
16 in total.

17 Q. So the total kitchen personnel is 13 people?

18 A. Yes.

19 Q. Two managers, being yourself and Ms. Henderson?

20 A. Yes.

21 Q. Ten cook supervisors?

22 A. Yes, correct.

23 Q. And then one clerk?

24 A. Yes.

25 Q. And then on the second page of Exhibit-302,

1 needs. That's probably policies above me.

2 Through the voluntary program, if we have the
3 personnel or not, no matter what, we're still going to work
4 in our area and continue with the amount of personnel that
5 we have.

6 Q. And I understand that you'll make due --

7 A. Right.

8 Q. -- if you have to --

9 A. Yes.

10 Q. -- correct?

11 And by make due, I mean that you'll roll your
12 sleeves up and do the work yourself; correct?

13 MS. SCHEFFEY: Object to form.

14 A. Correct.

15 Q. But are there times that if you had your
16 druthers, you'd have more detainee workers to help with the
17 work?

18 MS. SCHEFFEY: Object to form.

19 A. Sometimes we bring in other clerks from other
20 areas to help us, to serve it, to serve the meal.
21 Sometimes we -- we just put it -- you know, we got
22 everything in the warmers, we're ready to go, and we will
23 draw from other parts of the facility to get the meal out.

24 Q. And then, let's see, item 12 there on that same
25 page, it's the heading Detainee Orientation and Training.

1 Do you see that?

2 A. Yes.

3 Q. Tell me about the detainee orientation and
4 training that GEO provides.

5 A. We have a pamphlet for them to look over, it's
6 in English and in Spanish, and we have them go through each
7 line, which usually is the desk officer sits them down on
8 their first day of work, and each line has a particular --
9 make sure you bring your hairnets, your beard nets, follow
10 the rules through the officers to how to work, because it's
11 an OJT program, so on-the-job training.

12 So as they go through the kitchen, they're going
13 to be set through three different areas, either the
14 sanitation, the cooking, or the serving area, and they're
15 dispersed, and they'll -- and after they fill out all their
16 paperwork, initial all the -- the -- the paperwork is all
17 done, and then they're broken down into areas, and they're
18 buddied up with other detainees that's been there. If not,
19 then they will be sent to a kitchen staff member, and then
20 they can go from there to what they want them to do or need
21 them to do.

22 Q. So if a detainee worker lacks any kitchen work
23 experience, GEO provides them with the training they need
24 to do the job?

25 A. We --

1 MS. SCHEFFEY: Object to form.

2 A. We only ask them to do things that's easy to do,
3 nothing technical. Just get the boxes in, or put them
4 away, or help me lift this over, put it in the pot. Just
5 to get that portion, it's pretty much straightforward.

6 Q. Even so, GEO provides them with basic training,
7 on-the-job training?

8 A. Yes, it's on-the-job training.

9 So people -- not everybody's a five star chef
10 that goes there, but they're all walks of life. So it's
11 not discriminatory at all, it's just I would like to -- I'd
12 love when people are there, and they help us, and that's
13 the main objective.

14 And then, you know, it's -- it's part of the
15 time to get them out of the pod if -- if they see fit,
16 because they volunteer -- voluntarily came to work in the
17 kitchen, and a lot of times they stay there, they do.

18 Q. And again, when we say voluntary, I mean, they
19 volunteered to work in return for pay; correct?

20 A. Yes, if -- if that's what their goal is, to get
21 paid, then that's fine.

22 Q. I mean, they weren't working for free?

23 A. Yeah, of course not.

24 MS. SCHEFFEY: Object to form.

25 Q. Of course not, right.

1 So GEO provides on-the-job training as it
2 relates to sanitation --

3 A. Mm-hm.

4 Q. -- correct?

5 A. Yes.

6 MS. SCHEFFEY: Object to form.

7 Q. GEO provides on-the-job training as it relates
8 to cooking the food; correct?

9 MS. SCHEFFEY: Object to form.

10 A. No, cooks are the ones that do the cooking, they
11 just helping.

12 Q. I understood you to say that there was
13 on-the-job training in three respects, sanitation?

14 A. Yes.

15 Q. I got that right?

16 A. Yeah.

17 Q. And I thought cooking was part of it as well?

18 MS. SCHEFFEY: Object to form.

19 A. It's only to help us produce -- or -- or help in
20 the labor part to bringing the food on -- into the pots and
21 stuff, and -- I mean, to the -- to the kettles, and -- and
22 to get all that done. And yeah, we help them, and they
23 learn a little, and they learn also how to put it in, and
24 how to cook it, how long we should cook it. It's just part
25 of the program.

1 Q. Now, as it relates to cooking, is it fair to say
2 that the detainee workers are assisting with the cook?

3 A. They assist the cook when needed.

4 Q. All right. And GEO provides training with
5 respect to that cooking assistance --

6 MS. SCHEFFEY: Object to form.

7 Q. -- correct?

8 MS. SCHEFFEY: Sorry.

9 A. They can -- it will help them in the long run
10 when they do teach them or OJT.

11 Q. Do you understand my question?

12 A. I was -- I -- yeah, I don't understand. I was
13 just -- I --

14 Q. Okay, well let me try again.

15 A. Try again. Sorry.

16 Q. We're talking about training, and you said that
17 the detainee workers assist with the cooking; did I get
18 that right?

19 A. Correct.

20 Q. And GEO provides on-the-job training to the
21 detainee workers as it relates to assisting with the
22 cooking?

23 A. Yes.

24 MS. SCHEFFEY: Object to form.

25 Q. And then finally, you said that GEO provides

1 on-the-job training as it relates to serving; did I get
2 that correct?

3 A. Correct, because that's going to be the next
4 phase, and we're supervising.

5 Q. Now, this Exhibit-302, the policy 4.3.1 about
6 food service operations, these encompass the baseline for
7 what GEO must do with respect to its kitchen operations?

8 MS. SCHEFFEY: Object to form.

9 A. Yes.

10 Q. And it's your job to make sure that the detainee
11 workers hold up their end of the rules and regulations here
12 in 4.3.1?

13 MS. SCHEFFEY: Object to form.

14 A. Yes.

15 Q. Tell me about your performance as food
16 production manager.

17 If I were to ask Bert Henderson, What's Mr.
18 Delacruz like as a -- as a worker, what would she say about
19 your performance?

20 MS. SCHEFFEY: Object to form.

21 A. That I properly do my job and execute missions
22 that is governed by her, and that I execute them correctly.
23 And if I have any question, I go right to her and ask her.

24 Q. And you know, I hear you referring to it as --
25 as the mission; is that the way internally --

1 MR. WHITEHEAD: Okay. No, I certainly don't
2 want to tussle with you on this issue, but asking a
3 question, Did anyone work overtime is a foundational type
4 question, and if his answer is no, then so be it.

5 MS. SCHEFFEY: Yes.

6 Q. All right, so you're not aware of anyone working
7 overtime?

8 A. No.

9 Q. Who would know?

10 A. Whoever -- I -- only the person that -- well,
11 really none of them, because we only work -- some of them
12 work ten-hour shifts, and that's part of their -- so they
13 would be complete within ten hours. Mine is eight hours,
14 and I haven't done any overtime during that period.

15 Q. Now, we've talked about GEO personnel in the
16 kitchen and detainee workers in the kitchen; is there ICE
17 personnel in the kitchen during any of this?

18 A. No.

19 Q. Have you observed ICE playing any role in the
20 direction of detainee workers in the kitchen?

21 A. No.

22 Q. I want to talk more about the detainee workers
23 and their role in the kitchen.

24 Can you tell me what the roles are that the
25 detainee workers carry out in the kitchen?

1 A. Just follow the instructions given to them by
2 the cook supervisors, and accomplish the mission that's --
3 or accomplish the procedures that needs to get done.

4 Q. Can you tell me what the detainee workers do
5 with respect to food preparation?

6 A. Is that they're preparing -- they're helping
7 prepare the meal with the cook.

8 Q. And when you say they help prepare the meal,
9 what does that mean?

10 A. Getting boxes, or putting in the vegetables in
11 the pot, or -- or as simple as panning up -- prepping items
12 for the next day.

13 Q. And prepping items for the next day; cutting up
14 ingredients, for example?

15 A. Mostly it's panning up preformed items onto
16 sheet pans --

17 Q. And --

18 A. -- like chicken patties, or fish patties, those
19 type of products.

20 Q. And that's literally placing the product on the
21 pan?

22 A. On the sheet pans, correct.

23 Q. Okay, so getting boxes, putting vegetables in
24 the pan, panning up --

25 A. Yes.

1 Q. Panning up after the food is done?

2 A. Correct.

3 Q. You mentioned that they cook food on the
4 stovetop, and scrambled eggs was your specific example?

5 A. Yes.

6 Q. That they put food in the oven and take food out
7 of the oven?

8 A. Yes.

9 Q. Now, in those various tasks, do -- strike that.

10 In those various tasks, does GEO direct the
11 workers in performing the job to be done?

12 A. Yes, there's always a cook supervisor that's
13 above them to -- making sure that everything gets done, and
14 also the cook's helping out at the same time.

15 Q. Do the detainee workers have discretion to
16 change the menu?

17 A. No.

18 Q. Do detainee workers that come to the kitchen
19 with prior experience as cooks get paid more for having
20 more skill?

21 A. No.

22 Q. Does GEO provide the equipment necessary for the
23 food preparation?

24 A. Yes.

25 Q. Could the detainee workers carry out food

1 preparation in some other part of the Northwest Detention
2 Center if they wanted to?

3 A. No.

4 Q. Say peel potatoes in the yard or something?

5 A. No.

6 Q. Could the detainee workers perform this food
7 preparation outside of the Northwest Detention Center?

8 A. No.

9 Q. Okay. So back to food service.

10 You were talking about essentially plating the
11 meals --

12 A. Mm-hm. Yes.

13 Q. -- is that fair to say?

14 A. Yes.

15 Q. Okay. So in addition to plating the meals, what
16 else do the detainee workers do with respect to food
17 service?

18 A. Then they load the -- the trays onto the carts
19 to -- to -- for them to get picked up by the -- the pod
20 sends out a team to come and retrieve the cart with the
21 food on it, and it's locked up prior to it leaving our
22 facility -- our food service facility to the -- to their
23 pod.

24 Q. Okay.

25 A. So all the meals are on it, and we verify it.

1 A. Yeah.

2 Q. -- about cleaning in a moment.

3 A. Yeah.

4 Q. So if I understand you correctly, as it relates
5 to food service, we're talking about serving and plating
6 the meals --

7 A. Mm-hm.

8 Q. -- correct?

9 A. Correct.

10 Q. We're talking about loading trays onto carts and
11 getting the carts back; correct?

12 A. Correct.

13 Q. We're talking about counting the meals to make
14 sure we've got the appropriate number of meals, whatever
15 the dietary --

16 A. Dietary --

17 Q. -- restrictions maybe?

18 A. Correct.

19 Q. We're talking about getting products from the
20 warmers and swapping out food?

21 A. Right, bringing them onto the serving line, yes.

22 Q. We're talking about taking trays back for
23 sanitation?

24 A. Mm-hm. Yes.

25 Q. And putting away the rations?

1 A. Yes.

2 Q. Now, in carrying out each of these tasks, is GEO
3 directing the work of the detainee workers?

4 MS. SCHEFFEY: Object to form.

5 A. The cook staff is supervising them during this
6 time.

7 Q. This is GEO; correct?

8 A. Yes. Yes, it's GEO.

9 Q. Now, in serving the meals, could a detainee
10 worker decide to give detainees extra portions of food?

11 A. That's why we're on the line, ensuring that --
12 that no -- the amount that is given, that's the amount that
13 should be given to all.

14 Q. And when you say "we," you mean that GEO is
15 supervising the detainee workers to make sure that the
16 serving is done correctly?

17 A. Because we follow a guideline from our staff,
18 which is the menu plan, and if it says one cup, one cup
19 is -- it's a dietary allowance for the day, and one -- and
20 just for the instance, breakfast, four ounces, or three
21 ounces, or six ounces, then that's what is given and what
22 we prepare for. And it's -- and that way everyone gets the
23 same throughout the facility, no matter if he's Alpha pod,
24 Bravo pod, or even Delta or Fox, they get the same amount,
25 and we discourage that they not do that, but we're always

1 watching them, so we continue to monitor throughout the
2 feeding time.

3 Q. So you're agreeing with me then that GEO
4 supervises the detainee workers to make sure that the food
5 service is done correctly?

6 MS. SCHEFFEY: Object to form.

7 A. Yes, we're trying to make sure that we hold up
8 our policies.

9 Q. And again, there's no opportunity for a detainee
10 worker to make more money if they were extremely efficient
11 and the best server in the world?

12 MS. SCHEFFEY: Object to form.

13 A. It's totally a voluntary mission -- or job, and
14 it -- it just helps them to come in and help us. It's just
15 part of the voluntary program.

16 Q. I certainly understand that, but I mean, to my
17 question specifically, are you aware of an opportunity for
18 the food servers to make more money if they work more
19 efficiently?

20 A. Not really. No.

21 Q. And GEO provides all of the equipment necessary
22 to do the food service; correct?

23 A. Correct.

24 Q. Detainee workers, for example, couldn't use some
25 nonauthorized serving utensils?

1 **A. No.**

2 Q. All right, let's talk about food storage.

3 Can you tell me what role, if any, the detainee
4 workers carry out with respect to food storage?

5 A. During that time, or any given day, there is
6 probably eight, maybe ten, 12 pallets that was delivered
7 from one vehicle, and I pull them through the corridor, and
8 then we -- as I going through them, we -- we rotate the
9 stock by pulling all the older stuff to the front and
10 putting all the one that came in second, because we date
11 everything that comes in, and we respect the date and when
12 their shelf life. We'll just say vegetables, and carrots,
13 potatoes, fruits, apples, oranges, a pretty basic setup,
14 bring the pallets in, bring in the one item, the one
15 particular item in first, or it might be 30 cases of
16 apples, bring them in, put them behind the one that's
17 already -- already in there, and -- or we slide the one
18 that's already in there to the front, and then we load it
19 through the back.

20 Q. And the -- the dating, do the detainee workers
21 date the food?

22 A. We -- I do, or I give them a pen and just -- I
23 just tell them line them all up, and then we're going to
24 date everything, and we both do it. We do it as a team.

25 Q. All right, so there's unloading the pallets, and

1 Q. Now, as it relates to cleaning, does GEO provide
2 all of the cleaning equipment and products needed?

3 A. Yes.

4 Q. Could detainee workers clean in some way other
5 than what's been authorized or directed by GEO?

6 A. No.

7 Q. Say, for example, if a detainee had some great
8 home remedy for, you know, getting out grease stains, could
9 they deviate from what GEO has directed?

10 A. No, they cannot bring any -- they -- there's
11 no -- no. We -- they only use our products, what we
12 supply.

13 Q. And I take it that this all corresponds with
14 what we were talking about earlier, about the importance of
15 sanitization in the kitchen --

16 A. Correct.

17 Q. -- in that that's part of the reason why
18 cleaning is important and that it must be done in the way
19 that GEO has directed; correct?

20 MS. SCHEFFEY: Object to form.

21 A. Correct.

22 Q. All right, so we talked about food preparation,
23 food service, food storage, and cleaning; are there any
24 other big buckets of work that we're missing that the
25 detainee workers do in the kitchen?

1 (Exhibit-303 marked.)

2 THE COURT REPORTER: This is Exhibit-303.

3 Q. You've just been handed Exhibit-303, a document
4 on its face says Food Cost Summary.

5 What are we looking at here?

6 A. This is a weekly -- let's say from December 1st
7 through the 7th, that's how many personnel that we fed
8 through the week, how much food usage that we used, or how
9 much food we cooked, what our inventory was at the time,
10 how much we purchased, what we began our inventory with,
11 and the total meals for that week, and then how much staff
12 we fed for that week.

13 Q. So this is just a record then of the --
14 basically data for food service for the month of December
15 2015?

16 MS. SCHEFFEY: Object to form.

17 A. Yes, for that month.

18 Q. Is that your signature that we see there next to
19 your name printed under the Food Service Manager line?

20 A. No, that's Ms. Henderson.

21 Q. Actually, we see two signatures there.

22 A. The other one is the assistant warden.

23 Q. Have you signed forms like this in the past?

24 A. Yes, while the manager is not available.

25 Q. So when it says "Inmate" in the second column

1 there, that's the total number of meals served?

2 A. Yes, 34,020 -- now, that could be the -- because
3 this is an older form, that could be the population
4 estimate for that week.

5 Q. And actually, yeah, I see a third column there
6 that says "Total Meals."

7 A. Total meals is actual what we fed, because the
8 inmate population changes every week of the amount of
9 personnel that are -- that are present, because people get
10 deported, or moved on, or get released, then a new group
11 might show up. Every week there's always a rotation, you
12 know, of people coming in. And this is -- when we get the
13 Total Meals, that's how many meals we actually served,
14 34,444.

15 Q. And the Northwest Detention Center is a -- it's
16 a 1,500 bed or so facility; is that correct?

17 MS. SCHEFFEY: Object to form.

18 A. It could -- it could -- yes.

19 Q. The column there that says "Payroll," what does
20 that refer to?

21 A. Payroll is for that one week, how much -- all
22 the cooks that work there, how much money was spent for
23 their payroll for that week.

24 Q. So that doesn't refer to detainee workers --

25 A. No.

1 Q. -- that's GEO personnel?

2 A. That's just GEO personnel.

3 Q. Do you play any role in determining the staffing
4 levels for detainee workers in the kitchen?

5 A. No. No.

6 Q. That's all Ms. Henderson, or the warden, or
7 someone else?

8 A. That's --

9 MS. SCHEFFEY: Object to form.

10 A. It's a voluntary program. I can't -- I don't --
11 if they -- again, if they volunteer, then that's how many
12 more people we can get, and that's how many people show up.

13 Q. Well, my question isn't -- my question's a
14 little different.

15 A. Oh.

16 Q. I mean, do you play any role in --

17 A. No.

18 Q. -- you know, reviewing the kites or the requests
19 from people to work in the kitchen and deciding that we'll
20 take eight versus 12 versus 25?

21 MS. SCHEFFEY: Object to form.

22 A. No, they -- they'll send it to the work program,
23 and -- and once it goes to the work program, it's the work
24 program that decides to what shift they want, if -- because
25 the -- because now it's all computerized, so it goes

1 and working inside the kitchen.

2 Q. Let's take a look at the first one, the Detainee
3 Job Description, job title is cook.

4 Are you with me there, on the first page?

5 A. Yes.

6 Q. That last section there says "Termination."
7 What does that refer to?

8 A. It could be because he was caught stealing or --
9 or was being disruptive inside the kitchen to coercing
10 other personnel, fighting, not following safety procedures.
11 But at the same time, we try to eliminate it by not letting
12 them get that far. Tell them to stop what -- you know,
13 observe what you're doing, and -- because there's always a
14 supervisor all over them. And then horseplay, misconduct
15 is the same thing.

16 Q. Well, isn't what we're looking here under this
17 heading called Termination, the reasons for which a
18 detainee worker could be fired from their job in the
19 kitchen?

20 A. Yes.

21 MS. SCHEFFEY: Object to form.

22 Q. And you'd agree that failure to follow safety
23 procedures is grounds for termination?

24 MS. SCHEFFEY: Object to form.

25 Q. Correct?

1 A. To an extent. If -- what kind of safety did
2 they -- what kind of safety procedure that they missed or
3 didn't do.

4 Q. And certainly, you know, I think that's a fair
5 distinction --

6 A. Yeah.

7 Q. -- between minor and major violations.

8 A. Correct.

9 I mean, if he accidentally did it, don't -- just
10 stop, and then we'll correct them, and then we can go on
11 from there. And then a lot of times because they never
12 worked in a kitchen before.

13 Q. But you'd agree though that just generally
14 speaking, failure to follow the safety procedures could
15 lead to termination?

16 A. Could, yes.

17 Q. And the same is true of failure to follow
18 supervisor's instructions, that it could lead to
19 termination?

20 A. Could, yes.

21 Q. The same is true of unexcused absenteeism, that
22 that could lead to detainee worker termination?

23 A. Yes.

24 Q. Same thing for misconduct, horseplay, et cetera,
25 that it could lead to termination?

1 A. Correct.

2 Q. And certainly theft, that could lead to
3 termination?

4 A. Mm-hm. Yes.

5 Q. And finally, unsatisfactory work performance?

6 A. Correct.

7 Q. And as I look at the other job descriptions here
8 for dishwasher, food prep, kitchen light duty, kitchen line
9 backup, kitchen line server --

10 A. Mm-hm.

11 Q. -- kitchen pots and pans, kitchen storeroom
12 puller, kitchen utility --

13 A. Yes.

14 Q. -- they all repeat those same six grounds for
15 termination?

16 MS. SCHEFFEY: Object to form.

17 A. Yes.

18 Q. Now, each of these job descriptions also list
19 specific work duties.

20 A. Yes.

21 Q. And we can certainly look at them individually,
22 but I just want to talk in general.

23 A. Mm-hm.

24 Q. GEO's expectation is that the detainee workers
25 carry out the specific work duties mentioned in each of

1 these job descriptions; correct?

2 MS. SCHEFFEY: Object to form.

3 A. Yes.

4 Q. And it's true that the detainee workers are not
5 paid extra if they are exemplary performers in their job;
6 correct?

7 MS. SCHEFFEY: Object to form.

8 A. Correct.

9 Q. And the detainee workers have no discretion in
10 carrying out the various job duties listed here on these
11 job descriptions; correct?

12 MS. SCHEFFEY: Object to form.

13 A. Correct.

14 Q. And GEO provides the training necessary for the
15 detainee workers to carry out each of their specific work
16 duties; correct?

17 A. Well, under --

18 MS. SCHEFFEY: Object to form.

19 A. -- under supervision, yes.

20 Q. And GEO provides -- I think I may have already
21 asked, but GEO provides all of the equipment necessary;
22 correct?

23 A. Yeah.

24 MS. SCHEFFEY: Object to form.

25 A. Correct.

1 THE COURT REPORTER: This is Exhibit-306.

2 Q. You've just been handed Exhibit-306.

3 What are we looking at here?

4 A. This is a Detainee/Staff Health and Hygiene.

5 So detainees are coming in at 4 in the morning,

6 and the desk officer will have each detainee come to them,

7 because they gotta turn in their ID card, and at the same

8 time, looking for cuts, if he has a runny nose, hands,

9 fingernails are trimmed, and to extent where it's

10 satisfactory that he doesn't have any cuts, he doesn't have

11 any open sores, this will -- can determine if he needs to

12 go back to the pod or -- or go to see medical.

13 Q. And this is an inspection then --

14 A. Yes, this is just an inspection prior to him to

15 be working.

16 Q. An inspection conducted by GEO; correct?

17 A. By the officer, the desk officer that comes

18 in --

19 Q. And --

20 A. -- that's there.

21 Sorry.

22 Q. Let's try again.

23 So this is an inspection performed by GEO's desk

24 officer before the start of each shift?

25 MS. SCHEFFEY: Object to form.

1 A. Yes.

2 Q. And if any of these checked boxes are marked as
3 unsatisfactory under cuts, open sores, cough, runny nose,
4 hands, fingernails, it may be grounds to return that
5 kitchen worker back to their pod?

6 A. And seek medical -- seek medical help to help
7 them. Because sometimes they -- they might not know, and
8 you need to go -- go see the medic that morning, and then
9 he'll get authorization to come back to work if not.

10 Q. Does GEO hold safety meetings for its detainee
11 kitchen workers before their shifts?

12 A. This is part of the safety.

13 Q. Tell me about the safety meetings.

14 A. Is to make sure that they keep -- make sure
15 their beard nets are on, hair nets are on, their hands,
16 wash their hands, put gloves on, make sure the sinks are
17 on, the water -- make sure all the soaps are full, and make
18 sure they got their boots on, and change their clothes,
19 we'll give them the white smocks, and make sure they're
20 clean.

21 Q. So this is GEO then inspecting the kitchen
22 workers to make sure that they're fit for duty that day?

23 A. Correct.

24 MS. SCHEFFEY: Object to form.

25 Q. And you talked about hairnets; is it the case

1 that GEO workers in the kitchen wear uniforms?

2 A. Yes.

3 Q. And these are different than the standard
4 uniforms that they wear in the facility?

5 A. They -- they from the same material but in just
6 white. They can't use their pod or their color uniforms as
7 kitchen workers, that's why we give them the white smocks.

8 Q. What's your understanding of why they can't just
9 wear their standard --

10 A. Because they have -- they have to go back --
11 they gotta go back with those clothes, and you don't want
12 to be smelling like chicken.

13 Q. So what do the kitchen uniforms consist of?

14 A. White pants and a white shirt.

15 Q. Are there special -- is there special footwear
16 that the workers wear?

17 A. Yes, we -- we give them the black boots, our
18 close to knee high boots.

19 Q. Is there anything else that makes up the kitchen
20 uniform?

21 A. No, that's it.

22 Q. So white pants, white shirt, and black boots?

23 A. Correct.

24 Q. And these are all items that GEO provides to the
25 workers?

1 A. Yes.

2 Q. And if a detainee worker says, I want to wear my
3 normal clothes, what do you say?

4 A. No, you go change out and put on your cook
5 whites or the white uniform.

6 Q. And if the detainee kitchen worker refuses, they
7 don't get to work that day; correct?

8 MS. SCHEFFEY: Object to form.

9 A. That would be entirely up to the manager at that
10 point, because I'll just say, You sit right here.

11 Q. Have you ever encountered that situation before?

12 A. No, I haven't.

13 Q. Well, based on your years of work experience
14 with Ms. Henderson, what do you think she would say if a
15 detainee worker said, I don't want to change?

16 MS. SCHEFFEY: Object to form.

17 A. You know, I haven't seen it happen, but I don't
18 know.

19 (Exhibit-307 marked.)

20 THE COURT REPORTER: This is Exhibit-307.

21 Q. You've just been handed Exhibit-307. It's a
22 two-page document.

23 What are we looking at here?

24 A. Detainees removed from the kitchen because of
25 what they have done.

1 bounce that off this. Did all of them show up? Who didn't
2 show up? He might have been deported, or he might have
3 been let out, or sick, or in the lawyer's office, or could
4 be anywhere, visitation, and that's why he didn't show up.

5 Q. But the bottom line is that detainee workers are
6 only paid if an officer signs off on the pay sheet; is that
7 correct?

8 MS. SCHEFFEY: Object to form.

9 A. Once they show up for work, and then that's --
10 that's when this form is filled out, and then -- then it's
11 signed, and then it's submitted at the end of the shift.

12 Q. So it's the officer basically verifying that the
13 detainee worker showed up and worked their shift?

14 A. Yeah, and he worked the shift.

15 (Exhibit-309 marked.)

16 THE COURT REPORTER: This is Exhibit-309.

17 MR. WHITEHEAD: 309 you said?

18 THE COURT REPORTER: 309, yes.

19 MR. WHITEHEAD: Great, thank you.

20 Q. You've just been handed Exhibit-309.
21 Have you seen a document like this before?

22 A. No.

23 Q. In the bottom right corner of each page is
24 something we call a Bates stamp, and towards the end there,
25 there is a page that's labeled GEO-Nwauzor 026947.

1 Actually, looks like the last four pages.

2 A. Ah, okay. This is what we would receive from
3 the workforce program, the last three -- well, it should be
4 the four sheets, yeah. Yes, this would be what we would
5 receive. These ones, I -- I don't see these, I only see
6 this sheets.

7 Q. And this being the one that looks like it's
8 related to the kitchen, we've got Bates stamp GEO-Nwauzor
9 026947 through 953, and it looks to be labeled Breakfast
10 Shift, Breakfast Shift 2, Lunch Shift --

11 A. Breakfast, lunch, dinner, and cleanup.
12 I think that lunch 2 is really all of the same,
13 it's just like the second page, like lunch shift 2 will be
14 the second page of lunch 1. It's just a continuation.

15 Q. All right, well let's -- let's take them one at
16 a time.

17 A. Yeah.

18 Q. So we are looking at Exhibit-309, we're on the
19 page that bears Bates stamp GEO-Nwauzor 026947. It's the
20 first of the ones that say Breakfast Shift.

21 A. Okay.

22 Q. Are you with me?

23 A. Yep.

24 Q. Okay. Now, this printout, is it done on a daily
25 basis?

1 A. Once a week.

2 Q. Once a week.

3 So what we see here is the schedule then for the
4 entire week?

5 A. Yes.

6 Q. And looking at this one that's labeled Breakfast
7 Shift --

8 A. Mm-hm.

9 Q. -- and then on the very next page, Breakfast
10 Shift 2 --

11 A. Yes.

12 Q. -- is that really just the entirety --

13 A. Just a continuation --

14 Q. -- of the Breakfast Shift?

15 A. Yes, that's just a continuation from the
16 first -- from the front half. This is just like page 2.

17 Q. And if you look at Breakfast Shift and Breakfast
18 Shift 2, there appear to be 33 workers that week --

19 MS. SCHEFFEY: Object to form.

20 Q. -- would you agree?

21 A. That could have been assigned, but how many
22 are -- with all the days off, not all of them are there at
23 any given time.

24 Q. You'd agree with me though that 33 workers were
25 assigned to the breakfast shift that week?

1 A. They were assigned, yes.

2 Q. And then flipping to the lunch shift, this
3 begins on page GEO-Nwauzor 026949, there's Lunch Shift and
4 then Lunch Shift 2.

5 Are you with me?

6 A. Yes.

7 Q. Would you agree that it appears 33 workers were
8 assigned to work the lunch shift --

9 A. Yes.

10 Q. -- that week?

11 A. Yes.

12 Q. Now let's keep going.

13 Let's look at the -- the Dinner Shift. So this
14 begins on page GEO-Nwauzor 026951.

15 Would you agree with me that 33 workers appear
16 to have been scheduled to work that week on the dinner
17 shift?

18 A. Correct.

19 Q. And then we'll look at the last page,
20 GEO-Nwauzor 026953. This is the cleanup shift.

21 It appears that 12 workers were scheduled to
22 work the cleanup shift that week?

23 A. Yes.

24 Q. So this is a schedule; is that right?

25 A. Yes.

1 in completing the detainee worker pay sheet?

2 A. Yes, once they -- personnel that are assigned to
3 the dinner shift, once they come in, we make sure that
4 their names are on here, their A number, and then they go
5 onto the pay sheet, and then we'll -- we'll initial that
6 they're -- that they showed up for -- for work on that day.
7 And this is for the health and welfare check.

8 Q. We're nearing the end. I just -- to recap, GEO
9 trains detainees on all aspects of the kitchen policies and
10 procedures --

11 MS. SCHEFFEY: Object to form.

12 Q. -- correct?

13 A. We supervise the personnel that come into the
14 kitchen.

15 Q. And GEO supervises these workers to ensure that
16 they're complying with the kitchen policies and procedures?

17 A. Yes.

18 MS. SCHEFFEY: Object to form.

19 Q. And GEO holds safety meetings to make sure the
20 detainees are complying with those rules and regulations?

21 A. Yes.

22 Q. GEO keeps training -- or records of the training
23 that the workers receive?

24 MS. SCHEFFEY: Object to form.

25 A. Only the workers orientation checklist.

1 Q. GEO provides the detainee workers with uniforms?

2 A. Yes.

3 Q. GEO provides the detainee workers with all the
4 equipment they need to do their job?

5 MS. SCHEFFEY: Object to form.

6 A. Yes.

7 Q. GEO does not permit detainee workers to deviate
8 from their job descriptions --

9 MS. SCHEFFEY: Object to form.

10 Q. -- is that correct?

11 A. No.

12 Q. No, you're agreeing with me?

13 A. I mean -- I'm sorry.

14 Q. I know, I phrased it poorly.

15 A. Yeah.

16 Q. Detainee workers are not permitted to deviate
17 from their job descriptions?

18 A. No.

19 Q. No, they're not allowed?

20 A. Not allowed.

21 Q. Do you have any reason to believe that the
22 detainee workers were unsatisfied with the dollar a day
23 they received for their labor?

24 A. I can't speak for them.

25 Q. Did anyone ever ask you for a raise?

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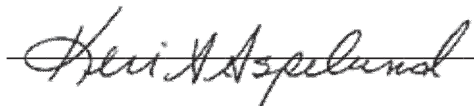
STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, the undersigned Registered Professional Reporter and Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me, pursuant to RCW 5.28.010, to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December, 2019.





NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

WHITEHEAD DECLARATION
EXHIBIT H

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of all)
those similarly situated,)
Plaintiffs,)

vs.

) No. 17-cv-05769-RJB

THE GEO GROUP, INC., a Florida)
corporation,)
Defendant.)

Videotaped
Deposition Upon Oral Examination of
MARC A. JOHNSON

2:05 p.m.

Tuesday, December 3, 2019

1019 Regents Blvd., Suite 204

Fircrest, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 MS. MELL: Object to the form.

2 A. Yes.

3 Q. Now, some of the personnel may be different, but
4 in terms of the structure, is that more or less the way
5 that things are today?

6 A. Yes.

7 Q. All right, who's housed at the Northwest
8 Detention Center?

9 MS. MELL: Object to the form.

10 A. Detainees that have been taken into Immigration
11 and Customs Enforcement custody.

12 Q. Are the folks there in any sort of criminal
13 detention?

14 MS. MELL: Object to the form of the question.

15 A. Not to my knowledge.

16 Q. To your knowledge, are they there as punishment?

17 MS. MELL: Object to the form of the question.

18 A. No.

19 Q. Have you or any of your coworkers talked about
20 this lawsuit?

21 A. Yes.

22 Q. Tell me about some of those conversations.

23 A. We talked about that, you know, there is a
24 lawsuit. I've seen some updates in the news and stuff.
25 It's been very brief, nothing -- nothing major.

1 Q. In what way?

2 MS. MELL: Object to the form of the question.

3 A. If -- it would -- it would get done regardless
4 if the detainees did it or not. It's not a mandatory
5 thing.

6 Q. But certainly the work they do helps out?

7 MS. MELL: Object to the form of the question.

8 A. Yes.

9 Q. Now, as a detention officer, do you believe that
10 part of your job is directing the work and providing
11 training and supervision of the detainee workers in the
12 Voluntary Work Program?

13 MS. MELL: Object to the form.

14 A. Yes, it's a collateral job.

15 Q. When you say collateral, what do you mean?

16 A. As a detention officer, we're doing multiple
17 things at once, you know. The main focus is safety and
18 security, but a part of that is, you know, making sure that
19 order is maintained and cleanliness is maintained in the
20 units and other areas wherever you're assigned, so yes.

21 Q. All right. Well, let's take a look at
22 Exhibit-313. Now, at the top there, this appears to be an
23 excerpt from GEO's Policy and Procedure Manual. This is
24 the Chapter: Detainee Services and Program, Title:
25 Voluntary Work Program.

1 giving them guidance.

2 Q. Now, do the detainee workers in the recreation
3 yard have discretion to deviate from the rules,
4 regulations, or guidance, however you want to characterize
5 it, that you're -- you're giving to them?

6 A. I mean, they can -- they can deviate if they
7 want.

8 Q. But there are potentially consequences though if
9 they deviate; is that right?

10 A. Yes.

11 Q. Anything else as it relates to your direction
12 and supervision of detainee workers in the recreation yard?

13 A. No.

14 Q. And now living area and evening workers, I don't
15 know if we should tackle those separately or together, but
16 can you tell me what you've done to direct or supervise
17 detainee workers with respect to living area and evening
18 workers?

19 A. So as a lieutenant for the living area, it's
20 been mostly indirect, just making sure that the units are
21 clean and sanitary. Since laundry is listed under living
22 area, we do indirectly assist the laundry, similar to the
23 kitchen, you know, with movements or investigations for
24 theft or -- and other types of misconduct.

25 And then with regards to the evening workers,

1 the facility janitorial, it's just kind of overseeing, you
2 know, if they're -- the general cleanliness of whatever
3 they're working on, and also like if there's waxing details
4 or stripping the floors.

5 As an officer, I've been directly involved with
6 the living areas, or supervising the cleaning of the
7 workers in the living areas, you know, cleaning up after
8 meals, the servers, going to pick up the meals, and
9 distributing the meals, cleaning up after meals, cleaning
10 up in general.

11 Again, there's a worker job description sheet
12 that explains kind of, you know, different stuff happens at
13 different times during the day, day cleaners, evening
14 cleaners, graveyard cleaners, or night cleaners. For
15 example, they clean the showers at the end of the day when
16 the showers are all done being used.

17 And then as a -- as an officer supervising the
18 evening workers, just being, you know, posted to observe,
19 make sure they're okay, there's no security violations, and
20 also assist them with any supplies they may need or tools.

21 Q. So this sounds like more hands-on supervision
22 and direction on your part?

23 A. As an officer, yes.

24 Q. And is that one of the main distinctions between
25 being a shift supervisor and an officer?

1 A. With regards to cleaning, I mean, it just
2 depends on if I'm assigned that task.

3 As a shift supervisor, you're in charge -- or a
4 lieutenant, you're in charge of the whole building. So,
5 you know, periodically I'll check in, but I can't focus my
6 whole time on that one thing. And then having -- as an
7 officer, you know, I've been assigned to a detail, hey,
8 we're doing this detail, so that was my -- my -- one of my
9 main focuses.

10 As the pod officer, same thing, you know, I'm --
11 I'm in charge of the security and the safety of everyone,
12 but it's that collateral duty to make sure we get the
13 meals, everyone gets a meal, we clean up after the meals.

14 Q. Tell me about the details that you've been
15 assigned with respect to the Voluntary Work Program.

16 A. Like it's mainly just there's a trash pickup at
17 night -- I've primarily worked graveyard shift for my ten
18 years. I did work swing shift, but for the most part, I've
19 been on graveyard.

20 On graveyard they do a trash pickup at night.
21 The units place the trash in trash bags outside the unit,
22 and then detainees go around and pick it up and collect it
23 by the loading dock. So we've supervised the movement.
24 Sometimes they have to take an elevator, which you have to
25 ride escorted.

1 And then we -- we do -- they wax the floors,
2 they'll sweep and mop the floor, and then they'll also wax
3 or strip, you know, remove the previous floor shine and
4 apply new floor shine or wax, whatever you call it.

5 Q. The floor waxing, buffing, shining, stripping, I
6 mean, does that primarily occur at night?

7 A. Yeah.

8 Q. And the workers, the detainee workers that do
9 that work, do they have previous experience with the
10 buffing, stripping, waxing the floors?

11 A. Some have told me that they to.

12 Q. Is that something then that GEO trains those
13 workers on if they don't have prior experience?

14 A. Yes.

15 Q. And of course GEO's providing the equipment to
16 do that work?

17 A. Yes.

18 Q. And the cleaning materials and solutions that
19 they'll need to also carry out that work?

20 A. Mm-hm. Yes.

21 Q. And are you directing them in terms of where in
22 the facility to do the buffing, stripping, waxing, shining?

23 A. Yes.

24 MS. MELL: Counsel, could I interrupt for a
25 minute? I'm getting a notification about arrangements for

1 Q. Well, have you directed or supervised detainee
2 workers as they paint in the facility?

3 A. Yes.

4 Q. Tell me more about that.

5 A. Similar to the other job duties, just making
6 sure they have the equipment, and they're -- they're okay
7 and safe, and following the rules, and painting in the
8 appropriate areas and stuff.

9 Q. Now, this painting, is it touch-up paint, or is
10 it, you know, painting walls in corridors?

11 A. It could be both. Sometimes it's just touch up,
12 and sometimes it's repainting a whole area.

13 Q. Along the gray mile?

14 A. Correct, or other areas.

15 Q. In the pods?

16 A. Yes.

17 Q. Anywhere else?

18 A. Intake, the booking area.

19 Q. So in terms of how long that painting takes, I
20 suppose it can vary depending on how large the job is?

21 A. Yes.

22 Q. Are you able to give me a range for how long the
23 painting might take?

24 A. I've seen it take two hours to sometimes four
25 hours.

1 Q. Now, with respect to the painting, is GEO
2 training the detainee workers on proper painting technique?

3 A. Yeah, similar to the other jobs.

4 Q. What about the -- the buffing, waxing, and
5 stripping of the floors, how long does that typically take?

6 A. It can take -- again, it varies. It can take
7 two hours to, you know, four or five hours.

8 Q. And it just depends on how much, you know,
9 buffing, waxing, and stripping, you know, how much ground
10 essentially they've got to cover?

11 MS. MELL: Object to the form.

12 A. Yes.

13 Q. And they, of course, being the detainee workers?

14 A. Yes.

15 I've also seen it where the detainees, you know,
16 they -- they're motivated to -- to do more, you know, or go
17 longer than one would reasonably expect to complete it.

18 Q. And what do you take from that?

19 A. That they enjoy the work there, they're
20 motivated, and you know, it's kind of self-driven.

21 Q. Do these workers that are self-driven and do a
22 good job, do they make more money?

23 A. No.

24 Q. Is there an opportunity for them to make more
25 money as, you know, stellar performers?

1 A. No.

2 Q. And the murals, there are murals along the gray
3 mile?

4 A. Yes.

5 Q. Were those painted by detainee workers?

6 A. Yes.

7 Q. Was that at GEO's direction?

8 A. No.

9 Q. Do you know how those murals came to be?

10 A. GEO submitted a request to the detainees to see
11 if anyone wanted to paint the murals, and several detainees
12 submitted their interest, and I believe they had to submit
13 artwork submissions showing their skill set.

14 Q. So an interview of sorts?

15 MS. MELL: Object to the form of the question,
16 mischaracterizes the testimony.

17 A. No.

18 Q. All right, so we talked about your role in
19 directing or supervising work with respect to the kitchen,
20 recreation/barber, living area, evening workers, and
21 laundry.

22 Did I get that right?

23 A. Yes.

24 Q. Now, what role, if any, does ICE play in the
25 direction and supervision of workers in those same job

1 cleared medically or approved medically. I can't speak to
2 how it happens.

3 Q. Well, on either front, whether it be the number
4 of kitchen workers or medical clearance, can you point me
5 to a specific policy related to ICE's involvement in the
6 direction and supervision of workers?

7 A. I don't have it offhand. I believe it's in
8 their PBNDS.

9 Q. Now, this is the Performance-Based National
10 Detention Standards?

11 A. Yes.

12 Q. And it's your understanding, of course, that GEO
13 has to comply with the PBNDS; correct?

14 A. Yes.

15 Q. And part of that compliance is making sure that
16 GEO and its personnel are supervising and directing
17 immigration detainees consistent with the PBNDS?

18 MS. MELL: Object to the form of the question.

19 A. Yes.

20 Q. All right, so other than your belief that ICE
21 mandates the number of kitchen workers and has a role in
22 medical clearance, are you aware of any other way in which
23 ICE directs and supervises kitchen workers?

24 A. No.

25 Q. Do you know whether or not there is an ICE

1 officer or personnel stationed in the kitchen?

2 A. I don't understand the question.

3 Q. Well, I understand from my deposition of Mr.

4 Delacruz that there are a number of GEO personnel in the

5 kitchen. My question to you is, do you know whether or not

6 there is ICE personnel stationed inside the kitchen?

7 A. Yeah, it's the station part. I mean, I know ICE

8 visits the kitchen, but I -- I don't believe they're

9 stationed there.

10 Q. And when you say visits, what do you mean?

11 A. There's a Detention Standards Manager Howard.

12 He visits the kitchen to ensure compliance with the

13 Performance-Based National Detention Standards.

14 Q. Do you know how often Howard makes his rounds in

15 the kitchen?

16 A. I do not, no.

17 Q. And do you know whether or not Howard, in his

18 role, is it limited to just the kitchen, or is it

19 facilitywide?

20 A. It's the whole facility.

21 Q. And I'm sorry, Howard's title again was?

22 A. Is the DSM, it's an acronym for detention

23 standards manager, I believe.

24 Q. And it's your belief that he is an ICE employee?

25 A. Yes.

1 Q. Okay. How many detention standards managers
2 work or are stationed at the Northwest Detention Center?

3 A. One.

4 Q. Big picture, how many ICE personnel are
5 stationed at the Northwest Detention Center?

6 MS. MELL: Object to the form.

7 A. I don't know.

8 Q. If you had to guess?

9 MS. MELL: No, don't guess.

10 Q. I'm looking for a ballpark.

11 Is it more than five?

12 A. I would imagine so, but I don't know for sure.

13 Q. Well, in your ten years of experience there,
14 both as a detention officer and as a lieutenant, can you
15 tell me the names of other ICE personnel that have been
16 stationed at the Northwest Detention Center?

17 A. Yes.

18 Q. Who?

19 A. Arroyo -- oh, man, on the spot here, let's
20 see -- Renner, Rukhstruhl, Muirhead. I mean, there's more,
21 I'm just -- I can't recall offhand.

22 Q. And where within the facility -- let me back up.

23 The people that you just named, do they have
24 offices within the facility?

25 A. Yes.

1 Q. Are they clustered together, or are they
2 sprinkled throughout?

3 A. They're all together.

4 Q. Where?

5 A. It's on the second floor of the administration
6 building.

7 Q. Is that the only location?

8 A. At the Northwest Detention Center, yes.

9 Q. And the five people total that you mentioned,
10 and I understand that you said there may be more, are they
11 all currently employed, or are you just thinking about the
12 span of your ten-year career with GEO?

13 A. I believe they're currently employed.

14 Q. And of the names that you mentioned, I'm sorry,
15 was it Howard, is that the first name or last name for the
16 detention standards manager?

17 A. That's the last name.

18 Q. All right, so the detention standards manager
19 you mentioned is someone that you believe is responsible
20 for ensuring that GEO's in compliance with the PBNDS. Do
21 you have any insights or understandings about the roles of
22 the other people that you named?

23 A. I believe some of them are like deportation
24 officers or supervisory deportation officers.

25 Q. Do you have any other insights into what their

1 roles are?

2 A. No.

3 Q. And so it sounds like Detention Standards
4 Manager Howard is different than the other four that you
5 mentioned by name, is that fair to say, in terms of his
6 role at the facility?

7 A. Yes.

8 Q. Okay. And then on Detention Standards Manager
9 Howard's visits to the kitchen, you believe that he may
10 offer direction and supervision to the detention -- or to
11 the detainees?

12 A. No.

13 Q. Is there anything else that you can think of in
14 terms of ICE's involvement with the supervision and
15 direction of detainee workers in the kitchen?

16 A. No.

17 Q. Now, we can do the same thing for the other
18 categories, recreation/barber, living area, evening
19 workers, laundry, in terms of ICE's involvement, but before
20 we do that, my question to you is, would your answer be any
21 different than what you've just described to me about ICE's
22 involvement in the kitchen?

23 A. No, it -- it would be the same. DSM Howard's in
24 charge of, you know, the whole building, so
25 responsibilities for all the areas, including these, and

1 you know, it's overseen by ICE.

2 Q. So how often would -- or are ICE personnel in
3 the pods, for example?

4 A. I believe they come around once a week to do
5 visits with the detainees, and then I'm not sure if the --
6 they do what's called a kite pickup. I think they have to
7 do that every day, Monday through Friday.

8 Q. In that way, would you call ICE's involvement
9 more administrative, if they're picking up kites, and
10 detention visits are related to immigration status; is that
11 a fair characterization?

12 MS. MELL: Object to the form of the question,
13 fairness is not relevant, nor is his opinion.

14 A. What was the question?

15 Q. Yeah, and I got a little lost in the objection
16 too. I do want to hear your opinion. I mean, you've
17 worked there for ten years, so you're going to know better
18 than myself and even Counsel about what takes place at the
19 facility.

20 My question is whether or not you view ICE's
21 role and involvement there as more administrative in
22 nature?

23 MS. MELL: Object to the form of the question.

24 A. No.

25 Q. What would you call it?

1 MS. MELL: Again, object to the form.

2 A. I mean, they're, you know -- it's -- it's -- ICE
3 is -- ICE is the client. They -- they say what goes. So,
4 you know, I've seen detainees appeal to ICE to have stuff
5 changed, and they've done that, or ICE has mandated
6 changes, you know.

7 Q. Do you believe though that GEO handles more of
8 the day-to-day hands-on work of the facility?

9 MS. MELL: Object to the form of the question.

10 A. I mean, yeah.

11 Q. And that includes the direction and supervision
12 of the detainees and the detainee workers --

13 MS. MELL: Object --

14 Q. -- correct?

15 MS. MELL: Object to the form of the question.

16 A. According to the PBNDS.

17 Q. That's GEO's role, to do the hands-on work of
18 managing the detainees, including the detainee work?

19 MS. MELL: Object to the form of the question.

20 A. Yes.

21 Q. Now, how is it that detainees are assigned to
22 work in the VWP?

23 A. I don't under -- the BWP?

24 Q. The VWP?

25 A. Oh, sorry, the Voluntary Work Program?

1 Q. That's GEO personnel; correct?

2 A. Correct.

3 Q. Is there a line on this form for ICE to sign off
4 on?

5 A. No.

6 Q. Let's look at the fourth item there at the top.

7 It reads, "Unexcused absence, unsatisfactory work
8 performance, or participation in a serious infraction, e.g.
9 fighting, is cause for removal from a work assignment."

10 Did I read that correctly?

11 A. Yes.

12 Q. Is that statement true?

13 A. Yes.

14 Q. Now, who initiates the process for removal from
15 a work assignment, is that ICE or GEO?

16 A. It could be either.

17 Q. Tell me about a time that ICE initiated the
18 removal process.

19 A. I can't think of any offhand.

20 Q. In your ten years of experience at the Northwest
21 Detention Center, you can't think of a single instance in
22 which ICE initiated the removal of a detainee worker from a
23 work assignment?

24 MS. MELL: Object to the form.

25 A. Like I said, I can't recall.

1 Q. Let's look at the sixth item there on
2 Exhibit-314, the Volunteer Work Program Agreement. It
3 reads, "Detainees must adhere to all safety regulations and
4 to all medical and grooming standards associated with a
5 work assignment."

6 Did I read that correctly?

7 A. Yes.

8 Q. Does GEO work to ensure that detainee workers
9 are complying with safety regulations and medical and
10 grooming requirements?

11 A. Yes.

12 Q. That's part of the job of a detention officer;
13 correct?

14 MS. MELL: Object to the form.

15 A. Yes.

16 Q. And that eighth item there says "Primary factors
17 that impact hiring are classification level, attitude,
18 behavior, and physical ability to perform the job."

19 Did I read that correctly?

20 A. Yes.

21 Q. From that sentence, is it safe to assume that
22 GEO has some discretion in who to hire?

23 MS. MELL: Object to the form.

24 A. No.

25 Q. How do you interpret that sentence?

1 MS. MELL: Object to the form.

2 A. Well, it lists the -- the certain things, but it
3 says they impact not that they will affect, they just
4 impact it.

5 Q. And do you see a distinction between impact
6 versus affect?

7 A. Yes.

8 Q. Tell me, what is that distinction?

9 A. If it had an effect, I would interpret that to
10 be we could pick and choose who we wanted, whereas this
11 just says it will have an impact.

12 From what I understand, the worker -- once you
13 submit a request to be a worker, you go on a waiting list,
14 and GEO can't jump around on the list; it's first in, first
15 out, so to speak.

16 Q. Now, there's a black bar towards the end, and I
17 redacted out someone's name there, but if you look above
18 that black bar, the last sentence of that paragraph, right
19 above it, it reads, "We thank you for your important
20 contribution to maintaining this facility."

21 Did I read that correctly?

22 A. Yes.

23 Q. Do you believe that the detainee workers make an
24 important contribution to maintaining the Northwest
25 Detention Center?

1 MS. MELL: Object to the form of the question.

2 A. Yes.

3 MR. WHITEHEAD: All right, let's take a break.

4 THE VIDEOGRAPHER: This is the end of media one.

5 This deposition will continue on media two. The time is

6 3:13. Going off the record.

7 (Recess at 3:13 p.m.)

8 (Reconvened at 3:23 p.m.)

9 THE VIDEOGRAPHER: Back on the record. This is
10 the beginning of media two to the deposition of Marc
11 Johnson. The time is approximately 3:23.

12 Q. Do the various work assignments for the detainee
13 workers have job descriptions?

14 A. Yes.

15 Q. Let's take a look at Exhibit-315.

16 And you've just been handed Exhibit-315, and
17 these are various detainee job descriptions. The
18 descriptions are undated, but do these look familiar to
19 you?

20 A. Yes.

21 Q. I'd like to go through each of these and talk
22 about GEO's level of control over the detainee workers in
23 each of the job descriptions here.

24 So let's start with the first page; have you
25 supervised barbers in the barbershop ever?

1 A. No.

2 Q. Based on what you know about directing and
3 supervising detainee work at the Northwest Detention
4 Center, would it be your expectation that detainee workers
5 in the barbershop follow the specific work duties outlined
6 on the job description?

7 MS. MELL: Object to the form of the question.

8 A. Yes.

9 Q. Now, do detainee workers have the discretion to
10 deviate from their specific work duties?

11 MS. MELL: Object to the form.

12 A. No.

13 Q. For example, looking at this job description
14 here on the first page of Exhibit-315, it instructs
15 barbers, it says "Towels will not be used." Looks to be
16 the fifth bullet down.

17 Do you see that?

18 A. Yes.

19 Q. For example, could a detainee use towels even
20 though the job description says not to?

21 A. I believe they could try, but the staff would
22 intervene and not allow it.

23 Q. In that way, staff is supervising the detainee
24 workers to ensure that they're complying with their job
25 duties?

1 MS. MELL: Object to the form of the question.

2 A. Yes.

3 Q. And GEO provides the barbers, in this case, with
4 the equipment they need to do their jobs?

5 A. Yes.

6 Q. And there's no expectation that the detainee
7 workers, you know, bring their own equipment to the
8 barbershop; correct?

9 A. No.

10 Q. In fact, they'd be prohibited from doing so?

11 MS. MELL: Object to the form.

12 A. Correct.

13 Q. Now, if a barber has preexisting skill as a
14 barber, is there an opportunity for them to make more?

15 A. No.

16 Q. Can they earn more money if they do a complex
17 haircut or hairstyle?

18 A. No.

19 Q. Are there GEO barbers at the Northwest Detention
20 Center?

21 A. I don't understand the question.

22 Q. Are there -- is there GEO personnel that's
23 responsible for or that also cuts hair at the Northwest
24 Detention Center?

25 A. No.

1 Q. If the detainees did not work as barbers, who
2 would cut hair?

3 MS. MELL: Object to the form.

4 A. I don't know.

5 Q. GEO would have to hire someone; is that a safe
6 assumption?

7 MS. MELL: Object to the form of the question.

8 A. I'm not sure.

9 Q. Now, let's look at the next page, page 2 of
10 Exhibit-315. This is a job description for barbershop
11 cleaner. Now, the first bullet there under the specific
12 work duties instructs detainee workers to spray liberally
13 the clippers with H42 cleaner.

14 Do you see that?

15 A. Yes.

16 Q. Could a detainee worker use a different type of
17 cleaner if they wanted to?

18 A. No.

19 Q. And GEO provides the barbershop cleaners with
20 the cleaning materials that they need to do their job;
21 correct?

22 A. Yes.

23 Q. Provides them with the training on the safety
24 regulations that they need to do the job as well?

25 A. Yes.

1 MS. MELL: Counsel, I just realized that I don't
2 see continuing Bate -- Bates numbers on these pages, and I
3 thought you represented this was from the discovery.

4 MR. WHITEHEAD: It is. This is from GEO's
5 production. I'm not quite sure why the Bates numbers did
6 not print. I believe it's just one of the radio buttons
7 didn't get checked off when printing this from our document
8 management system.

9 MS. MELL: But it's not -- this isn't the Bates
10 number down here?

11 MR. WHITEHEAD: No, it's not.

12 Yeah, I don't know why, if it was just a matter
13 of it getting cut off, but I will represent for the record
14 that Exhibit-315 came from GEO's production. And if you'd
15 like, after the fact I could find the specific Bate
16 numbers -- Bates numbers that are represented here in the
17 document.

18 MS. MELL: Okay, thank you.

19 MR. WHITEHEAD: Of course.

20 Q. All right, with the barbershop cleaners, could
21 they decide on their own that they would like to clean the
22 clippers, for example, in the yard or a different part of
23 the facility outside of the barbershop?

24 A. No.

25 Q. Could the barbershop cleaners make more money if

1 they were efficient or good at their job in cleaning the
2 barbershop?

3 A. No.

4 Q. Have you ever had a detainee worker ask for a
5 raise?

6 A. No.

7 Q. Have you ever sought authorization to pay a
8 detainee worker more than a dollar a day for their work?

9 A. No.

10 Q. With the barbers, could they make more money if
11 they cut more heads in the barbershop?

12 MS. MELL: I hope they aren't cutting heads;
13 more hair of heads -- on heads?

14 A. No.

15 Q. They couldn't charge per haircut, for example?

16 A. No, it's a flat rate.

17 Q. Of a dollar a day?

18 A. Correct.

19 Q. Let's look at page 3 of Exhibit-315. This one
20 is a job description, job title Medical Cleaning. Here
21 again, this job description lists specific duties.

22 Do you see that?

23 A. Yes.

24 Q. And do detainee workers have discretion to mop
25 other than the designated areas for medical?

1 A. No.

2 Q. Part of their job is to remove trash and replace
3 with new liners. That's item 6 there. GEO provides those
4 liners; is that correct?

5 A. Yes.

6 Q. And GEO provides the equipment they need to do
7 the cleaning?

8 A. Yes.

9 Q. As well as the cleaning solution?

10 A. Yes.

11 Q. GEO provides the medical cleaners on proper
12 sanitation and safety as it relates to their job; correct?

13 MS. MELL: Object to the form of the question.

14 A. Yes.

15 Q. Now, there's a bottom section there entitled
16 Termination.

17 Do you see that?

18 A. Yes.

19 Q. Do you agree that failure to follow staff
20 instructions could lead to termination of a detainee
21 worker?

22 A. Yes.

23 Q. Do you agree that failure to follow safety
24 procedures could lead to termination of a detainee worker?

25 A. Yes.

1 Q. Excessive absenteeism?

2 A. Yes.

3 Q. Misconduct and horseplay?

4 A. Yes.

5 Q. Theft?

6 A. Yes.

7 Q. Unsatisfactory work performance?

8 A. Yes.

9 Q. Now, in each of those instances, would it be GEO
10 that initiates the termination or disciplinary proceedings
11 against the detainee worker?

12 A. It depends.

13 Q. What does it depend on?

14 A. I mean, the reason.

15 Q. Well, my question drives more at who the actor
16 is that would initiate the proceedings; is it GEO or
17 someone else?

18 A. A majority of the time it would be GEO.

19 Q. And if not GEO, who?

20 A. It could be ICE.

21 Q. And if I remember from earlier, you said that
22 you cannot think of a time in which ICE initiated
23 termination or discipline against a Voluntary Work Program
24 participant; did I get that right?

25 A. Not specifically, no.

1 Q. Not specifically.

2 You can't recall specifically you're saying?

3 A. Correct.

4 Q. Again, working with Exhibit-315, let's look at
5 page 4. This is a job description for job title General
6 Worker. Now, the specific work duties there, are those
7 consistent with your understanding of what this job
8 entails?

9 A. Yes.

10 Q. And again, as it relates to those work duties,
11 the detainees -- the -- strike that.

12 As it relates to those specific job duties, it's
13 the case that the detainee workers may not deviate from
14 their specific duties and responsibilities; correct?

15 A. Correct.

16 Q. And here again, GEO provides the equipment they
17 need to do their job?

18 A. Yes.

19 Q. GEO provides the training they need to do their
20 job?

21 A. Yes.

22 Q. GEO supervises them to ensure that they're
23 complying with GEO's policies and regulations; correct?

24 A. Correct.

25 Q. Now, with the general workers, is there an

1 opportunity for them to earn more money if they're good
2 workers?

3 A. No.

4 Q. They get paid regardless of whether or not they
5 have -- the same -- excuse me.

6 They get paid the same regardless of whether
7 they have prior experience in the janitorial industry;
8 correct?

9 A. Yes.

10 Q. Let's look at the bottom here of page 4. Again
11 we see the Termination heading.

12 Do you agree that failure to follow staff
13 instructions could lead to the termination of general
14 workers --

15 A. Yes.

16 MS. MELL: I just object to the omission of CSC
17 in that phrase. We're still dealing with CSC policy it
18 looks like.

19 Q. No, my question was different, you know, my
20 question is exactly what I asked.

21 Failure to follow GEO staff instructions, could
22 that lead to a detainee worker's termination from their job
23 assignment?

24 A. Yes.

25 Q. And that's true of -- of any detainee worker

1 job; correct?

2 A. Yes.

3 Q. Excessive absenteeism, that could lead to
4 termination; correct?

5 A. Yes.

6 Q. Misconduct and horseplay?

7 A. Yes.

8 Q. Theft?

9 A. Yes.

10 Q. And unsatisfactory work performance?

11 A. Yes.

12 Q. Let's look at the next page, page 5. This one
13 is for Laundry Worker is the title of the job description.

14 Now, the specific work duties here listed, are
15 those consistent with your understanding of what the
16 laundry worker job entails?

17 A. Yes.

18 Q. Do the detainee workers, the laundry workers,
19 have discretion to deviate from these specific work duties?

20 A. No.

21 Q. And GEO supervises them to ensure that they're
22 complying with their work duties?

23 A. Yes.

24 Q. GEO provides them with the training they need to
25 do their job?

1 A. Yes.

2 Q. And the equipment they need to do their job?

3 A. Yes.

4 Q. And the detainee laundry workers have no
5 opportunity to earn more money if they're good at their job
6 or do more work; correct?

7 A. Correct.

8 Q. To your knowledge, can the detainee workers seek
9 employment outside the Northwest Detention Center?

10 A. Not while they're being detained by immigration.

11 Q. Can detainee workers earn overtime?

12 MS. MELL: Object to the form.

13 A. No.

14 Q. Do detainee workers that aren't very good at
15 their job make less money?

16 A. No.

17 Q. How many janitors are employed by GEO right now?

18 A. Right now, I believe two.

19 Q. And over your decade with GEO, has it been more
20 or less two janitors that work at the facility?

21 A. I believe it's normally three. They have had I
22 think sometimes four.

23 Q. The janitors, where do they clean?

24 A. Primarily the unsecured areas.

25 Q. In other words, they clean the areas that the

1 detainees don't have access to?

2 A. Yes.

3 Q. Do the janitors clean any of the secured areas?

4 A. I believe the medical administration offices is
5 the only place on the secured side.

6 Q. And is that because the medical administration
7 office is a secured area?

8 A. Right, it's like restricted. Medical would be
9 considered a secured area as well, but --

10 Q. There's heightened restrictions for the admin
11 office?

12 A. Right.

13 Q. How big is the Northwest Detention Center, if
14 you know, in terms of square footage?

15 A. I don't know.

16 Q. It's pretty big though?

17 A. It's a large -- large building, couple
18 buildings.

19 Q. What is a pod porter?

20 A. A pod porter is like a detainee worker that
21 works in their housing unit, their assigned housing unit.

22 Q. Let's take a look at Exhibit-316, please.

23 You're looking at Exhibit-316. It's titled
24 Northwest Detention Center Pod Porter Job Descriptions.

25 Have you seen this document before?

1 MS. MELL: Object to the form.

2 A. -- I should have said no.

3 Q. Now, looking at the Pod Porter Job Descriptions,
4 on the back of the form here I see a line for the
5 detainee's name as well as the detainee's signature; is
6 that right?

7 A. Yes.

8 Q. And then it references offices -- officer's
9 signature.

10 Who is the officer referenced there?

11 A. The GEO officer.

12 Q. Is there a spot anywhere on this form where ICE
13 is expected to sign off?

14 A. No.

15 Q. Does ICE play any role in where detainees are
16 assigned to work?

17 A. Not that I know of.

18 Q. Let's take a look at Exhibit-309.

19 What are we looking at here at Exhibit-309?

20 A. This is a daily pod worker list.

21 Q. As you flip through, it's not just the pods,
22 there's references to laundry and kitchen as well.

23 A. Oh, okay. So yeah, it looks like it's the -- a
24 facility worker list.

25 Q. Now, is this a document or something like this

1 A. I'm sorry, repeat the question.

2 Q. Well, let me try and put it into context.

3 So looking at Exhibit-308, if you look at the
4 top there --

5 A. Mm-hm.

6 Q. -- that last bullet, it says "By detainee
7 signature staff is affirming that the following have been
8 evaluated and met acceptable standards: the job was
9 completed, detainee maintained a good attitude, and the
10 detainee began work on time."

11 So my question is, is it the detention officer
12 that decides whether or not a detainee worker may actually
13 sign this form?

14 A. No.

15 Q. Let me try one -- one more time.

16 If a detainee hasn't performed their work to a
17 satisfactory fashion, could a detention officer say, No,
18 you don't get to sign the worker pay sheet today?

19 A. Yes.

20 Q. Does that happen?

21 A. Yes.

22 Q. Give me an example of a time when that would
23 happen or has happened?

24 A. If they aren't cleaning the showers good, I --
25 you know, not scrubbing correctly, cleaning them, you know,

1 or they try and do it too quickly, like two minutes, and
2 then sign, I want to be done.

3 Q. Can you tell me about another time?

4 A. If they just, you know, refuse to get up for
5 their shift or clean.

6 Q. They don't get paid?

7 A. They don't get paid, and they could potentially
8 lose their job.

9 Q. What are IDP sanctions?

10 A. That's a disciplinary hearing.

11 Q. And IDP, what does that stand for?

12 A. I believe it stands for Institutional
13 Disciplinary Panel.

14 Q. Who is on that panel?

15 And you can give me titles if you don't know
16 names.

17 A. I believe it's the restricted housing unit
18 lieutenant and an ICE officer or supervisor, ICE
19 supervisor.

20 Q. Anybody else?

21 A. Just those two people.

22 Q. What is a UDC hearing?

23 A. I believe it stands for a Unit Disciplinary
24 Committee.

25 Q. Who is on the Unit Disciplinary Committee?

1 A. Just a -- a sup -- I believe it's any
2 supervisor, sergeant or lieutenant, or it may just be a
3 lieutenant.

4 Q. So what's the difference between IDP and UDC?

5 A. The UDC is like a lower level infraction, an IDP
6 is for a more serious infraction.

7 Q. Can you give me an example of a more serious
8 infraction that would go to IDP?

9 A. So for fighting, two people fighting would go to
10 an IDP, whereas like a simple theft would just be a UDC.

11 Q. What about poor performance in the Voluntary
12 Work Program, would that be UDC or IDP?

13 A. You don't get written up for a poor performance.

14 Q. Now, the UDC determinations, to your knowledge,
15 do those go to ICE at any point?

16 A. I don't believe they do. They go in your
17 detainee file.

18 Q. And the IDP proceedings, ICE is a part of it?

19 A. Correct.

20 Q. As a detention officer, do you take attendance
21 for the detainee workers that are under your -- your
22 charge?

23 A. Yeah, I would verify when they're supposed to
24 work and did they complete the work satisfactorily.

25 Q. And that's -- is that back to the worker pay

1

C-E-R-T-I-F-I-C-A-T-E

2

3 STATE OF WASHINGTON)

4) ss.

5 COUNTY OF THURSTON)

6

7 I, the undersigned Registered Professional
8 Reporter and Certified Court Reporter, hereby
9 certify that the foregoing deposition upon oral
10 examination was taken stenographically before me and
11 transcribed under my direction;

12 That the witness was duly sworn by me,
13 pursuant to RCW 5.28.010, to testify truthfully; that the
14 transcript of the deposition is a full, true, and correct
15 transcript to the best of my ability; that I am neither
16 attorney for, nor a relative or employee of, any of the
17 parties to the action or any attorney or counsel employed
18 by the parties hereto, nor financially interested in its
19 outcome.

20 I further certify that in accordance with CR
21 30(e), the witness was given the opportunity to examine,
22 read, and sign the deposition, within 30 days, upon its
23 completion and submission, unless waiver of signature was
24 indicated in the record.

25 IN WITNESS WHEREOF, I have hereunto set
my hand this 10th day of December, 2019.



Heidi A. Aspelund

NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

WHITEHEAD DECLARATION
EXHIBIT I

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
 FERNANDO AGUIRRE-URBINA,)
 individually and on behalf of all)
 those similarly situated,)
 Plaintiffs,)

vs.) No. 17-cv-05769-RJB

THE GEO GROUP, INC., a Florida)
 corporation,)
 Defendant.)

Videotaped
Deposition Upon Oral Examination of
DAVID M. TRACY

10:13 a.m.
 Tuesday, December 3, 2019
 1019 Regents Blvd., Suite 204
 Fircrest, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 A. When I was -- 27.80 -- 27.84, I believe.

2 Q. And then when you went back to detention
3 officer, what was your hourly rate?

4 A. 27.84.

5 Q. Okay. And what is your current hourly rate?

6 A. 29.69.

7 Q. I want to talk about your time as a sergeant.

8 Was that a position that you applied for on your
9 own, or were you recommended into the position?

10 A. I applied on my own.

11 (Exhibit-311 marked.)

12 THE COURT REPORTER: This is Exhibit-311.

13 THE WITNESS: Thank you.

14 Q. You've just been handed Exhibit-311.

15 What are we looking at here?

16 A. A job description.

17 Q. Have you seen this document before?

18 A. I'm not sure. Probably at some point in my life
19 I've seen this. I don't know if it was this exact job
20 description.

21 Q. Well, do you think this is a fair and accurate
22 representation of the job description for sergeant, the
23 position of sergeant, at the Northwest Detention Center?

24 A. Yeah. Yes.

25 Q. All right. So looked like you just read the --

1 the document front and back there.

2 Do you see the Primary Duties and
3 Responsibilities there on the first page?

4 A. Yes.

5 Q. And do you agree that those were your primary
6 duties and responsibilities as sergeant?

7 A. I would say the overall primary duty is to
8 ensure the safety and security of all individuals inside
9 the building.

10 Q. Certainly overarching, but as to the specific
11 duties and responsibilities, would you agree there that
12 that was an accurate statement of your duties and
13 responsibilities as sergeant?

14 MS. MELL: Object to the form of the question --

15 A. Yes.

16 MS. MELL: -- asked and answered.

17 Q. I'm sorry, your answer was yes?

18 A. Yes.

19 Q. Is there anything that you would add to this
20 list?

21 MS. MELL: Object to the form.

22 A. There's other things that could be added but not
23 necessary. These are the primary duties.

24 Q. I'd like for you to look at the tenth bullet
25 down for me. It's the one that reads, "Directs work,

1 provides training, and performs inspections of work
2 performed by inmate/detainee workers."

3 Do you see that?

4 A. Yes.

5 Q. Can you tell me all the ways in which you
6 directed detainee work as a sergeant at the Northwest
7 Detention Center.

8 A. We would get a list of volunteers that want to
9 do some type of outside duty, they're not required to do
10 it, but something that they want to do. Some people may,
11 you know -- if they're a really good painter, and they want
12 to paint, or they used to buff and wax floors outside
13 before they were there, and they want to do it, it gets
14 them outside of where they, you know, have to be. So they
15 would come to -- usually they would go to one of the pod
16 officers, Hey, I want to do this, you know, is there a way
17 I can do it?

18 And then we would talk to them, get them the
19 equipment they need, make sure they have the understanding
20 of what needs to be done and how to make sure it gets done
21 safely. If they need to wear goggle -- you know, safety
22 equipment, make sure they have their safety equipment, make
23 sure that they have all the equipment they need to do the
24 job they're going to do or they want to do.

25 Q. Anything else as to how you directed the work of

1 detainee workers while you were a sergeant?

2 A. Besides assigning an officer to oversee the --
3 the actual work that was being done, I don't think so.

4 Q. And is it the case, did you directly oversee the
5 work that was being done by detainee workers?

6 A. Not -- you know, not standing over them, you
7 know, a hundred percent of the time, but occasionally, you
8 know, walking down the -- the hallway, you would check out
9 what they were doing, and talk to them, make sure
10 everything's going good. And if they needed anything, they
11 could, you know, always ask.

12 Q. So is it the case then that you would direct
13 them in terms of the tasks to carry out, but that your
14 supervision wasn't always direct?

15 MS. MELL: Object to the form of the question.

16 A. There would -- you know, with something like
17 buffing and waxing, there would be an officer present, but
18 paintingwise, you know, they could go and paint a hallway
19 without having to be directly supervised by an officer.

20 Q. Would you agree that as a detention officer,
21 which is your current role, that part of your job is to
22 direct the work, provide training, and perform inspections
23 of work performed by inmate/detainee workers?

24 MS. MELL: Object to the form of the question.

25 A. Can you say it one more time?

1 Q. Sure.

2 Your current role is that of detention officer;
3 correct?

4 A. Yes.

5 Q. Okay. As part of your job as a detention
6 officer, does it involve directing the work, providing
7 training, and performing inspections of work performed by
8 the detainee workers?

9 MS. MELL: Object to the form.

10 A. Yes.

11 Q. And as a detention officer, is your direction
12 and supervision of the detainee workers more hands on or
13 more direct than it was when you were a sergeant?

14 MS. MELL: Object to the form of the question.

15 A. Yes.

16 Q. In what way?

17 A. As the officer, you're there the whole time.
18 You know, if you're -- for example, if you're in a unit,
19 and they're -- a detainee's mopping the floor, you're
20 physically there in the area to see what's going on, versus
21 a supervisor, you would see it when you would come and do
22 round or if you needed to go to the unit for whatever
23 reason. You weren't physically in that -- that location or
24 that area the whole time.

25 Q. Any other distinction?

1 MS. MELL: Object to the form.

2 A. Not that I can think of.

3 Q. Who do you currently report to?

4 A. Chain of command. So my sergeant, lieutenant,
5 captain, major.

6 Q. Who is your current sergeant that you report to?

7 A. On shift, it would be Sergeant Steffens or
8 Sergeant Hillin.

9 Q. And the lieutenant?

10 A. Wilson -- I'm sorry, Lieutenant Wilson or
11 Lieutenant Jackson.

12 THE WITNESS: Can I get some water, please?

13 MS. MELL: Yeah.

14 THE WITNESS: Thank you.

15 MS. MELL: Actually, let's -- I just need one
16 quick break while I fill that.

17 THE WITNESS: Thank you.

18 (Ms. Mell left the proceedings.)

19 MR. WHITEHEAD: Well, looks like we're off the
20 record.

21 THE VIDEOGRAPHER: Going off the record. The
22 time is 10:37.

23 (Recess at 10:37 a.m.)

24 (Reconvened at 10:38 a.m.)

25 THE VIDEOGRAPHER: Back on the record. The time

1 habit, but for the most part, it's FA.

2 Q. All right, so there's the warden turning into
3 the facility administrator; any other name changes?

4 A. The assistant warden.

5 Q. Is now assistant facility administrator?

6 A. Yeah, AFA.

7 Q. Okay. Any others?

8 A. Not that -- not that I can think of.

9 Q. Who does the Northwest Detention Center house?

10 A. The detainees?

11 Q. Yes.

12 A. Detainees either waiting or fighting their case
13 within the immigration system.

14 Q. To your knowledge, is any component of their
15 stay criminal punishment?

16 MS. MELL: Object to the form of the question.

17 A. No, it's all -- it's administrative.

18 Q. Have you ever been disciplined at Northwest
19 Detention Center?

20 A. Not -- not to my knowledge.

21 Q. Do you receive performance reviews?

22 A. Yes.

23 Q. Have there been any issues or any aspects of it
24 that have been critical of your performance?

25 A. In -- I don't know what year it was, the only

1 Q. What about recreation/barber, can you tell me
2 about all aspects of your direction or supervision that you
3 provided to the detainee workers?

4 A. The barbershop is open during the days, day
5 shift, which early morning. I didn't work that shift.

6 Q. So you've had no involvement then with
7 supervising or directing the work in the barbershop?

8 A. No.

9 Q. That would be just other detention officers
10 then?

11 A. Other supervisors, other officers.

12 Q. What about in the living areas, can you tell me
13 about all aspects of the direction and supervision that you
14 provided to detainee workers in the living areas?

15 A. You allow them access to the janitor closet,
16 allow them to get what they need to do -- to do their job
17 they've requested, and then amongst just daily work inside
18 the unit, you're always cognitive of I know I've got a
19 group over here mopping and sweeping, so make sure they
20 have -- you know, make sure there's a wet floor sign down,
21 that type -- that type of stuff, overseeing what they're
22 doing.

23 Q. Do you ever tell them where to clean?

24 A. Yeah.

25 Q. Do you tell them when to clean?

1 A. There's -- with inside the units, they kind of
2 have their own. The other detainees, once they get a new
3 job, they kind of explain to them how it works. So, for
4 example, the food porter, he works when the food comes.
5 That's what his job -- you know, that's what his job is.
6 He can't do his job when there's no food there. So when
7 it's time for food, you know, you might have to go wake him
8 up or let him know, if he's outside playing basketball, or
9 whatever, meals -- meals are up.

10 Q. So in that way then, you're directing whoever
11 that food porter is to show up to work?

12 MS. MELL: Object to the form of the question,
13 totally mischaracterizes his testimony.

14 A. Can you repeat your question one more time?

15 Q. Sure.

16 You told me that with the food porter, for
17 example, that they can only work when the food arrives, and
18 that if they're asleep or in recreation, that you go to get
19 help; did I get that right?

20 A. Yeah, let them know that, you know, the meals
21 are ready, ask them to go to the kitchen. Not making them
22 go to the kitchen, because they don't have to do it, they
23 can always put a request in to not work anymore.

24 Q. All right, you mentioned janitor, closet access;
25 do you remember that?

1 A. Yes.

2 Q. Okay. And that's so that they can access the
3 cleaning supplies?

4 A. Correct.

5 Q. And these are supplies that GEO provides;
6 correct?

7 A. Correct.

8 Q. Do the detainee workers supply their own
9 cleaning materials?

10 A. No.

11 Q. Does GEO provide the cleaning solution?

12 A. Yes.

13 Q. Does GEO provide the sponges and mops necessary
14 to do the cleaning?

15 A. Yes.

16 Q. The rags?

17 A. Yes.

18 Q. As it relates to the cleaning, do you train or
19 have you trained detainee workers on proper cleaning
20 technique?

21 A. Yes, you explain, you know, how it's -- how it
22 needs to be done, or you know, what -- what to look for.

23 In the showers, you know, you might want to use this tool

24 instead of using a mop to wipe down the shower walls, you

25 might want to use a scrub brush, to use the scrub brush to

1 actually scrub -- scrub inside the showers.

2 Q. What if a detainee worker has no prior cleaning
3 experience; is it the case then that GEO would train that
4 person on how to do the job?

5 A. I would explain to them how to do it.

6 Q. And that explanation is essentially on-the-job
7 training; is that fair to say?

8 A. Yeah.

9 Q. Can the detainee workers -- again, we're talking
10 specifically about living areas --

11 A. Okay.

12 Q. -- could they clean a different pod for more
13 money?

14 A. No.

15 Q. If they worked quickly or more efficiently,
16 could they earn more money?

17 A. No.

18 Q. Could they earn overtime for working more?

19 A. No.

20 Q. Has a detainee worker ever tried to negotiate
21 with you about the rate of pay for cleaning their living
22 area?

23 A. Not that I can recall.

24 Q. Could a detainee worker -- strike that.

25 Do detainee workers have discretion to clean

1 outside the facility?

2 A. When you say outside the facility --

3 Q. Yeah, that wasn't -- that wasn't a good one.

4 And I should say that also. I'll probably ask
5 some bad questions today. I'm going to try my best to ask
6 good ones, and certainly let know if you don't understand,
7 just like you did there.

8 I guess what I'm driving at is if a detainee
9 worker says, I don't want to clean my assigned area, I want
10 to clean somewhere else, do they have the discretion to
11 make that call in the moment?

12 A. They can basically quit their job they
13 volunteered for and put another request in to go clean
14 where they want to clean, and then they might join the
15 waiting list and have to wait for one of those spots to
16 open up.

17 Q. That request is seeking authorization though he
18 to clean somewhere else; is that right?

19 MS. MELL: Object to the form of the question.

20 A. So if they're -- just for example, if they're a
21 worker in the living area, and they want to -- they don't
22 want to work in the living area anymore, they can say they
23 want -- they don't want to work anymore. If they're in the
24 living area and want to work in the kitchen, they can --
25 they can still work in the living area and wait. You know,

1 the kitchen usually has a waiting list. They can --
2 sorry -- they can still work in the unit until that job in
3 the kitchen comes available, and then once that job is
4 available, then they can make the decision hey, I want to
5 keep doing this, or no, I do not want to do this anymore,
6 I'm going to take that position in the kitchen.

7 Q. The scenario you've just described though is --
8 involves the detainee worker though requesting to work
9 somewhere else; is that right?

10 MS. Mell: Object --

11 A. Yes.

12 MS. MELL: Object to the form.

13 Q. And they can only work somewhere else if GEO
14 authorizes them to do so?

15 MS. MELL: Object to the form of the question.

16 Q. Is that right?

17 MS. MELL: Object to the form of the question.

18 A. Yes, they need permission to work in certain
19 areas due to classification or whatever.

20 Q. So that's my question. I mean, if a detainee
21 worker was assigned to work in pod A, they couldn't just
22 wake up that day say, you know what, I'm going to clean in
23 the laundry today? They don't have the discretion to do
24 that; is that correct?

25 A. No.

1 MS. MELL: Object to the form.

2 A. No.

3 Q. And when you say no, you're agreeing with me,
4 they lack the discretion to make that call in the moment
5 about where to work?

6 A. I'm answering your question that they cannot
7 decide where they want to go work. They're allowed to work
8 in the area that they're assigned to.

9 Q. You talked about part of your supervision of
10 detainee workers in the living area about did you say
11 making sure that there was signage out?

12 A. Correct.

13 Q. So wet floor signs, for example?

14 A. Yes.

15 Q. So is this an example of you making sure that
16 they're conducting their work in a safe manner?

17 A. Safe for everybody; safe for them, safe for
18 other -- other detainees, safe for officers.

19 Q. Are there safety regulations that you're aware
20 of for the detainee workers working in the living area, or
21 frankly, anywhere in the facility?

22 A. Can you go a little -- explain a little bit
23 further?

24 Q. Sure.

25 All right, well let's ground it then. We're

1 talking about the living area, so let's stick there.

2 Do you train detainee workers about safety when
3 it comes to cleaning in the living areas?

4 A. There's safety data sheets that are available to
5 them that show this chemical, this is what it's for, this
6 is how it's supposed to be used, this is the dilution rate,
7 this is what you need to do if you interact with the
8 chemical, you know, if the chemical gets -- were to get
9 into your eyes, diluted and nondiluted, all that
10 information is available.

11 Q. And as a detention officer, or as sergeant, did
12 you provide that information directly to the detainee
13 workers?

14 A. It's in a book on the desk. Anybody can look at
15 it at any time.

16 Q. My specific question though is, did you provide
17 that to them? Did you -- was there ever a moment at which
18 you affirmatively said, Hey, guys, gals, here are the
19 safety regulations for the work that you're about to do?

20 A. I -- I can't recall. I -- you know, working in
21 a unit, put many people into the work program. I can't
22 force you to read something.

23 Q. When you say you don't recall, is it the case
24 that it may have happened, and you just don't recall, or
25 that doesn't sound like something you would have done?

1 A. It -- I'm -- it probably has happened, but I
2 can't recall a specific date, a specific individual. It's
3 just day-to-day work.

4 Q. All right. Is there anything else that you
5 could think of about the direction and supervision that you
6 provided to detainee workers working in the living areas,
7 beyond what you've already described to me?

8 A. If they need something, you know, whatever they
9 needed to do the job that they needed to do, they can
10 always ask, and we get them the supplies or whatever item
11 they need to do the work to get what they need to do done,
12 if that makes sense.

13 Q. It does.

14 A. Okay.

15 Q. GEO gives them what they need to do the job?

16 A. Correct.

17 Q. Let's talk about -- well, Exhibit-313 talks
18 about evening workers, and says in parentheses, they are
19 facility janitorial.

20 Do you know what that means?

21 A. I don't specifically know what it means.
22 Looking at the classification to the right of that, where
23 it says "Low - Medium High," I'm going to take that as the
24 detainees that work outside after lights out. So the
25 detainees that go and, you know, mop -- dust mop and mop

1 the main hallways that -- throughout the facility.

2 Q. Did you ever direct or supervise detainee
3 workers performing those evening cleaning tasks?

4 A. Yes, just on the basis that you're out on the
5 actual floor while they're working. You're not so hovering
6 over them, Hey, you missed a spot here, or like that, but
7 you're physically out there with them. You can see what
8 they're doing.

9 Q. And that's as a detention officer, where the
10 direction and supervision is more hands on?

11 A. Same as a supervisor. Supervisor would leave
12 the office. He's not stuck in the desk all day.

13 Q. And when you say supervisor, are you referring
14 to sergeant?

15 A. Sergeant, I'm sorry. Sergeant.

16 Q. And laundry, did you provide any direction or
17 supervision to detainee workers working in laundry?

18 A. Yes.

19 Q. Tell me about that.

20 A. They are trained on how to use the washing
21 machine, the dryer, how to clean the equipment.

22 Q. Anything else in terms of the direction and
23 supervision that you provided the detainee workers in the
24 laundry?

25 A. When I personally worked in laundry, I worked

1 with them. So it was very hands on, you know, right next
2 to them.

3 Q. Meaning you were doing the laundry right
4 alongside them?

5 A. Yes.

6 Q. How long did you work in laundry?

7 A. A rough estimate, possibly a year.

8 Q. You said that the detainee workers were trained
9 on how to use the washer and dryer; did I get that right?

10 A. Correct.

11 Q. And this is training that GEO provides to the
12 detainee workers?

13 A. The officer in charge of laundry would be the
14 one doing it.

15 Q. This is GEO's officer; correct?

16 A. Correct.

17 Q. Okay. And that GEO would provide the detainee
18 workers training on how to clean the equipment; correct?

19 A. Correct.

20 When I say clean, I'm not talking about like
21 taking apart the machine, but I'm talking about like the
22 dryers, the lint trap. Not like actually taking apart of
23 machine and cleaning out the machine.

24 Q. Okay. Fair enough.

25 And GEO provided all of the laundry detergent to

1 do the laundry; correct?

2 A. Yes.

3 Q. If a detainee worker had some secret home remedy
4 for how to get out stains, could they use it, or would they
5 have to stick with their training and do the work in the
6 way that GEO's instructed?

7 A. If they did it, I'm not aware of it. You know,
8 if they had, you know, personal soap or something like
9 that, I wasn't aware. My expectation was use what we
10 provide to you.

11 Q. And when you say you weren't aware, you never
12 observed anyone using anything other than what GEO
13 provided; is that fair to say?

14 A. Yeah.

15 Q. All right, we'll look at some job descriptions
16 later on, but I want to keep working through your post.

17 So you said laundry -- maybe I should ask in a
18 more open-ended fashion.

19 Did you ever direct and supervise detainee
20 workers -- strike that.

21 Tell me where else you've directed and
22 supervised detainee workers. We talked about the living
23 areas, we talked about laundry; where else, if anywhere?

24 A. I think I've worked everywhere in the building,
25 so visitation, intake, every unit besides the female unit.

1 laundry shift that you would supervise, for example?

2 A. Roughly one to four.

3 Q. And the cleaning, how long would it take to --
4 for a detainee worker to finish their assignment in the
5 visitation room?

6 A. Approximately 20 to 30 minutes.

7 Q. What about intake?

8 A. I would say roughly the same time, 20 to 30
9 minutes.

10 Q. What about the rec yard?

11 A. I would say just in general, the normal
12 cleaning, just the sweeping, mopping, that type of thing,
13 roughly 20 to 30 minutes in -- in every area.

14 Q. Now, the time estimates that you've just given
15 me, do you base them on your firsthand observation as a
16 detention officer or sergeant?

17 A. Yes.

18 Q. Now, we've talked a lot about the direction and
19 supervision that you provide. What role, if any, does ICE
20 play in directing and supervising the detainee work?

21 A. I believe -- well, they're not -- there's no
22 supervision from an ICE officer, but the only thing I
23 believe is that they set the dollar a day that works into
24 the voluntary worker program.

25 Q. Sure, and we'll certainly talk about the dollar

1 a day, but to my specific question though about the
2 detainee work, to your knowledge, does ICE play any role in
3 directing and supervising the detainee work?

4 MS. MELL: Object to the form of the question.

5 A. No, they may observe if they happen to be in the
6 same area, but specifically, not to my knowledge.

7 Q. You said you've been there for about ten years
8 at the facility? Longer than that.

9 A. October 2009.

10 Q. 2009, okay, yeah, so ten years.

11 In your ten years at the Northwest Detention
12 Center, have you ever observed any ICE personnel directing
13 a detainee worker in their work in the Voluntary Work
14 Program?

15 A. Not to my knowledge.

16 Q. To your knowledge, does ICE play any role in
17 inspecting the areas that detainee workers have cleaned?

18 A. No, not to my knowledge.

19 Q. All right. I deposed Mr. Delacruz yesterday and
20 asked him a lot of questions about the kitchen, and he
21 described for me various detainee shifts. If I remember
22 correctly, he said there was a morning, a lunch, a dinner,
23 and an evening shift.

24 Can you make any broad statements about detainee
25 worker shifts for other areas within the facility?

1 privileges relating to the detainee work status."

2 Do you see that?

3 A. Number 7?

4 Q. Yes.

5 A. Correct.

6 Q. Do detainee workers have the discretion to
7 disregard the rules and regulations as explained by GEO?

8 A. No, but for example, lights out within the
9 building is 11:30. Technically you're supposed to be in
10 your bunk, you know, ready to go to sleep when lights go
11 out. There's people outside working -- not outside, but
12 outside the dormitory working at that time. So that --
13 does that answer your question?

14 Q. Well, it does in a way.

15 So let me -- let me try and rephrase it.

16 I mean, setting aside that narrow example of a
17 detainee worker trying to complete the work, I mean, it's
18 your expectation, as a detention officer and sergeant, that
19 the detainee workers comply with GEO's rules and
20 regulations for the Voluntary Work Program; correct?

21 A. Yes.

22 Q. And in fact, part of the supervision that you
23 provide is to make sure that the detainee workers are
24 complying with GEO's rules and regulations; correct?

25 A. Correct.

1 THE COURT REPORTER: This is Exhibit-314.

2 Q. You've just been handed Exhibit-314.

3 What are we looking at here?

4 A. Volunteer work agreement.

5 Q. Who is this agreement between?

6 A. The detainee and I -- GEO.

7 Q. And have you asked detainee workers to sign a
8 form like this?

9 A. Yes.

10 Q. In fact, this is a regular part of what you do?

11 A. Yes.

12 Q. Let's look at the fourth item there at the top.
13 It says "Unexcused absence, unsatisfactory work
14 performance, or participation in a serious infraction, e.g.
15 fighting, is cause for removal from a work assignment.
16 Workers are expected to be ready for work at the required
17 time."

18 Did I read that correctly?

19 A. Yes. Yes.

20 Q. And do you agree that GEO has the right to
21 remove detainee workers from their work assignment?

22 MS. MELL: Object to the form.

23 A. Yes.

24 Q. Let's look at item 6. It reads, "Detainees must
25 adhere to all safety regulations and to all medical and

1 grooming standards associated with a work assignment."

2 Did I read that correctly?

3 A. Yes.

4 Q. And would you agree with me that the implication
5 is that if they don't adhere to safety regulations and
6 medical and grooming standards, that they can't work?

7 MS. MELL: Object to the form of the question.

8 A. In -- I believe that's specific to a certain
9 area, like the kitchen.

10 Q. Let's look at number 8. "Primary factors that
11 impact hiring are classification level, attitude, behavior,
12 and physical ability to perform the job."

13 Do you see that?

14 A. Yes.

15 Q. Would you agree that GEO has some discretion in
16 who to hire within the Voluntary Work Program?

17 MS. MELL: Object to the form of the question.

18 A. Yes.

19 Q. Is there any sort of skills assessment that you
20 all do before a detainee worker begins working whatever
21 their job assignment may be?

22 A. So I know for the kitchen, they have to be
23 cleared by medical.

24 Q. Do you look for any prior experience?

25 MS. MELL: Object to the form of the question.

1 A. No.

2 This document, if they want to work, they fill
3 this out, and write a request, and that's how it's
4 completed.

5 Q. Do people with prior experience get paid more
6 than people with no prior experience?

7 A. No.

8 Q. And by people, I mean the detainee workers?

9 A. No.

10 Q. So if a detainee worker has a vast amount of
11 experience buffing or waxing floors, they don't make any
12 more than someone that has no experience buffing and waxing
13 floors; correct?

14 A. It's number 7, "Compensation shall be \$1.00 per
15 day."

16 Q. So you're agreeing with me, that detainee
17 workers --

18 A. My -- my answer is they -- whether you have 50
19 years experience or one day experience, the compensation is
20 one dollar per day.

21 MR. WHITEHEAD: Let's take a quick break. I
22 think what I want to do next is a longer patch, so let's
23 break here.

24 THE VIDEOGRAPHER: This is the end of media one.
25 This deposition will continue on media two. The time's

1 11:25. Going off the record.

2 (Recess at 11:25 a.m.)

3 (Reconvened at 11:49 a.m.)

4 THE VIDEOGRAPHER: Back on the record. This is
5 the beginning of media two to the deposition of David
6 Tracy. The time is approximately 11:49.

7 Q. Mr. Tracy, do the various work assignments
8 within the Voluntary Work Program have job descriptions?

9 A. Yes.

10 Q. And are the job descriptions made available to
11 the detainee workers?

12 A. Yes.

13 Q. And they're made available before they request a
14 particular job assignment; is that the case?

15 A. Yes.

16 Q. And that's so they can know what they're getting
17 into in terms of duties and responsibilities?

18 MS. MELL: Object to the form.

19 A. Correct.

20 Q. Is there also an accountability piece to the job
21 descriptions, meaning that if a worker isn't carrying out
22 their specific work duties, everyone will know that that
23 worker's falling short?

24 MS. MELL: Object to the form.

25 A. Not to my knowledge.

1 section called Specific Work Duties. That section Specific
2 Work Duties, is that what GEO expects of the detainee
3 workers in terms of their duties and responsibilities?

4 MS. MELL: Object to the form of the question.

5 A. I don't know what GEO expects. If I was the
6 officer in the barbershop, this is what I would expect for
7 myself and the detainee workers.

8 Q. And that's true of each of the job descriptions
9 where we look at the specific work duties, that those will
10 be the work duties that the detainee worker would be
11 responsible for?

12 A. Correct.

13 Q. Now, taking that first page, in your experience
14 as a detention officer and a sergeant at the Northwest
15 Detention Center, do detainee workers working in the
16 barbershop have discretion to deviate from the specific
17 work duties that are shown there on the first page of
18 Exhibit-315?

19 MS. MELL: Object to the form of the question.

20 A. I have never worked in a barbershop.

21 Q. Setting that aside, of what you know of the
22 facility and your work as a detention officer, and a
23 sergeant, and having looked at other job descriptions,
24 would detainee workers be allowed to deviate from their
25 specific work duties?

1 MS. MELL: Object to the form of the question.

2 A. If these are the specific work duties, this is
3 what is expected.

4 Q. So let's look at the second bullet there, "Apply
5 clipper oil after each cleaning."

6 Do you see that?

7 A. Yes.

8 Q. Would a detainee worker have the discretion to
9 disregard that instruction?

10 MS. MELL: Object to the form of the question.

11 A. No, if it says they're supposed to apply clipper
12 oil after each cleaning, the expectation is to apply
13 clipper oil after each cleaning.

14 Q. Let's look a couple bullets down. It says
15 "Towels will not be used."

16 Do you see that?

17 A. Yes.

18 Q. Could a detainee worker decide hey, I'm going to
19 use towels?

20 MS. MELL: Object -- object to the form of the
21 question.

22 A. They can make any decision they want to make.
23 The ramification is that they probably aren't going to work
24 in the barbershop anymore.

25 Q. And that's the case, GEO's there, the detention

1 Q. Detainee workers working in the barbershop don't
2 have discretion to cut hair in the yard, do they?

3 MS. MELL: Object to the form of the question.

4 A. No.

5 Q. GEO directs them to cut hair in the barbershop;
6 correct?

7 A. Correct.

8 Q. And provides the space for them to do so;
9 correct?

10 A. Correct.

11 Q. And provides the scissors for them to cut hair?

12 A. I don't know if they have scissors, clippers.

13 Q. Provides the equipment for them to cut hair?

14 A. Correct.

15 Q. Detainee workers aren't allowed to use their own
16 equipment in the barbershop; is that right?

17 A. Correct.

18 Q. Detainee workers working as barbers don't get
19 paid more if they have preexisting skill as a barber; is
20 that right?

21 A. Every person that works gets a dollar per day is
22 the compensation.

23 Q. So you're agreeing with me then that regardless
24 of preexisting skill as a barber, they don't get paid more?

25 MS. MELL: Object to the form.

1 A. I'm telling you that just like I said earlier,
2 50 years experience or one day experience, the compensation
3 rate is a dollar per day.

4 Q. There's no opportunity for the barbers to make
5 more if they are doing a more complex haircut or hair
6 styling; correct?

7 A. No.

8 Q. And when you say no, you're agreeing with me,
9 they can't make more?

10 A. The compensation is one dollar per day, no more.

11 Q. Are there any GEO barbers at the Northwest
12 Detention Center?

13 A. Officers?

14 Q. Correct.

15 A. No.

16 I don't know if they cut hair outside on their
17 own time. I'm sure somebody does, but --

18 Q. Have you --

19 A. -- they don't cut detainee hair.

20 Q. I'm sorry, I cut you off there.

21 Have you ever observed GEO personnel cutting
22 hair at the Northwest Detention Center?

23 A. No.

24 Q. Are you aware of GEO personnel cutting hair at
25 the Northwest Detention Center?

1 A. No.

2 Q. If detainee workers didn't cut hair at the
3 Northwest Detention Center, who would?

4 MS. MELL: Object to the form of the question.

5 A. I -- I don't know.

6 Q. GEO would have to find someone; correct?

7 MS. MELL: Object to the form of the question.

8 A. I don't know.

9 Q. All right, let's look at the next page of
10 Exhibit-315. This is a detainee job description for
11 barbershop cleaner.

12 Are you with me?

13 A. Yes.

14 Q. Looking at that first bullet, it states "Clean
15 Clippers by turning clippers off, brush hair from blades,
16 turn clippers back on and spray liberally with H42 cleaner
17 until blades are clear of all foreign matter."

18 Do you see that?

19 A. Yes.

20 Q. Would you agree that GEO is directing barbershop
21 cleaners to use H42 cleaner?

22 A. That's how I read it.

23 Q. Do detainee barbershop cleaners have discretion
24 to use a different type of cleaner in cleaning the
25 clippers?

1 A. Based on this sentence you just read me, no.
2 I've never worked in the barbershop, so the first time I am
3 seeing in this. I can only answer with what I read. It
4 says that they're supposed to use H42, that's what they're
5 supposed to use.

6 Q. And is it fair to assume that GEO would provide
7 the H42 cleaner to the detainee barbershop cleaners?

8 A. Yes.

9 Q. Are you aware of any GEO personnel working as
10 barbershop cleaners?

11 A. Not -- no.

12 Q. Let's look at the next page. This is the third
13 page of Exhibit-315. It's a detainee job description for
14 medical cleaning.

15 Are you there?

16 A. Yes.

17 Q. Now, towards the top here, this one says "Pay
18 Scale Grade: Unskilled."

19 Do you see that?

20 A. Yes.

21 Q. What does that unskilled mean?

22 A. I don't know. I didn't create the form. I
23 don't know what the intentions of it is or why it's there.

24 Q. Have you ever seed that -- seen that notation
25 before on job descriptions, unskilled?

1 A. If you continue to flip through the pages, it's
2 on every single one except for the barbershop.

3 Q. Let's look at the specific work duties for the
4 medical cleaning job description. The first item there
5 says "Dust Medical Offices."

6 Do you see that?

7 A. Yes.

8 Q. Could the medical cleaners clean in an area
9 other than the medical offices?

10 A. I don't believe they clean in the medical
11 offices.

12 Q. Could the medical cleaners dust anywhere other
13 than the medical offices?

14 A. In the hallways, in the cells, behind the
15 counter, in the corners of the door, down the hallway, the
16 window sills in medical.

17 Q. Well, my question then is, could they clean
18 outside of medical if they weren't assigned?

19 A. If their job title is medical cleaning, no. I
20 mean, they -- they can clean inside the unit if they want
21 to.

22 Q. I guess I'm not phrasing this very well.
23 I mean, the job description is for medical
24 cleaning. The expectation is that they clean the medical
25 unit; correct?

1 A. Yes. Correct.

2 Q. And then it goes on to list about vacuuming,
3 mopping, cleaning. GEO provides all of the materials
4 necessary to carry out those tasks; correct?

5 A. Correct.

6 Q. And in looking at these specific work duties,
7 GEO is directing the medical cleaners to dust, to vacuum,
8 to mop, to clean the toilets, to remove the trash; correct?

9 A. Those are the work duties, yes.

10 Q. Now, looking at this medical cleaning job
11 description, there's a section called Termination.

12 Do you see that?

13 A. Yes.

14 Q. The first item says "Failure to follow CSC staff
15 instructions."

16 What is CSC staff?

17 A. I don't know. I've never seen this form before.

18 Q. But to my question, CSC, have you ever seen that
19 acronym before?

20 A. Probably sometime in my life, but I don't know
21 what it refers to here.

22 Q. Looking at the next item down, it says "Failure
23 to follow safety procedures."

24 Would you agree that failure to follow safety
25 procedures could lead to termination?

1 A. Yes.

2 Q. Item 3 says "Excessive absenteeism."

3 Would you agree that excessive absenteeism could
4 lead to termination of the medical cleaners?

5 A. Yes.

6 Q. Would you agree that misconduct and horseplay
7 could lead to termination of the medical cleaners?

8 A. Yes.

9 Q. Would you agree that theft could lead to
10 termination of the medical cleaner?

11 A. Yes.

12 Q. Would you agree that unsatisfactory work
13 performance could lead to termination of the medical
14 cleaner?

15 A. Yes.

16 Q. And it's GEO that decides if any of these
17 fireable offenses have occurred --

18 MS. MELL: Object --

19 Q. -- is that the case?

20 MS. MELL: Object to the form.

21 A. It could be anybody. If two people are
22 fighting, and a nurse walks by, they're not going to ignore
23 the fighting, they're going to tell somebody.

24 Q. That nurse would be GEO staff though; correct?

25 A. No.

1 MS. MELL: Object to the form.

2 Q. No?

3 All right, well let's take item 6 there,
4 "Unsatisfactory work performance," who would make that
5 determination?

6 A. An officer.

7 Q. That's a GEO officer; correct?

8 A. Correct.

9 Q. And what about failure to follow safety
10 procedures leading to termination, who would make that
11 call?

12 A. GEO.

13 Q. Now, the medical cleaners, could they make more
14 money if they were excellent cleaners?

15 A. Compensation for any job in the facility is one
16 dollar per day, whether they are an excellent cleaner, not
17 such a good cleaner, they have been cleaning for 50 years,
18 if this is the first day they picked up a mop, compensation
19 is one dollar per day, not more, not less.

20 Q. Have you ever requested a pay raise, so to
21 speak, for any of the detainee workers that you've
22 supervised?

23 A. No.

24 Q. Have you ever inquired with -- within your chain
25 of command, to the lieutenant or the captain, about whether

1 or not GEO could pay detainee workers more than a dollar a
2 day?

3 A. No.

4 Q. Now, if the detainee workers didn't carry out
5 the medical cleaning described on page 3 of Exhibit-315,
6 who would?

7 A. I don't know.

8 Q. Are you aware of any GEO personnel that is
9 responsible for cleaning the medical unit?

10 A. GEO has janitors.

11 Q. How many janitors does GEO have?

12 A. I'm not sure. There were three at one point.

13 Q. And would that be three working all at once, or
14 three spread out across various shifts?

15 A. I don't know their schedule.

16 Q. How many janitors does GEO have right now?

17 A. I'm not sure.

18 Q. Can you name any of them for me?

19 A. Last name.

20 Q. Sure, who?

21 A. Edgecomb.

22 Q. Spell that for me.

23 A. Edgecomb, E-D-G-E-C-O-M-B, I believe. That's
24 just a guess.

25 Q. So Edgecomb.

1 A. Nguyen.

2 Q. Spell that one for me.

3 A. N-G-U-Y-E-N, guessing.

4 Q. Anyone else?

5 A. Not that I can think of.

6 Q. Now, the -- you said that Mr. Edgecomb and Mr.
7 Nguyen are current janitors?

8 A. Correct.

9 Q. Can you distinguish for me the work that these
10 two do as opposed to the janitorial services that the
11 detainee workers do?

12 MS. MELL: Object to the form.

13 A. They have access to parts of the facility where
14 detainees wouldn't be able to go.

15 Q. Are you aware of any other distinction?

16 A. Not to my knowledge. I'm not a janitor. I'm
17 not sure what the difference is.

18 Q. And as you sit here today, the first thing that
19 you can think of though is that the janitors have access to
20 areas that the detainee workers can't go; correct?

21 MS. MELL: Object to form.

22 A. Correct.

23 They also have keys.

24 Q. Can you tell me the areas that the janitors can
25 go that the detainee workers can't?

1 A. Would you like a list or --

2 Q. Sure.

3 A. Break room, male locker room, female locker
4 room, courts, immigration, warehouse, maintenance, loading
5 dock, front lobby, employee restrooms, visitation
6 restrooms, outside in the dog run, perimeter, upstairs in
7 immigration, through emergency doors, parking lot, on the
8 property.

9 I'm sure there's more, I just --

10 Q. But the common theme though among all the items
11 that you just listed for me is that detainees can't go
12 there?

13 A. Correct.

14 Q. Now, are you aware of the janitors cleaning in
15 areas that detainees have access to?

16 A. Medical, but parts that they wouldn't have
17 access to.

18 Q. All right, so again, are you aware of the
19 janitors cleaning areas that the detainee workers have
20 access to?

21 A. I mean, if they see something on the ground,
22 they might pick it up, if you consider that cleaning, but I
23 would think all the officers would do the same thing. So
24 technically, we all clean.

25 Q. I get that, and that certainly makes sense. I

1 mean, if there was a piece of trash in Ms. Mell's hallway,
2 I would pick it up and throw it away for her.

3 But my specific question is whether or not you
4 observed the janitors cleaning in let's say a pod, for
5 example?

6 A. No.

7 Q. Have you observed the janitors cleaning in the
8 laundry room?

9 A. No.

10 Q. Have you observed the janitors cleaning in the
11 kitchen?

12 A. No.

13 Q. And these are all areas that the detainees have
14 access to?

15 A. Correct.

16 Q. So is it fair to say that the detainee workers
17 clean the areas that they have access to, and that the
18 janitors clean the areas that the detainee workers do not
19 have access to?

20 A. Correct.

21 MS. MELL: Object.

22 Q. And in your ten years at the facility, has the
23 number of janitors been constant? You mentioned that there
24 were three, but you named two for me --

25 A. There was three, and I believe one retired.

1 might not be an everyday thing, but it's a possibility they
2 could be asked to do that. It's a -- it's a work duty they
3 may be asked to do.

4 Q. And looking as page 4 there of Exhibit-315, we
5 see the section there at the bottom Termination.

6 Do you see that?

7 A. Yes.

8 Q. Is it the case then that general workers could
9 be fired for excessive absenteeism?

10 A. Yes.

11 Q. Could they be fired for misconduct and
12 horseplay?

13 A. Yes.

14 Q. Could they be fired for theft?

15 A. Yes.

16 Q. Could they be fired for unsatisfactory work
17 performance?

18 A. Yes.

19 Q. Could they earn more if they were really good at
20 their job?

21 A. Compensation for any job is one dollar per day.

22 Q. So that's no, they can't earn more?

23 A. No. Compensation's one dollar per day.

24 Q. And it's the case that GEO provides all of the
25 equipment and cleaning materials necessary for the general

1 workers to do their job?

2 A. Correct.

3 Q. Can the general workers work outside the
4 Northwest Detention Center?

5 A. What do you mean by outside?

6 Q. Well, let me put it this way: In your ten years
7 at the facility, are you aware of any detainee worker
8 working for another company outside the detention center?

9 A. While they're being detained?

10 Q. Yes.

11 A. No.

12 Q. So there's no opportunity then for a detainee
13 worker to say, I don't want to work for GEO, I want to work
14 down the street?

15 MS. MELL: Object to the form of the question.

16 A. No. It's a secured facility. They can't leave
17 and come as they want to.

18 Q. They have to stay?

19 A. Correct.

20 Q. And you mentioned sometimes with the general
21 workers that -- no, strike that.

22 Let's look at the next page of Exhibit-315.

23 This is page 5. This is for laundry worker.

24 Are you there?

25 A. Yes.

1 Q. Would you agree that those are the specific work
2 duties of detainee workers in the laundry department?

3 A. Yes.

4 Q. And when you were working as the detention
5 officer in laundry, that's what you expected of the
6 workers; correct?

7 A. Correct.

8 Q. And they didn't have the discretion to deviate
9 from their specific work duties; is that the case?

10 A. That's the job duties, that's what was expected.

11 Q. GEO provided all of the equipment and materials
12 needed for them to do their jobs as laundry workers?

13 A. Correct.

14 Q. And they couldn't do their laundry work outside
15 of the laundry unit?

16 MS. MELL: Object to the form of the question.

17 A. No.

18 Q. They couldn't, for example, take a load of
19 laundry and fold it in the yard?

20 A. No.

21 Q. Is there a third-party service that does laundry
22 at the Northwest Detention Center?

23 MS. MELL: Object to the form.

24 A. Not to my knowledge.

25 Q. If the detainee workers didn't do laundry, who

1 would?

2 A. I -- I don't know.

3 Q. And then we also see here on the laundry worker
4 job description a list of fireable offenses.

5 Do you see that?

6 A. Correct.

7 Q. Do you agree that failure to follow safety
8 procedures could lead to termination of laundry workers?

9 A. Yes.

10 Q. Excessive absenteeism?

11 A. Yes.

12 Q. Misconduct and horseplay?

13 A. Yes.

14 Q. Theft?

15 A. Yes.

16 Q. And unsatisfactory work performance?

17 A. Yes.

18 Q. And with any of the job descriptions that we've
19 seen, can detainee workers change the job duties?

20 A. They cannot change the job duties.

21 Q. Can they negotiate for more pay?

22 A. No, compensation is a dollar per day.

23 Q. What is a pod porter?

24 A. Be a detainee who -- pod porter?

25 Q. Yes.

1 eventually end up with this?

2 A. Correct.

3 Q. These questions are going to be similar, but I'm
4 going to ask again.

5 Do the pod porters have discretion to deviate
6 from the job duties that are listed here?

7 A. No. These are the expectations. This is what's
8 expected.

9 Q. And the pod porters use the materials provided
10 by GEO; correct?

11 A. Correct.

12 Q. And they clean in the areas that GEO tells them
13 to clean in; correct?

14 A. For a pod porter. It's the common areas of the
15 living area.

16 Q. Looks like there are -- well, let me back up.

17 Is it the case then that a pod porter is
18 expected to clean in each of these areas, or do they have a
19 specific area?

20 A. So it's a specific area.

21 Q. So let's take the first one for example, shower
22 cleaners. So a particular pod porter could be assigned to
23 clean the showers only; is that the case?

24 A. Correct.

25 Q. And then a different pod porter or detainee

1 worker could be assigned to clean the bathrooms and
2 bathroom cell?

3 A. Correct.

4 Q. So let's say a pod porter assigned to clean the
5 shower --

6 A. Mm-hm.

7 Q. -- do they have discretion to clean the bathroom
8 instead?

9 A. That's not their job. They can clean whatever
10 they want inside the unit, their job is shower cleaner. So
11 they can help wherever they want to clean, they can clean
12 on their own time because they want, they like it, they
13 enjoy it, it gives them something to do, but that's their
14 main -- that's their job, shower cleaner.

15 Q. And if they clean more, right, they don't make
16 more money?

17 A. No.

18 Q. Is it the case then that the detainee worker
19 signs this form that is Exhibit-316 and then to the
20 detention officer signs as well?

21 A. Correct.

22 Q. And GEO fires pod porters if they fail to do
23 their job; is that correct?

24 A. Correct.

25 Q. Now, if the detainee workers didn't clean the

1 pods, who would?

2 A. I -- I don't know.

3 Q. Do you think the detainee workforce is an
4 important part of carrying out the operations at the
5 Northwest Detention Center?

6 MS. MELL: Object to the form of the question.

7 A. I think it's a benefit to the population. They
8 gain some -- a sense of pride from it, they gain the sense
9 of I'm not stuck here. It gives them -- you know, just
10 like everybody else, you know, everybody else works. You
11 know, they have their normal job, that type of thing. This
12 gives them a sense of I'm not just stuck in here, I have
13 this, this objective or goal that I have to do. And it
14 helps them out financially. I think it's a benefit to --
15 sorry -- the population overall.

16 Q. Do you think GEO gets something out of it too
17 though?

18 MS. MELL: Object to the form of the question.

19 A. I'm sure they do.

20 Q. I guess that's what I'm driving at. I mean, do
21 you think that the work that GEO gets from the detainee
22 workers is important?

23 MS. MELL: Object to the form of the question.

24 A. Yes.

25 Q. It's important to the operation of the facility?

1 MS. MELL: Object to the form of the question.

2 A. Correct.

3 Q. What is a detainee worker pay sheet?

4 A. It's a -- I don't -- do you -- do you have one?

5 Q. I do.

6 A. Okay, cool. Because it's easier to explain
7 it --

8 Q. Let's do it that way.

9 A. -- instead of trying to explain it --

10 Q. Yeah, no it's not --

11 A. -- you hand it to me.

12 Q. It's not a gotcha question.

13 Hold on, let me --

14 A. Basically it's a sheet, once they've completed
15 their task or their job for the day, they sign the sheet
16 saying I've done, you know, whatever my job is, I've
17 completed it for the day. And it gets turned in every
18 night.

19 Q. Oh, I guess we used it yesterday. Give me a
20 second.

21 Exhibit-308, please.

22 Okay. All right, you've just been handed
23 Exhibit-308.

24 A. Thank you.

25 Q. Is this an example of a detainee worker pay

1 sheet?

2 A. Yes.

3 Q. Let's look at the top there of Exhibit-308.

4 That last bullet, it says "By detainee signature staff" --
5 excuse me, let try that again. Strike that.

6 Let's look at the last bullet there at the top
7 of Exhibit-308. It says, "By detainee signature staff is
8 affirming that the following have been evaluated and met
9 acceptable standards: the job was completed, detainee
10 maintained a good attitude, and the detainee began work on
11 time."

12 Did I read that correctly?

13 A. I believe so.

14 Q. Was that your understanding when a detainee
15 signed off, it was the staff affirming that the detainee
16 had done their job?

17 A. We hold this paper, it's in the desk, or
18 wherever it may be, so us giving it to them and having them
19 sign it.

20 Q. Well, let me ask a different way.

21 When and why do detainees sign off on this form?

22 MS. MELL: Object to the form of the question.

23 A. It's verifying that the work was done.

24 Q. In that way then is this a sort of roll sheet so
25 that you have a record of whether or not the work was

1 actually done?

2 A. Correct.

3 And it's -- you know, it's a paper trail so, you
4 know, if you're a detainee, you worked last week, and you
5 never got paid, you didn't get your dollar or whatever --

6 Q. Mm-hm.

7 A. -- I could find, Oh, you didn't sign it.

8 And then I would -- you know, if I was in there
9 that day, I can verify you worked, and I can write a memo
10 saying oh, it got turned in before he signed it, or he was
11 somewhere else when -- and never got a chance to sign it,
12 if that makes sense.

13 Q. To your knowledge, did ICE ever play any role in
14 assigning detainees to work assignments within the
15 facility?

16 A. Not to my knowledge.

17 Q. To your knowledge, did ICE ever play any role in
18 terminating a detainee from a work assignment?

19 A. Not to my knowledge, besides them leaving the
20 facility.

21 Q. Who sets the detainee worker schedule?

22 A. I am not positive.

23 Q. Let's take a look at Exhibit-309.

24 THE WITNESS: Do you need this back? It's from
25 someone else.

1 since I started there, so I don't know who created it, who
2 put it into the play, but ...

3 Q. Would it be fair to say then it's a GEO-approved
4 schedule?

5 A. Yeah. Yes.

6 Q. All right, so there's a GEO-approved schedule
7 for detainee workers; correct?

8 A. Correct.

9 Q. And GEO provides detainee workers the training
10 they need to do their jobs; correct?

11 A. Correct.

12 Q. GEO provides them the equipment they need to do
13 their job; correct?

14 A. Correct.

15 Q. The detainee workers aren't allowed to deviate
16 from their job duties; correct?

17 A. Correct.

18 Q. GEO supervises the detainee workers as they go
19 about their work; correct?

20 A. Like I said earlier, they're not standing over
21 there supervising them that specific task, there's
22 supervision while multitasking throughout the day.

23 Q. If a detainee worker fails to carry out their
24 job duties or goes about them in an unsafe way, GEO can
25 fire them; correct?

1 MS. MELL: Object to the form of the question.

2 A. Yeah.

3 MR. WHITEHEAD: All right, let's take one more
4 break.

5 THE VIDEOGRAPHER: Going off the record. The
6 time is 12:38.

7 (Recess at 12:38 p.m.)

8 (Reconvened at 12:48 p.m.)

9 THE VIDEOGRAPHER: Back on the record. The time
10 is 12:48.

11 Q. Mr. Tracy, earlier you told me about two
12 janitors by name that work at the Northwest Detention
13 Center; do you recall giving that testimony?

14 A. Yeah, Edgecomb and Nguyen.

15 Q. Do you know how much they're paid?

16 A. I have no idea.

17 Q. Mr. Tracy, I know I've asked you some pointed
18 questions today, but have I been fair with you?

19 MS. MELL: Objection. You don't have to answer
20 that. You don't -- don't answer that. No. You don't have
21 to answer that question.

22 Are you done?

23 Q. Yeah, I thought it was a fair question, but
24 if -- are you going to take the advice of counsel?
25 Ultimately it's your decision about whether or not you're

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C-E-R-T-I-F-I-C-A-T-E

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, the undersigned Registered Professional Reporter and Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me, pursuant to RCW 5.28.010, to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December, 2019.

Heidi A. Aspelund



NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

WHITEHEAD DECLARATION
EXHIBIT J
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT K

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of all)
those similarly situated,)
Plaintiffs,)
vs.) No. 17-cv-05769-RJB
THE GEO GROUP, INC., a Florida)
corporation,)
Defendant.)

Videotaped
Deposition Upon Oral Examination of
BRUCE A. SCOTT JR.

9:39 a.m.
Monday, December 9, 2019
1019 Regents Blvd., Suite 204
Fircrest, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 Q. Would you ever contact ICE on your own accord
2 about contract compliance issues?

3 A. No.

4 Q. All right, so this was always ICE contacting you
5 to make sure that GEO was in compliance?

6 MS. MELL: Object to the form.

7 A. ICE never contacted me directly. I would get
8 communications through the facility administrators.

9 Q. And who are the facility administrators?

10 A. There are lots of facilities. For example,
11 Stephen Langford is the facility administrator at the
12 Northwest ICE Processing Center.

13 Q. And I hear you saying the Northwest ICE
14 Processing Center; is that the term that you're using?

15 A. Yes.

16 Q. Okay. And that refers to what was previously
17 known as the Northwest Detention Center?

18 A. Previously known as Northwest Detention Center.

19 Q. When was the name change made?

20 A. Name change was made, I don't remember the exact
21 date, but sometime late last year --

22 Q. Do you know what prompted the change?

23 A. -- or this year. This is December.

24 I don't know what prompted the change.

25 Q. And tell me, how do you know that the name

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C-E-R-T-I-F-I-C-A-T-E

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, the undersigned Registered Professional Reporter and Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me, pursuant to RCW 5.28.010, to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2019.

Heidi A. Aspelund



NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

WHITEHEAD DECLARATION
EXHIBIT L

ICE/DRO DETENTION STANDARD

VOLUNTARY WORK PROGRAM

I. PURPOSE AND SCOPE. This Detention Standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security and good order.

While not legally required to do so, ICE/DRO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This Detention Standard applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security, and good order.
2. Detainees will be able to volunteer for work assignments but otherwise not be required to work, except to do personal housekeeping.
3. Essential operations and services will be enhanced through productivity from detainees.
4. The negative impact of confinement will be reduced through less idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions will comply with all applicable federal, state, and local work safety laws and regulations.
6. There will be no discrimination regarding voluntary work program access based on any detainee's race, religion, national origin, gender, sexual orientation, or disability.
7. The applicable contents and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Voluntary Work Program** dated 9/20/2000.

This Detention Standard incorporates the requirements regarding detainees' being assigned to work outside of a facility's secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (2/2/2004).

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

Environmental Health and Safety National Detention Standard

Food Service National Detention Standard

V. EXPECTED PRACTICES

A. Voluntary Work Program

Detainees who are physically and mentally able to work shall be provided the opportunity to participate in any voluntary work program.

The detainee's classification level shall determine the type of work assignment for which he/she is eligible.

Level 3 detainees shall not be given work opportunities outside their housing units/living areas.

B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure perimeter of local jails and facilities used under Intergovernmental Service Agreements.

In SPCs and CDFs, only detainees classified as Level 1 (or the facility's equivalent "Low" custody designation) may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of not less than one staff member to four detainees. The detainees shall be within sight and sound of that staff member at all times.

C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

In SPCs and CDFs, detainees are required to maintain their immediate living areas in a neat and orderly manner by:

- *Making their bunk beds daily,*
- *Stacking loose papers,*
- *Keeping the floor free of debris and dividers free of clutter, and*

- *Not hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures, or other furniture.*

D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules will be recorded in a facility procedure that will include a voluntary work program agreement. The voluntary work program agreement will document the facility's program and will be in compliance with this Detention Standard.

In SPCs and CDFs, the primary factors in hiring a detainee as a worker shall be his or her classification level and the specific requirements of the job:

- *Staff shall present the detainee's name and A-number to the shift supervisor or the requesting department head.*
- *The shift supervisor or department head shall review the detainee's classification and other relevant documents in the detainee's detention file and/or A-file.*
- *The shift supervisor or department head shall assess the detainee's language skills as it affects the detainee's ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities should be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.*
- *Inquiries to staff about the detainee's attitude and behavior may be used as a factor in the supervisor's selection.*

*Staff shall explain the rules and regulations as well as privileges relating to the detainee worker's status. The detainee is required to sign a **voluntary work program agreement** before every new assignment. Completed agreements shall be filed in the detainee's detention file*

E. Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve such tasks as digging trenches, removing topsoil and other labor-intensive work.

F. Discrimination in Hiring Prohibited

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, gender, sexual orientation or disability.

G. Physically and Mentally Challenged Detainees

While medical or mental health restrictions may prevent some physically or mentally challenged detainees from working, those with less severe disabilities shall have the opportunity to participate in the voluntary work program in appropriate work assignments.

- The selecting official must consider the precise limitations of a disabled individual before rejecting that individual for selected work assignments.

- Expediency or convenience is insufficient justification to reject or “pigeonhole” a detainee who, with reasonable accommodation, can perform essential functions of the work assignment.
- In disputed cases, the selecting official shall consult medical personnel to ascertain the detainee's suitability for a given project.

H. Hours of Work

Detainees who participate in the volunteer work program are required to work according to a fixed schedule.

In SPCs and CDFs, the normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

I. Number of Details in One Day

The facility administrator may restrict the number of work details permitted a detainee during one day.

In SPCs and CDFs, a detainee may participate in only one work detail per day.

J. Facilities That Detain Criminal Aliens

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

In SPCs and CDFs, the compensation is \$1.00 per day. Ordinarily, it is to be paid daily, unless the facility has a system in place that ensures detainees receive the pay owed them before being transferred or released.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for such causes as:

- Unsatisfactory performance;
- Disruptive behavior, threats to security, etc.;
- Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition;
- Prevention of injuries to the detainee;
- A removal sanction imposed by the Institutional Disciplinary Panel for an infraction of a facility rule, regulation, or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

M. Detainee Responsibility

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

In SPCs and CDFs, the detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

- The detainee shall perform all assigned tasks diligently and conscientiously.
- The detainee may not evade attendance and performance standards in assigned activities or encourage others to do so.
- The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor's instructions.
- In the event of a work-related injury, the detainee shall notify the work supervisor who shall immediately implement injury response procedures.

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The facility administrator shall ensure that all department heads develop and institute, in collaboration with the facility's safety/training officer, appropriate training for all detainee workers.

1. *In SPCs and CDFs the voluntary work program shall operate in compliance with:*
 - *Occupational Safety and Health Administration (OSHA) regulations.*
 - *National Fire Protection Association 101 Life Safety Code*
 - *American Correctional Association Standards for Adult Local Detention Facilities, current edition*
 - *International Council Codes (ICC)*

Each facility administrator's designee is responsible for providing every SPC and CDF in his or her jurisdiction access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials including:
 - Safety features and practices demonstrated by the supervisor
 - Recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors. Staff and detainees that do not read English will not be authorized to work

with hazardous materials.

- A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement shall be placed in the detainee's detention file.

3. For a food service assignment, medical staff, in conjunction with the Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
4. The facility shall provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. *The facility administrator shall ensure that the facility operates in compliance with all applicable standards.*

O. Detainee Injury and Reporting Procedures

The facility administrator shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/DRO.

In SPCs and CDFs, if a detainee is injured while performing his or her work assignment:

1. *The work supervisor shall immediately notify the facility medical staff. In the event that the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.*
2. *First aid shall be administered when necessary.*
3. *Medical staff shall determine what treatment is necessary and where that treatment shall take place.*
4. *The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee's detention file and A-file.*

Standard Approved:

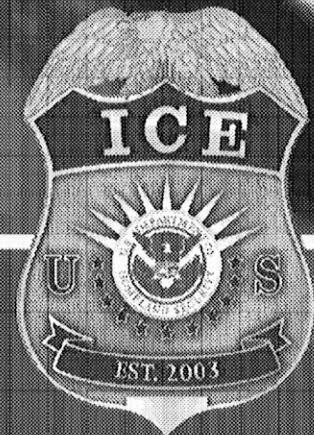
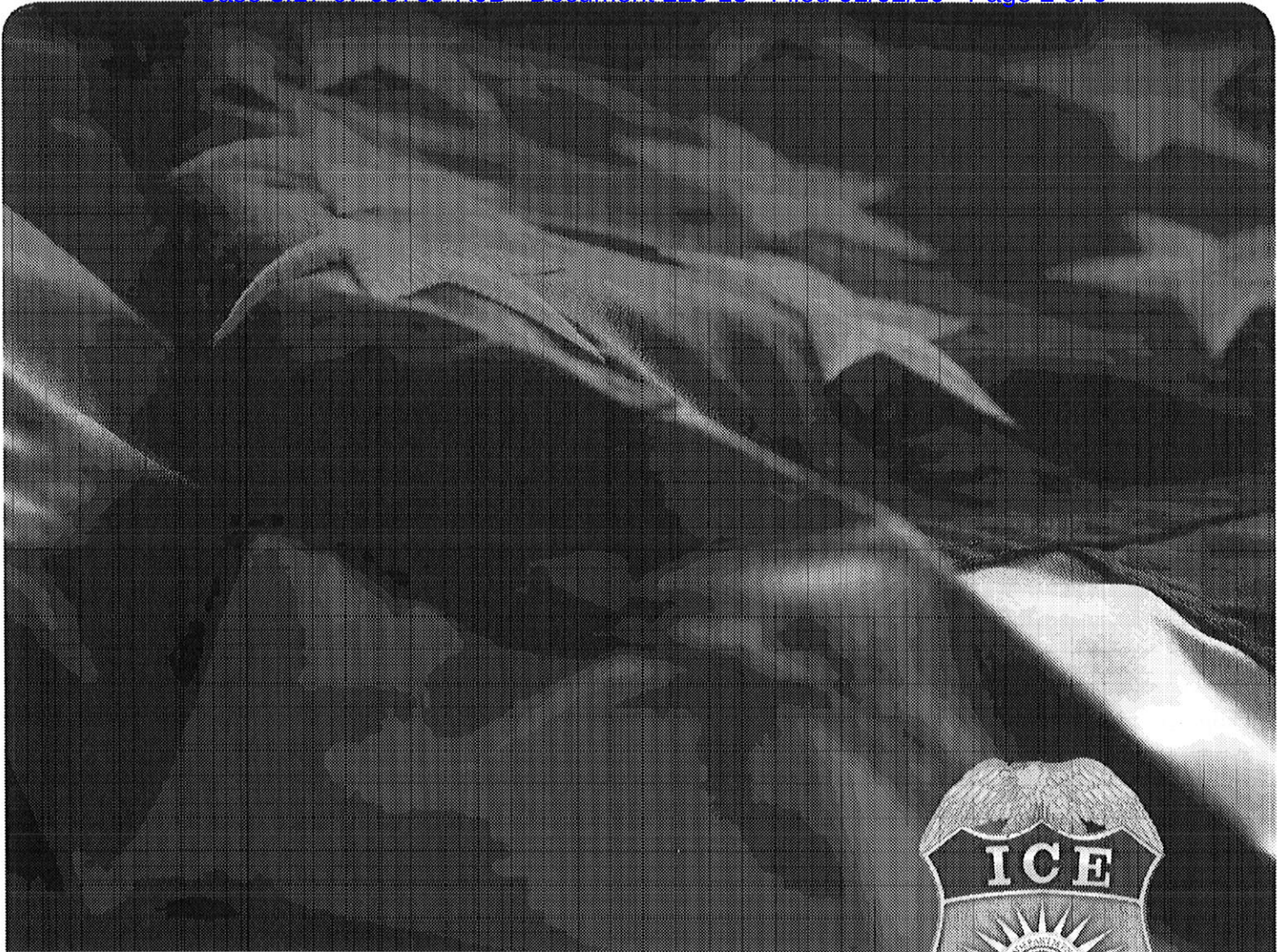
James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date

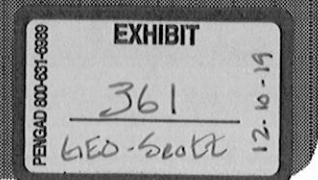
WHITEHEAD DECLARATION
EXHIBIT M



Performance-Based National Detention Standards 2011



U.S. Immigration
and Customs
Enforcement



Preface

In keeping with our commitment to transform the immigration detention system, U.S. Immigration and Customs Enforcement (ICE) has revised its detention standards. These new standards, known as the Performance-Based National Detention Standards 2011 (PBNDS 2011), are an important step in detention reform.

ICE is charged with removing aliens who lack lawful status in the United States and focuses its resources on removing criminals, recent border entrants, immigration fugitives, and recidivists. Detention is an important and necessary part of immigration enforcement. Because ICE exercises significant authority when it detains people, ICE must do so in the most humane manner possible with a focus on providing sound conditions and care. ICE detains people for no purpose other than to secure their presence both for immigration proceedings and their removal, with a special focus on those who represent a risk to public safety, or for whom detention is mandatory by law.

The PBNDS 2011 reflect ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose. The PBNDS 2011 are crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with no or

limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation.

The PBNDS 2011 are also drafted to include a range of compliance, from minimal to optimal. As such, these standards can be implemented widely, while also forecasting our new direction and laying the groundwork for future changes.

In closing, I would like to thank the ICE employees and stakeholders who provided significant input and dedicated many hours to revising these standards. I appreciate the collaboration and support in this important mission - reforming the immigration detention system to ensure it comports with our national expectations. The PBNDS 2011 are an important step in a multiyear process and I look forward to continued collaboration within ICE, with state and local governments, nongovernmental organizations, Congress, and all of our stakeholders as we move forward in reforming our detention system.

John Morton
Director

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5.8 Voluntary Work Program

I. Purpose and Scope

This detention standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of the safety, security and good order of the facility.

While not legally required to do so, ICE/ ERO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of the safety, security and

good order of the facility.

2. Detainees shall be able to volunteer for work assignments but otherwise shall not be required to work, except to do personal housekeeping.
3. Essential operations and services shall be enhanced through detainee productivity.
4. The negative impact of confinement shall be reduced through decreased idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions shall comply with all applicable federal, state and local work safety laws and regulations.
6. There shall be no discrimination regarding voluntary work program access based on any detainee’s race, religion, national origin, gender, sexual orientation or disability.
7. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or

who is illiterate.

III. Standards Affected

This detention standard replaces “Voluntary Work Program” dated 12/2/2008.

This detention standard incorporates the requirements regarding detainees’ assigned to work outside of a facility’s secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) (11/2/2004).

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “1.2 Environmental Health and Safety”; and
- “4.1 Food Service.”

V. Expected Practices

A. Voluntary Work Program

Detainees shall be provided the opportunity to participate in a voluntary work program. The detainee’s classification level shall determine the type of work assignment for which he/she is eligible. Generally, high custody detainees shall not be given work opportunities outside their housing/units/living areas. Non-dedicated IGSA’s will have discretion on whether or not they will allow detainees to participate in the voluntary work program.

B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure

perimeter of non-dedicated IGSA facilities.

In SPCs, CDFs, and dedicated IGSA’s, low custody detainees may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of no less than one staff member to four detainees. The detainees shall be within sight and sound of that staff member at all times.

C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

Detainees are required to maintain their immediate living areas in a neat and orderly manner by:

1. *making their bunk beds daily;*
2. *stacking loose papers;*
3. *keeping the floor free of debris and dividers free of clutter; and*
4. *refraining from hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures or other furniture.*

D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules shall be recorded in a facility procedure that shall include a voluntary work program agreement. The voluntary work program agreement shall document the facility’s program and shall be in compliance with this detention standard.

The primary factors in hiring a detainee as a worker shall be his/her classification level and the specific requirements of the job.

1. *Staff shall present the detainee’s name to the shift supervisor or the requesting department head.*
2. *The shift supervisor or department head shall review the detainee’s classification and other relevant documents in the detainee’s detention file.*
3. *The shift supervisor or department head shall*

assess the detainee's language skills because these skills affect the detainee's ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities shall be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.

4. *Inquiries to staff about the detainee's attitude and behavior may be used as a factor in the supervisor's selection.*

Staff shall explain the rules and regulations as well as privileges relating to the detainee worker's status. The detainee shall be required to sign a voluntary work program agreement before commencing each new assignment. Completed agreements shall be filed in the detainee's detention file.

E. Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve labor-intensive work.

F. Discrimination in Hiring Prohibited

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, gender, sexual orientation or disability.

G. Detainees with Disabilities

The facility shall allow, where possible, detainees with disabilities to participate in the voluntary work program in appropriate work assignments. Consistent with the procedures outlined in Standard 4.8 "Disability Identification, Assessment, and Accommodation," the facility shall provide reasonable accommodations and modifications to its policies, practices, and/or procedures to ensure that detainees with disabilities have an equal opportunity to access, participate in, and benefit from the voluntary work programs.

H. Hours of Work

Detainees who participate in the volunteer work program are required to work according to a schedule.

The normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

I. Number of Details in One Day

The facility administrator may restrict the number of work details permitted a detainee during one day.

In SPCs, CDFs, and dedicated IGSA's a detainee may participate in only one work detail per day.

J. Establishing Detainee Classification Level

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

The compensation is at least \$1.00 (USD) per day. The facility shall have an established system that ensures detainees receive the pay owed them before being transferred or released.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for such causes as:

1. unsatisfactory performance;
2. disruptive behavior, threats to security, etc.;
3. physical inability to perform the essential

elements of the job due to a medical condition or lack of strength;

4. prevention of injuries to the detainee; and/or
5. a removal sanction imposed by the Institution Disciplinary Panel for an infraction of a facility rule, regulation or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

Detainees may file a grievance to the local Field Office Director or facility administrator if they believe they were unfairly removed from work, in accordance with standard "6.2 Grievance System."

M. Detainee Responsibility

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

The detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

1. The detainee shall perform all assigned tasks diligently and conscientiously.
2. The detainee may not evade attendance and performance standards in assigned activities nor encourage others to do so.
3. The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor's instructions.
4. In the event of a work-related injury, the detainee shall notify the work supervisor, who shall immediately implement injury-response procedures.

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and

standards.

The facility administrator shall ensure that all department heads, in collaboration with the facility's safety/training officer, develop and institute appropriate training for all detainee workers.

1. The voluntary work program shall operate in compliance with the following codes and regulations:
 - a. Occupational Safety and Health Administration (OSHA) regulations;
 - b. National Fire Protection Association 101 Life Safety Code; and
 - c. International Council Codes (ICC).

Each facility administrator's designee is responsible for providing access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials, including:
 - a. safety features and practices demonstrated by the supervisor; and
 - b. recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors (staff and detainees who do not read nor understand English shall not be authorized to work with hazardous materials).

A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement, which each detainee is required to sign prior to commencing each new assignment, shall be placed in the detainee's detention file.

3. For a food service assignment, medical staff, in conjunction with the U.S. Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
4. The facility shall provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

O. Detainee Injury and Reporting Procedures

The facility administrator shall implement

procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/ERO.

If a detainee is injured while performing his/her work assignment:

1. The work supervisor shall immediately notify facility medical staff. In the event the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.
2. First aid shall be administered as necessary.
3. Medical staff shall determine what treatment is necessary and where that treatment shall take place.
4. The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee's detention file and A-file.

WHITEHEAD DECLARATION
EXHIBIT N

STANDARD 5.6**VOLUNTARY WORK PROGRAM****I. POLICY**

Where allowed by the facility, detainees may participate in a work program to earn money. While working, detainees shall have basic Occupational Safety and Health Administration (OSHA) protections.

II. STANDARDS AND PROCEDURES**A. Voluntary Work Program**

Where available, detainees may participate voluntarily in any facility work program.

The detainee's classification level will determine the type of work assignment for which he or she is eligible.

B. Voluntary Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, can involve digging trenches, removing topsoil, and other labor-intensive work. High custody detainees will not, under any circumstances, work outside the secure outer perimeter.

C. Detainee Selection

The facility shall develop site-specific rules for selecting work detail volunteers.

D. Discrimination in Hiring Detainee Workers

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, color, gender, sex, sexual orientation, age, or disability.

E. Detainees with Disabilities

The facility shall allow, where possible, detainees with disabilities to participate in the voluntary work program in appropriate work assignments. Consistent with the procedures outlined in Standard 4.7 "Disability Identification, Assessment, and Accommodation," the facility shall provide reasonable accommodations and modifications to its policies, practices, and/or procedures to ensure that detainees with disabilities have an equal opportunity to access, participate in, and benefit from the voluntary work programs.

F. Hours of Work

Detainees participating in the voluntary work program are required to work according to a fixed schedule of no more than 8 hours daily and 40 hours weekly.

G. Work Restrictions

The facility may restrict the number of work details permitted a detainee during one day.

H. Compensation

Detainees shall receive monetary compensation of not less than \$1.00 per day for work completed in accordance with the facility's standard policy. Detainees will be paid owed wages prior to transfer or release.

I. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for cause. Upon removing a detainee from a work detail, the facility shall place a written justification in the detainee's detention file or in a retrievable electronic record.

J. Detainee Responsibility

The facility will establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

Detainees will use safety equipment and other precautions in accordance with the work supervisor's instructions.

K. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The facility shall ensure that all department heads develop appropriate training for all detainee workers.

1. Upon the detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials. The detainee shall undertake no assignment before signing a voluntary work program agreement. Among other things, by signing the agreement the detainee confirms he or she has received and understood training about the assigned job from the supervisor. This agreement will be placed in the detainee's detention file or retrievable electronic record.

2. Medical staff will ensure detainees are medically screened and certified before undertaking a food service assignment.
3. The facility will provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.

L. Detainee Injury and Reporting Procedures

The facility shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/ERO.

WHITEHEAD DECLARATION
EXHIBIT O
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT P
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT Q
FILED UNDER SEAL

WHITEHEAD DECLARATION
EXHIBIT R

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,	
	Plaintiff,
v.	
THE GEO GROUP, INC.,	
	Defendant.

Case No.: 3:17-cv-05806-RJB

DECLARATION OF TAE D. JOHNSON
ASSISTANT DIRECTOR, CUSTODY
MANAGEMENT DIVISION,
ENFORCEMENT AND REMOVAL
OPERATIONS (ERO) UNITED STATES
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE) DEPARTMENT
OF HOMELAND SECURITY (DHS)

I, Tae D. Johnson, make the following statement under oath subject to the penalty of perjury pursuant to the laws of the United States and the State of Washington:

1. My name is Tae D. Johnson. I am competent to testify in these matters in that I am over the age of majority and I am familiar with the subjects discussed herein.
2. I am a member of the Senior Executive Service serving as the Assistant Director, Custody Management Division, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS), in Washington, D.C. I have held this position since January 2, 2011. My current work address is: 500 12th Street Southwest, Washington, D.C. 20536.

DECLARATION OF TAE JOHNSON
ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

- 1 3. I hold a Bachelor of Science degree in accounting from Salisbury University in Salisbury,
2 Maryland.
- 3 4. In 1992, I began my federal career in Salisbury, Maryland with the former Immigration and
4 Naturalization Service (INS). For the past 20 years, I have served as a detention enforcement
5 officer, a supervisory detention enforcement officer, a supervisory immigration enforcement
6 agent and deportation officer with INS and ICE.
- 7 5. Since 2011, while at ICE headquarters, I have served as a Unit Chief of the detention standards
8 compliance unit, as Chief of Staff for the Office of Detention Policy and Planning, as Special
9 Assistant to the Assistant Secretary for ICE, and as Deputy Chief of Staff for the Executive
10 Associate Director for ERO.
- 11 6. In my current position as Assistant Director, I oversee and direct the Custody Management
12 Division, which provides policy and oversight for the administrative custody of more than
13 41,000 detainees daily and roughly 375,000 detainees annually. The Custody Management
14 Division oversees and manages ICE detention operations to provide for the safety, security and
15 care of detainees in ICE custody. The ICE detention system consists of more than 250 local
16 and state facilities operating under intergovernmental service agreements, contract detention
17 facilities, ICE-owned facilities and facilities operated by the Bureau of Prisons.
- 18 7. ICE arranges for detention services through three primary types of arrangements. Service
19 Processing Centers (SPCs) are government-owned facilities and are operated directly by ICE.
20 Contract Detention Facilities (CDFs) are contractor-owned-and-operated facilities at which
21 ICE has contracts with private services providers. Intergovernmental Service Agreements
22 (IGSAs) are agreements between ICE and a state or political subdivision of a state, such as a
23 local government. (8 U.S.C. §1103(11)(A)). Sometimes the state or political subdivision then
24 enters into a subcontractor agreement for a private contractor to operate the facility.
- 25 8. Northwest Detention Center (NWDC) in Tacoma, Pierce County, Washington is a CDF, and
26 is within my chain of authority. NWDC operates pursuant to a performance-based contract,
27 which is a results-oriented method of contracting focused on outputs, quality, and outcomes.
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32 DECLARATION OF TAE JOHNSON
33 ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

1 Performance-based contracts do not designate *how* a contractor is to perform the work, but
2 rather establishes the expected outcomes and results that the government expects. It is then the
3 responsibility of the contractor to meet the government's requirements at the price the vendor
4 quoted. The NWDC contract is also a firm-fixed price contract, which means that GEO
5 responded to the government's requirements by quoting fully burdened rates (i.e. bed day rate,
6 transportation rate, etc.) at which it would perform the requirements outlined in the contract's
7 Performance Work Statement (PWS). When contracting for detention services in the Seattle
8 Field Office region, ICE sought a firm-fixed price performance-based contract for a full-service
9 facility that would provide the safe and secure detention, transportation, detention
10 management, and ancillary services for up to 1,575 adult detainees.

11
12 9. I am aware that the State of Washington filed a lawsuit, *State v. GEO*, U.S. District Court
13 Western District of Washington ECF Case No. 3:17-cv-05806-RJB, making certain wage-
14 related claims against ICE's contractor, The GEO Group, INC. (GEO). I am also aware that
15 in a related action, *Nwauzor v. GEO*, U.S. District Court Western District of Washington,
16 ECF Case No. 3:17-cv-05806-RJB, ICE detainees filed a class action lawsuit against GEO
17 alleging an entitlement to minimum wages for participating in the VWP.
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20 10. Aliens whom ICE officers and agents arrest for civil immigration violations are those for
21 whom ICE has probable cause to believe are removable from the United States.¹ When an
22 individual is detained in ICE custody, ICE provides for their care and custody under the
23 agency's detention standards. These standards provide for the health and welfare of ICE's
24 detainees.² ICE ensures its custodial supervision obligations are met through a set of
25 standards and inspections to ensure all types of its facilities implement and adhere to ICE's
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30 ¹ See generally 8 U.S.C. § 1357 (2018); see also, 8 U.S.C. § 1101(a)(3), "[t]he term "alien" means any person not a
citizen or national of the United States."

31 ² See, e.g., <https://www.ice.gov/factsheets/facilities-pbnds>

1 contractual requirements and detention standards. The agency's first set of national detention
2 standards were originally issued in September 2000 to facilitate safe, secure, and humane
3 conditions of confinement, access to legal representation and safe and secure operations
4 across the detention system. The standards established consistency of program operations
5 and management expectations, accountability for compliance and a culture of
6 professionalism.
7

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9 11. One of the many aspects of ICE's detention standards is the Voluntary Work Program.

10 Among other purposes, the VWP enables detainees to receive an allowance of no less than
11 \$1 per day that they can then save or spend on commissary items. The purpose of the
12 Voluntary Work Program of the 2011 Performance-Based National Detention Standards
13 (PBNDS)³ is to provide detainees opportunities to work and earn money while detained,
14 subject to the number of work opportunities available and within the constraints of the safety,
15 security, and good order of the facility. The intent of the Voluntary Work Program is to
16 reduce the negative impact of confinement through decreased idleness, improved detainee
17 morale, and fewer disciplinary incidents. Money earned through the program also allows
18 detainees to buy commissary goods, and pay for phone calls, etc."
19

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22 12. ICE administers the VWP in its own Services Processing Centers ("SPCs") and according to
23 the PBNDS. According to the NWDC contract with ICE, GEO should manage a detainee
24 work program.⁴ The contract states that Detainee labor shall be used in accordance with the
25 detainee work plan developed by the Contractor, in this case GEO, and will adhere to the ICE
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30 ³ The Performance-Based National Detention Standards (PBNDS) establishes consistent conditions of confinement,
program operations, and management expectations to ensure a safe and secure a detention environment for staff and
detainees in the ICE detention system.

31 ⁴ See ICE/GEO NWDC Contract.

PBND on the Voluntary Work Program.⁵ The contract also states that “[d]etainee labor shall be used in accordance with the detainee work plan developed by the Contractor and will adhere to the ICE PBND on Voluntary Work Program. The detainee work plan must be voluntary, and may include work or program assignments for industrial, maintenance, custodial, services, or other jobs...Detainees shall not be used to perform the responsibilities or duties of an employee of the Contractor.”⁶

13. Under a 1950 law codified at 8 U.S.C. § 1555(d), ICE is authorized to pay “allowances (at such rate as may be specified from time to time in the appropriation Act involved) to aliens, while held in custody under the immigration laws, for work performed.” The Agency receives an appropriation from which it can make these payments. The amount of the payments was most recently specified in the appropriations act for Fiscal Year 1979, which set it at a maximum of \$1 per day. Pub. L. No. 95-431. Congress set this rate in 1979 and has not adjusted it since. Per the terms of the contract, as well as the authority provided above, the reimbursement for the Voluntary Work Program is \$1.00 per day per detainee. The PNBDS also provides that detainees who participate in the VWP shall receive no less than \$1 per day for their participation. ICE reimburses GEO \$1 per day per detainee for the VWP, the amount to which GEO is entitled under the contract, and pursuant to the authority provided above. Per PBND, GEO then pays the detainee directly. This is the same rate that ICE provides to detainees in its own SPC facilities.

14. The NWDC contract states “the contractor shall comply with all applicable federal, state, and local laws...”⁷ Additionally, within the VWP section of the NWDC contract, the contract

⁵ See *Id.*
⁶ See *Id.*
⁷ See *Id.*

1 states that “the detainee work program shall not conflict with any other requirements of the
2 contract and must comply with all applicable laws and regulations.”⁸

3
4 15. ICE involved stakeholders to develop its PBNDS. The workgroup relied upon national
5 correction standards from the American Correctional Association (“ACA”). State and local
6 jails similarly follow ACA standards.

7
8 16. PBNDS, including Standard 5.8 that describes the expected outcomes and practices of the
9 VWP, reflect performance standards for ICE detention.

10
11 17. ICE audits NWDC for PBNDS compliance, including compliance with VWP objectives and
12 protocols. ICE reports to Congress its efforts to implement and enforce PBNDS standards at
13 NWDC and other facilities. ICE’s enforcement of PBNDS has been a priority given ICE’s
14 commitment to the fair and humane treatment of ICE detainees.

15
16 18. ICE’s series of detention standards apply to all types of ICE processing facilities. Regardless
17 of which type of facility arrangement ICE selects, all detainees at all ICE facilities are at all
18 times in the lawful custody of ICE. Accordingly, ICE relies on its contractors to perform in
19 accord with contract requirements at contract facilities. At the NWDC, ICE occupies a
20 significant portion of the facility unrelated to GEO’s detention services to fulfill its
21 operational objectives to include its federal immigration courts. ICE has unfettered access
22 to the secure areas and the detainees. The NWDC is subject to DHS audits, third party
23 inspections, and civil rights inspections. Detainees have access to hotlines Monday thru
24 Friday during waking hours by which they can report complaints about VWP participation,
25 other tasks assigned to them, or any other facility related grievances. ICE reviews and
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31 ⁸ See *Id.*

1 resolves detainee complaints that ICE receives, according to its established procedures and
2 protocols, which includes any complaints about the VWP or detainee work at the NWDC.

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4 19. NWDC has implemented and conforms to current PBNDS. The PBNDS requires that
5 detainees receive at least \$1.00 (USD) per day for work performed in the VWP.

6
7 20. ICE employs a full-time detention services manager at NWDC whose primary responsibility
8 is to ensure the facility is in compliance with the PBNDS requirements, including those
9 related to the VWP.

10
11 21. ICE also employs a contracting officer's representative ("COR") who works full-time at
12 NWDC. The COR's primary duty is to monitor GEO's performance to ensure that all of the
13 technical requirements under the contract are met by the delivery date or within the period of
14 performance, and at the price or within the estimated cost stipulated in the contract.

15
16 22. With GEO's monthly invoice, GEO's Assistant Warden for Administration at the NWDC
17 provides the COR an itemization of participants in the VWP, which includes detainee
18 number, name, date of participation, work performed, and amount paid. The COR reviews
19 this itemization and the corresponding totals of \$1.00 per day per participant. The COR
20 verifies that the line item on the invoice matches the proper contract line item number for the
21 VWP on the contract. If the supporting paperwork for the entire invoice meets ICE standards,
22 the COR signs the invoice to approve payment.
23

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25 23. GEO may not otherwise expend the funds allocated for the reimbursement for the \$1 per day
26 allowance for detainee participation in the VWP. If a detainee participates in the VWP, the
27 \$1 per day allowance must be provided to the detainee. Per the PBNDS, the facility shall
28 have an established system that ensures detainees receive the pay owed them before being
29 transferred or released.
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32 DECLARATION OF TAE JOHNSON
33 ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

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24. The NWDC contract set the quantity of \$1.00 reimbursements at 114,975 per option year. GEO shall not exceed that quantity without prior approval by the contracting officer. This approval can be sought by GEO and would be memorialized through a bi-lateral contract modification.
25. The \$1.00 per day allocation and reimbursement rate for VWP participation is consistent with national detention standards applied similarly at state and local levels where ICE detainees often are placed.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.


DATED: August 1, 2018



TAE D. JOHNSON
Assistant Director
Custody Management Division
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

DECLARATION OF TAE JOHNSON
ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

WHITEHEAD DECLARATION
EXHIBIT S

 Northwest Detention Center	POLICY and PROCEDURE MANUAL	<u>NUMBER:</u> 5.1.2
	CHAPTER: Detainee Services and Programs	<u>SUPERSEDES:</u> 4/20/2010
	TITLE: Voluntary Work Program	<u>EFFECTIVE:</u> 4/13/2015
	RELATED ACA STANDARDS: 4-ALDF-5C-06, 5C-08 through 5C-12, 6B-02, 6B-03, and 7F-03	

I. PURPOSE:

The purpose of this policy is to set forth the procedures governing the voluntary work program at the Northwest Detention Center.

II DEFINITION(S):

Classification Level: A detainee’s security level as determined by background and reason for confinement.

Work Assignment: An occupational activity (work) for which a detainee may volunteer and be paid a daily stipend.

III POLICY:

It is the policy of The Northwest Detention Center to maintain a voluntary work program that provides detainees the opportunity to earn a daily stipend. All work details will be performed in compliance with all Occupational Health Administration standards.

IV. PROCEDURES:

A. Voluntary Work Program

1. Detainees who are physically and mentally able to work will be provided the opportunity to participate in the voluntary work program.
2. The detainee’s classification level determines the type of work assignment for which he / she is eligible.
3. **High** detainees will not be given work opportunities outside their housing units.
4. General work assignments do not require specific skills. Examples of work assignments and corresponding classification levels are as follows:

B. Work Assignment	<u>Level</u>
1. Kitchen Worker	Low – Medium High
2. Recreation // Barber	Low – Medium High

Exhibit 313
 Witness Tracy
 Date 12-3-19



POLICY AND PROCEDURE MANUAL

NUMBER: 5.1.2

- | | | |
|----|---|-------------------|
| 3. | Living area (janitorial, server, laundry) | Low – High |
| 4. | Evening workers (facility janitorial) | Low – Medium High |
| 5. | Laundry | Low – Medium High |

NOTE:

- 1) Detainees who are released from Disciplinary Segregation may not be considered for a work assignment until they have shown a positive period of adjustment.

C. Voluntary Work Program Objectives

Through the voluntary work Program:

1. Physically and mentally able detainees are gainfully employed while contributing to the orderly operation of the facility.
2. Essential operations and services improve through the productivity of detainees.
3. Inactivity-induced idleness and disciplinary-code violations are reduced.

D. Required Work Assignments

Work assignments are voluntary. However, all detainees are responsible for personal housekeeping.

Detainees are required to maintain their immediate living areas in a neat and orderly manner. This involves making their bunk beds daily, stacking loose papers, keeping the floor free of debris or clutter, and hanging / draping no articles of clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures, or other furniture.

E. Voluntary Special Details

Detainees may volunteer for the temporary work details that occasionally arise. The work, which generally last from several hours to several days, may involve removing debris, and other such activities that contribute to the community.

F. Detainee Selection

The following general procedures apply:

1. Detainee submits a work request requesting a work assignment.



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2. The detainee's work request will be forwarded to the Classification Work Program Supervisor.
3. The work program supervisor will review the detainee's detention file to review / confirm his/her classification status and other relevant documents.
4. Detainees will be offered the requested work assignment when it is available and in the order requests were received so long as all minimum requirements for the detail are met.
5. Detainees requesting specific jobs that are not available at the time of the request will be placed on an ongoing waiting list in the order requests were received. The waiting list will be maintained by the work program supervisor and distributed as necessary.
6. The supervisor will inquire from other staff about the detainee's attitude and behavior. The results of these inquiries may have a factor in the selection process.
7. Staff will explain the rules and regulations as well as privileges relating to the detainee work status. The detainee is required to sign a "Voluntary Work Program Agreement" form before every new job assignment. Completed "Agreements" will be filed in the detainee's detention file.
8. The supervisor will assess the detainee's language skills as it affects the detainee's ability to perform the specific job requirements. To the extent possible, work opportunities should be provided to detainees who are able to communicate with the supervising staff effectively and in a manner that does not compromise safety and security.

The primary factors in hiring a detainee as a worker will be his / her classification level and the specific requirements of the job.

G. Discrimination in Hiring Detainee Workers

Volunteer detainees are not to be denied work opportunities based on detainee's race, religion, national origin, gender, sexual orientation or disability.

H. Physically and Mentally Challenged Detainees

The Northwest Detention Center maintains custody of physically and mentally challenged detainees whose disabilities range from minor to debilitating. While some of these individuals medical restrictions will prevent them from working, those with less severe



disabilities will have the opportunity to participate in the voluntary work program, in appropriate work projects.

The designated staff member assigned to oversee the volunteer work program will consider the precise limitations of a disabled individual before rejecting certain work assignments. Expediency or convenience will not justify the rejection of a detainee who, with reasonable accommodation, can perform the essential function of the work involved. In disputed cases, the official will consult with the medical director before making any assignments.

I. Hours of Work

Detainees participating in the volunteer work program are required to work as scheduled.

The normal schedule workday for a detainee employed full-time is a maximum of 8 hours. Detainees who wish to participate in the work program will not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

J. Number of Details in One Day

A detainee may participate in only one work detail per day.

K. Facilities That Detain Criminal Aliens

A detainee cannot work until the Classification process is complete.

L. Compensation

Detainees receive monetary compensation for work performed. The stipend is \$1.00 per day to be paid the following business day. A detainee must submit a claim for non-payment within 14 business days of the date in question. All pay must be verified prior to credit being received. Detainees may request a copy of their personal account once per week.

M. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for cause. Upon removing a detainee from a work detail, a written justification will be placed in the detainee's detention file. Some of the reasons for removal are:

1. Unsatisfactory performance.



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2. Disruptive behavior, threats to security, etc.
3. Infraction of a facility rule, regulation or policy, leading to removal from a work detail as a sanction imposed by the Institutional Disciplinary Panel.
4. Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition. Such detainees may be removed from a work detail to prevent future injuries. If the detainee's performance is otherwise acceptable, he/she may be considered for other assignments.
5. Detainee may file a grievance to the Facility Administrator or Local Field Office Director if they believe they were unfairly removed from work, in accordance with standard "6.2 Grievance System."

N. Detainee Responsibility

The Detainee Handbook will provide information and direction for the work program.

The detainees will perform all assigned tasks diligently and conscientiously. Removal from the work detail and / or disciplinary action may result when a detainee evades attendance or encourages others to do so.

The detainee will exercise care in performing assigned work, using safety equipment and other precautions in accordance with the work supervisor's instructions. In the event of a work-related injury, the detainee is to notify the work supervisor, who will immediately implement injury-response procedures.

O. Detainee Training and Safety

Northwest Detention Center complies with all applicable health and safety regulations and standards.

Department heads, in conjunction with the training officer, must develop and institute appropriate training programs for all detainee workers.

1. The Voluntary Work Program shall operate in compliance with the following:
 - a. Occupational Safety and Health Administration (OSHA) regulations;
 - b. National Fire Protection Association 101 Life Safety Code;
 - c. American Correctional Association Standards for Adult Local Detention Facilities, current edition; and
 - d. International Council Codes (ICC) .



POLICY AND PROCEDURE MANUAL

NUMBER: 5.1.2

2. Upon the detainee's assignment to a job or detail, the supervisor will provide instructions regarding safe work methods and, if relevant, safety requirements pertaining to hazardous materials. The supervisor will demonstrate safety features and practices. Workers are to learn to recognize hazards in the workplace, to understand the protective devices and clothing provided, and to report deficiencies to their supervisors. Staff and detainees that do not read English will not be authorized to work with hazardous materials. Detainees will undertake no job assignment before signing a "Volunteer Work Program Agreement" form that, among other things, confirms that the detainee has received and understood training from the supervisor about the work detail. This agreement is placed in the detainee's detention file.
3. Medical staff will ensure detainees are medically screened and certified before undertaking a food service assignment.
4. Staff will provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.

P. Detainee Injury and Reporting Procedures

If a detainee is injured while performing his / her work assignment, the following is to apply:

1. The detail supervisor will immediately notify the facility medical staff.
2. First Aid will be administered when necessary.
3. Medical staff will determine what treatment is necessary and where that treatment will be provided.
4. The work supervisor will complete a detainee Information Report and submit it to the Associate Warden for review and processing. A copy of this report will be placed in the detainee's file. Medical staff will create their own record and place a copy in the detainee's medical file.
5. A detainee may not return to work until cleared by medical staff.
6. Immediate notification to ICE/ERO of detainee work related injury.



POLICY AND PROCEDURE MANUAL

NUMBER: 5.1.2

REFERENCES:


U.S. Department of Homeland Security, Contract HSCEDM-10-D-00001, Section J. Statement of Work

ICE Performance Based National Detention Standards, Part 5, Activities 5.8 - Voluntary Work Program-

THE GEO GROUP INC. Policy 13.1.4 titled "Inmate Work"

REVIEWED/REVISED _____
Warden

DATE: _____

 The GEO Group, Inc.	POLICY AND PROCEDURE MANUAL	NUMBER: 5.1.2
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	_____	DATE: _____
	ICE Assistant Field Office Director	
REVIEWED/REVISED	_____	DATE: _____
	Warden	
	_____	DATE: _____
	ICE Assistant Field Office Director	
REVIEWED/REVISED	_____	DATE: _____
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	ICE Assistant Field Office Director	
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	_____	DATE: _____
	ICE Assistant Field Office Director	
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	Warden	
	_____	DATE: _____
	ICE Assistant Field Office Director	