

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. 17-cv-05769-RJB

DEPOSITION DESIGNATIONS
OF DAVID M. TRACY

Plaintiffs present (1) Plaintiffs' designations of the Deposition of David M. Tracy, and (2) Defendant's counter-designations and objections. The designated pages are attached, with Plaintiffs' designations highlighted in yellow and Defendant's counter-designations highlighted in green.

DATED this 24th day of April, 2020.

SCHROETER GOLDMARK & BENDER

s/ Jamal N. Whitehead

Adam J. Berger, WSBA #20714
Lindsay L. Halm, WSBA #37141
Jamal N. Whitehead, WSBA #39818

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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DATED at Seattle, Washington this 24th day of April, 2020.

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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,)	
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

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1 E X H I B I T S

2	No.	Description	Page/Line
3	310	Plaintiffs' Second Amended Notice of	8 22
4		Videotaped Deposition of David Tracy	
5	311	Job Description, Job Title: Sergeant -	19 11
6		GEO-Nwauzor 000340-000341	
7	312	Northwest Detention Center -	25 3
8		Organizational Chart - GEO-Nwauzor	
9		044059-044067	
10	313	Policy and Procedure Manual, Chapter:	29 8
11		Detainee Services and Programs, Title:	
12		Voluntary Work Program - GEO-Nwauzor	
13		016419-016426	
14	314	Volunteer Work Program Agreement	50 25
15	315	Northwest Detention Center Detainee Job	55 3
16		Descriptions	
17	316	Northwest Detention Center Pod Porter	77 4
18		Job Descriptions - GEO-Nwauzor	
19		078053-078054	
20	317	Email dated October 26, 2017, from Nels	100 11
21		Riach to Alisha Singleton and others -	
22		GEO-Nwauzor 038934	
23			
24			
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E X A M I N A T I O N

1			
2	BY		Page/Line
3	MR. WHITEHEAD	10	4
4	MS. MELL	90	5
5	MR. WHITEHEAD	93	1
6	MS. MELL	104	4

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(Note: * Denotes phonetic spelling.)

1 Fircrest, Washington; Tuesday, December 3, 2019

2 10:13 a.m.

3 -----

4 THE VIDEOGRAPHER: We are on the record. The
5 time is approximately 10:13 on this day, December 3rd,
6 2019. This is media unit one, volume one, of the video
7 deposition of David Tracy taken by the plaintiff, case
8 number 17-cv-05769-RJB, in the matter of Nwauzor, et al.,
9 vs. GEO Group, in the U.S. District Court, Western District
10 of Washington, at Tacoma. This deposition is taking place
11 at 1019 Regents Boulevard, Suite 204, in Tacoma,
12 Washington.

13 The videographer is Lindsay Hitchcock for
14 Seattle Deposition Reporters, 600 University Street,
15 Seattle, Washington 98101. The court reporter is Keri
16 Aspelund for Seattle Deposition Reporters.

17 Counsel, at this time please identify yourselves
18 for the record and the witness may be sworn in.

19 MR. WHITEHEAD: Good morning, this is Jamal
20 Whitehead, class counsel on behalf of Mr. Nwauzor and the
21 class he represents.

22 MS. MELL: Joan Mell on behalf of The Geo Group.

23 MR. POLOZOLA: And Lane Polozola, counsel for
24 Washington in Washington vs. The GEO Group.

25 MS. MELL: And for the record, what's the State

1 doing here?

2 MR. POLOZOLA: I beg your pardon?

3 MS. MELL: What's the --

4 MR. POLOZOLA: What's the State doing here?

5 MS. MELL: Why are you in this deposition? I'm
6 not aware of you having a role in this action.

7 MR. WHITEHEAD: Wait, hold on. The case has
8 been consolidated, and in that way, we've been instructed
9 to serve notice on everyone. So Mr. -- I won't speak for
10 him, but he's here to observe.

11 And it's my deposition, and I would like to get
12 underway. If you'd like to discuss this further during a
13 break --

14 MS. MELL: You know, I don't want him here if --
15 if there's a reason for him to be here, but he's not a
16 party, he can't ask questions, he's not -- he's not
17 permitted to be here.

18 MR. WHITEHEAD: It's actually a deposition, I
19 mean, frankly, anyone can attend a deposition.

20 MS. MELL: No, they can't.

21 MR. WHITEHEAD: Yeah, that's -- that is the
22 rule --

23 MS. MELL: No.

24 MR. WHITEHEAD: -- and so if you'd like to seek
25 some sort of limiting order from the judge, you know, we

1 can get him on the horn; otherwise, I'd like to get
2 underway.

3 And it's especially true --

4 MS. MELL: I don't agree that you should be
5 here.

6 MR. WHITEHEAD: -- especially true given that
7 we're starting late. It's 10:15. I still haven't received
8 a satisfactory explanation for why we started late, and if
9 this was an issue, we should have addressed it before the
10 witness arrived.

11 MS. MELL: I would make a record that you were
12 late. You were more than 20 minutes late to start the
13 deposition.

14 So with regard to --

15 MR. POLOZOLA: I will --

16 MR. WHITEHEAD: That is patently false.

17 MR. POLOZOLA: Both --

18 MR. WHITEHEAD: I arrived on time, and the
19 witness just arrived.

20 Anyway, let's get underway.

21 Mr. Tracy --

22 MS. MELL: No, we're not going to just get
23 underway until I understand.

24 Why don't you tell me why you're here.

25 MR. POLOZOLA: My reaction is the same. As you

1 will recall, GEO moved and had these cases consolidated for
2 trial, and the judge instructed both Washington and class
3 counsel to participate in each other's depositions by being
4 present. I'm not saying I'm going to ask questions, but I
5 am here because the cases are consolidated.

6 MS. MELL: All right. I'm not -- I'm just --
7 for the record, I don't concede that you have a party role
8 here.

9 MR. POLOZOLA: I'm not suggesting that I have a
10 party role in this case. I'm here as counsel for
11 Washington in Washington vs. GEO.

12 MR. WHITEHEAD: And I'd also --

13 MR. POLOZOLA: The cases are consolidated.

14 MR. WHITEHEAD: I'd like for you to retract your
15 statement that I was 20 minutes late. That's not true.

16 MS. MELL: I came back at 9. I understood that
17 it was starting at 9, and you weren't here.

18 MR. WHITEHEAD: The deposition is noted for
19 9:30, and it looks like we've got Exhibit-1 -- I'm sorry,
20 this will be 310.

21 Could you please mark that as Exhibit-310.

22 (Exhibit-310 marked.)

23 MR. WHITEHEAD: I'm looking at Exhibit-310.
24 This is the deposition notice that my office served upon
25 yours. The deposition is noted for 9:30 a.m., Tuesday,

1 December 3rd, in your office.

2 With that statement, will you retract your
3 statement that I was 20 minutes late?

4 MS. MELL: Yes, I stand corrected if the
5 deposition notice is -- notices it for 9:30. It's my
6 understanding that it was 9 o'clock, and that's what was on
7 my materials and my schedule.

8 MR. WHITEHEAD: So that was a misunderstanding
9 on your part?

10 MS. MELL: That was a misunderstanding on my
11 part. I apologize, Counsel.

12 MR. WHITEHEAD: All right. And so with that
13 correction, and Mr. Tracy, I see you looking, what have I
14 gotten myself into today? Let's get underway.

15 I introduced myself off the record, but let me
16 introduce myself again for benefit of the record. My name
17 is Jamal Whitehead. I'm --

18 THE COURT REPORTER: Let me interrupt. The
19 witness hasn't been placed under oath yet.

20 MR. WHITEHEAD: Oh, my apologies, thank you.

21

22

23

24

25

1

2 DAVID M. TRACY: Witness herein, having been

3 duly sworn, testified as follows:

4

E-X-A-M-I-N-A-T-I-O-N

5

BY MR. WHITEHEAD:

6

Q. All right, so as I was saying, I'm Jamal

7

Whitehead. I represent the private plaintiffs here in this

8

case, Mr. Nwauzor and Mr. Aguirre-Urbina, in their lawsuit

9

against The GEO Group.

10

Mr. Tracy, could you state and spell your full

11

name for the record.

12

A. David Michael Tracy, D-A-V-I-D M-I-C-H-A-E-L

13

T-R-A-C-Y.

14

Q. And your date of birth?

15

A. [REDACTED] 1986.

16

Q. And your address?

17

A. [REDACTED] Spanaway,

18

Washington 98387.

19

Q. Who's your current employer, Mr. Tracy?

20

A. The GEO Group.

21

Q. And your current job title?

22

A. Officer.

23

Q. I've read documents referring to you as

24

sergeant; is that correct?

25

A. At one point I was sergeant.

1 Q. And no longer?

2 A. No longer.

3 Q. All right, I'll ask you questions about that
4 later.

5 Have you ever given testimony under oath?

6 A. Yes.

7 Q. In what context?

8 A. A deposition.

9 Q. What was the case?

10 A. One prior case associated with GEO, and then two
11 in my personal life.

12 Q. The case about GEO, what was that about?

13 A. A detainee was injured inside the facility.

14 Q. Can you tell me more about what the allegations
15 were in the lawsuit?

16 MS. MELL: If you know.

17 I'd just stipulate it's the Chavez matter.

18 Q. And can you tell me what your understanding is
19 about what that lawsuit was about?

20 A. A former detainee was alleging he was poked in
21 the eye.

22 Q. And did he allege that you poked him in the eye?

23 A. No.

24 Q. That you were a witness?

25 A. Yes.

1 Q. And then I don't want to get too deeply into
2 your -- your personal life, but the personal matters, were
3 those criminal in nature?

4 A. No, it was a car accident.

5 Q. Were you the plaintiff or defendant?

6 Did you --

7 A. Plaintiff. I'm sorry.

8 Q. All right. Fair enough.

9 All right, well I know you've probably covered
10 the rules with Ms. Mell, so I'm not going to rehash them
11 here, but there are three things that I want to stress at
12 the outset.

13 First and foremost, you know, this is not a
14 practice. What you say now is just as important as if the
15 judge and the jury were in the room here today to make a
16 determination; do you understand?

17 A. Yes, sir.

18 Q. And that with the benefit of the written
19 transcript and the video, that the judge and the jury will
20 use them to assess your credibility and truthfulness; do
21 you understand that?

22 MS. MELL: Object to the form. Object to the
23 testimony and instructing the witness how the deposition
24 will be used.

25 Q. Do you understand?

1 A. Yes, sir.

2 Q. Secondly, I'm not a mind reader. If you don't
3 understand my question, will you let me know?

4 A. Yes, sir.

5 Q. And that goes for if there's anything that
6 prevents you from answering my question fully, if you've
7 got some sort of medical condition or anything at all that
8 prevents you from giving your best, most accurate
9 testimony, will you let me know?

10 A. Yes.

11 Q. And then finally, I'm looking for your full
12 cooperation today. I want your best, most accurate, and
13 truthful testimony; do you understand that?

14 MS. MELL: Object to the form. What you want is
15 not relevant to these proceedings.

16 Q. Do you understand?

17 A. Yes.

18 Q. Toward that end, I'm going to try my best to
19 work efficiently. I think that's even more important here
20 given that we're getting underway late. I'm going to ask
21 you many yes or no questions. If I ask you a yes or no
22 question, will you give me a yes or no answer?

23 MS. MELL: Object to the form and instructions.
24 You can't tell him how to answer a question. This is
25 totally improper and is a waste of time. Ask him the

1 questions.

2 Q. If I ask you a yes or no question, will you give
3 me a yes or no answer?

4 MS. MELL: Object to the form.

5 A. To the best of my ability.

6 Q. And sometimes witnesses try to avoid
7 uncomfortable truths, and I've seen this in the way of
8 evasive or incomplete answers; will you avoid giving me
9 evasive answers?

10 MS. MELL: Don't answer that.

11 This totally and wholly improper. This is not
12 an opportunity for you to testify, this is not an
13 opportunity for you to badger the witness and explain to
14 them what you do or don't want. We're going to end this
15 deposition if you're not going to ask him any questions.

16 Q. Will you avoid giving me evasive answers?

17 MS. MELL: Same objection.

18 Counsel, this is improper. This is a waste of
19 our time. You know you don't have an opportunity to
20 explain your position, and your thoughts, and your
21 feelings, and your desires, and suggest that he might try
22 to avoid giving you a truthful answer.

23 Q. Your answer, sir?

24 MS. MELL: Object to the form, it's improper.

25 Q. Your answer, sir?

1 MS. MELL: Object to the form, it's improper.

2 Q. Well, you know, and I think this -- what I like
3 to do is approach the rules situationally, and this brings
4 up a good rule to remember. Your counsel's going to
5 object, frankly, at the rate we're going, quite a lot.
6 We're going to be in for a very long day at the pace at
7 which she's lodging her objections. She's going to state
8 her objection, but the expectation is that you answer the
9 question unless she instructs you not to answer; do you
10 understand that?

11 MS. MELL: Object, move to strike.

12 Q. Do you understand that you're expected to answer
13 the question unless Counsel instructs you not to answer?

14 A. Yes.

15 Q. Okay. All right, what did you do to prepare for
16 your deposition today?

17 A. Nothing.

18 Q. Did you speak with anyone?

19 A. I spoke with my attorney for one to two minutes
20 before walking in.

21 Q. Did you speak with Lieutenant Marc Johnson?

22 A. We rode together, but we didn't speak about
23 this.

24 Q. You didn't talk about the case at all?

25 A. No.

1 Q. What did you talk about?

2 MS. MELL: Object to the form.

3 A. We talked about missing our flight.

4 Q. Tell me, what -- what happened this morning?

5 MS. MELL: Object to the form.

6 A. We were on our way to the airport, and we got
7 called back to come to the deposition.

8 Q. Why were you going to the airport?

9 A. For work.

10 MS. MELL: Object to the form.

11 THE WITNESS: Sorry.

12 Q. Go ahead.

13 A. For work.

14 Q. What at work called you to need to take a plane?

15 You work at Northwest Detention Center; is that
16 correct?

17 A. Correct.

18 Q. So why would you have to fly somewhere?

19 A. To another facility.

20 Q. Okay. Did you review any documents to prepare
21 for today?

22 A. No.

23 Q. Can you give me a high level overview of your
24 educational background.

25 A. High school diploma, some college course work.

1 Q. Did you get an associate's degree or anything
2 like that?

3 A. No.

4 Q. When did you begin working at GEO?

5 A. October 2009.

6 Q. What did you do before beginning work at GEO?

7 A. I worked for Emerald Downs.

8 Q. What did you do there?

9 A. Off track -- off track betting manager.

10 Q. Why did you leave Emerald Downs?

11 A. To work at GEO Group.

12 Q. Why come to work at GEO?

13 A. Better opportunities.

14 Q. In what sense?

15 A. It was better pay, better benefits.

16 I had gone to college for law enforcement type
17 course work, and this is the kind of field I wanted to get
18 into anyways.

19 Q. What was the position that you were hired into?

20 A. Detention officer.

21 Q. Can you give me a list of all the positions that
22 you've held with GEO.

23 A. Detention officer, sergeant, detention officer.

24 Q. And so you came in as a detention officer; the
25 move to sergeant, was that a promotion?

1 A. Yes.

2 Q. When did that occur?

3 A. February 2017.

4 Q. And then going back to detention officer, was
5 that a demotion?

6 A. It was a -- I stepped down myself. It wasn't a
7 demotion, it was a personal choice to step down.

8 Q. Why did you step down?

9 A. Personal choices in my life.

10 Q. Well, again, I don't -- you know, this -- your
11 personal life really isn't the subject of the deposition,
12 but can you give me a little bit more as to what led you to
13 step down from sergeant to detention officer?

14 A. As an officer, I have more freedom and choice in
15 my schedule, which I needed for my family life at the time.

16 Q. Was there a reduction in pay?

17 A. At the time, no.

18 Q. Since?

19 A. I'm -- I'm making more money now than when I was
20 a sergeant.

21 Q. Okay. And how is that? Is that a function of
22 the hours or just a cost of living adjustment?

23 I'm trying to understand. As a sergeant, what
24 was -- I'll put it this way, as a sergeant, what was your
25 hourly rate?

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,

David Tracy

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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

David Tracy

GEO Objections Foundation, FRE 402,
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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?

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701, 802.

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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 is 10:38.

2 Q. I'd like to show you another document.

3 (Exhibit-312 marked.)

4 THE COURT REPORTER: This is Exhibit-312.

5 THE WITNESS: Thank you.

6 Q. You've just been handed Exhibit-312. It's a
7 multipage document, but not too many. It's titled
8 Northwest Detention Center - Organizational Chart.

9 Have you seen this document before?

10 A. No, not this specific document. I've seen pages
11 of it, but not this intact into one package.

12 Q. Looking at the first page there of Exhibit-312,
13 it's the one that says "Northwest Detention Center -
14 Organizational Chart." At the bottom there it says
15 Updated: July 18th, 2017.

16 Do you see that?

17 A. Yeah.

18 Q. Okay.

19 A. Yes.

20 Q. Now, looking at the hierarchy that's depicted
21 here, does this look to be accurate as of July 2017?

22 MS. MELL: Object to the form.

23 A. Are you talking about is this -- if I can
24 understand your question, are you asking if this is the
25 exact same as it is right now?

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1 Q. No, I mean, was it --

2 A. In 2017, was this correct?

3 Q. 2017, does this look about right?

4 MS. MELL: Object to the form.

5 A. To the best of my knowledge, yes.

6 Q. And let's move forward to today. Are there
7 aspects of this organizational chart that are different
8 today as compared to 2017?

9 A. Yes.

10 Q. What's different?

11 A. Names of position -- or the people in the
12 positions have changed.

13 Q. As far as the positions and the structure, line
14 of command so to speak, is there anything different about
15 today versus 2017?

16 A. The names of the positions have changed.

17 Q. Which ones, that you know of?

18 A. Warden.

19 Q. What is the warden now called?

20 A. Facility administrator.

21 Q. Do you know what prompted the change?

22 A. No.

23 Q. Do you all still refer to the warden as warden
24 though sometimes?

25 A. As -- I mean, after ten years, it's force of

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 negative mark I believe I received was on attendance, and
2 it was due to a car accident where I missed multiple days
3 because of the car accident. Besides that, no.

4 Q. Tell me, what is the Voluntary Work Program?

5 A. The Voluntary Work Program is a program where if
6 a detainee is housed within the facility, and they want to
7 work, they can submit a request, and if there's anything
8 open, you know, they'll get offered that position. If
9 it's -- there's not an opening, they go onto a waiting
10 list. You know, if they want to work in the kitchen,
11 laundry, inside the units, they have all those options.

12 Q. And is this is work for money; correct?

13 A. They -- yes.

14 Q. How much are the detainee workers paid?

15 A. A dollar per day.

16 Q. And generally speaking, what are the various
17 work assignments within the facility?

18 And I'm looking for the big buckets, if you can
19 group them, that's the type of answer I'm looking for.

20 A. Okay, so working inside the housing unit, which
21 covers, you know, just daily cleaning, after meals,
22 bathrooms, showers, that type of thing, inside the kitchen,
23 inside of laundry, visitation has volunteer cleaners,
24 intake has voluntary cleaners, and then the detainees that
25 go out during the day and, you know, sweep and mop the main

1 hallway of the facility.

2 Q. Anything else in terms of broad groupings of
3 workers?

4 A. Then there -- every once in a while there will
5 be a paint -- a paint crew or a floor detail crew, which
6 actually buffs, and waxes, and strips the floors. Outside
7 of that, I can't think of anything major.

8 (Exhibit-313 marked.)

9 THE COURT REPORTER: This is Exhibit-313.

10 THE WITNESS: Thank you.

11 Q. I've just handed you Exhibit-313. This is an
12 excerpt from GEO's Policy and Procedure Manual, Chapter:
13 Detainee Services and Programs, Title: Voluntary Work
14 Program.

15 Have you seen this document before?

16 A. I'm sure at some point in my career I've seen
17 it.

18 Q. I want to look at the bottom there under heading
19 IV, subpart B where it says "Work Assignment."

20 Do you see that?

21 A. Yes.

22 Q. And it lists off five broad categories, Kitchen
23 Worker, Recreation/Barber, Living area, Evening workers,
24 and Laundry.

25 Do you see those?

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1 A. Yes, sir.

2 Q. Would you agree with me that those are broad
3 work assignments that the detainee workers are assigned to
4 or work in?

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

6 A. Yeah. Yes.

7 Q. I want to take each of the categories listed on
8 Exhibit-313 in which you told me as well about the broad
9 groupings, and discuss each of them individually, but in
10 particular, your role in supervising and directing detainee
11 work.

12 Do you understand?

13 A. Yes.

14 Q. And so let's start with kitchen workers. Either
15 as detention officer or as sergeant, did you play any role
16 in directing or supervising the work in the kitchen?

17 A. Not specifically. They have their own kind
18 of -- I'm trying to look back at this organizational chart.

19 But the food service manager, and the cooks, and
20 the officers handle most of the issues in the kitchen. If
21 there is an issue as a supervisor inside of the kitchen,
22 then we would have to go over and deal with whatever issue
23 may arise, but for the kitchen, unless I was -- I think I
24 maybe have been assigned one time there in ten years,
25 besides that, no.

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?

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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 Q. And when we talk about visitation, intake, we're
2 talking about cleaning those areas; is that right?

3 A. Yeah, usually it's, for the most part, just, you
4 know, wiping down the windows and taking a dust -- you
5 know, dry mopping it with a dust mop and then with a wet
6 mop afterwards. That's the extent of cleaning. Maybe take
7 the garbage -- you know, the garbage out, or just replace
8 the bags in the garbage.

9 Q. What about medical, did you ever direct and
10 supervise detainee workers working or cleaning the medical
11 unit?

12 A. Not to my knowledge.

13 Q. Library?

14 A. No.

15 Q. Recreational --

16 A. Can I go back to library?

17 Q. Sure.

18 A. I never worked in the library, but we had a
19 floor detail inside the hallway of the library.

20 Q. All right, so you've mentioned the living areas,
21 laundry, visitation, intake, you said essentially every
22 unit --

23 A. Yeah.

24 Q. -- anywhere else that you've directed and
25 supervised detainee workers?

1 A. Recreation yards.

2 Q. Anywhere else?

3 A. Intake, laundry.

4 I'm sure there is, but ...

5 Q. Can you give me a rough estimate on how long it
6 would take a detainee worker to carry out their cleaning
7 assignment in the living areas?

8 A. It, honestly, depends on the person. There's --
9 you know, for example, I work in segregation right now. We
10 have a detainee that was previously there, he would take an
11 hour or two hours just to sweep and mop, but part of that
12 is because we feel like he liked not being stuck inside the
13 cell, and he's very meticulous with everything he did,
14 everything was slow. And the guy that cleans now maybe
15 takes 15 or 20 minutes to do the exact same job.

16 Q. So anywhere from 15 to 20 minutes to one to two
17 hours?

18 A. Depending on the individual.

19 Q. What about the laundry, how long would a
20 detainee worker shift last in the laundry unit?

21 A. Again, it depends on the detainees. Depends on
22 the officer running laundry. I would say for me, maybe --
23 just an approximation of time, maybe two and a half to
24 three and a half hours.

25 Q. And how many detainee workers would work on a

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 A. I would say the kitchen is kind of independent
2 on the fact that they have four complete different shifts,
3 but like laundry, there's a day shift crew and then a swing
4 shift crew. And same thing in the units, there's, you
5 know, morning workers, afternoon workers, evening workers.

6 Q. Let's go back to Exhibit-313. This is the one
7 that's the excerpt from the GEO Policy and Procedure Manual
8 about the Voluntary Work Program.

9 Do you have that in front of you?

10 A. Yes.

11 Q. I'd like to go to the third page. It's the one
12 that's marked page 3 of 8, and it also has a long number on
13 the bottom right corner, we call that a Bates stamp, it's
14 got a Bates stamp of GEO-Nwauzor --

15 A. Okay.

16 Q. -- 016421.

17 Are you there?

18 A. Yes.

19 Q. And actually, you may need to look at the page
20 just before it as well.

21 But I'm looking at the section called Detainee
22 Selection. It starts as F at the bottom of page 2, and it
23 continues onto page 3.

24 A. Okay.

25 Q. Do you see that?

1 A. Yes.

2 Q. I'd like for you to read over the procedures
3 there, and my question to you will be, do you agree that
4 this is an accurate statement of the detainee selection
5 procedure for the Voluntary Work Program?

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

7 A. I would agree with it for the most part.

8 Q. What, if anything, do you disagree with about
9 what's stated in the Policy and Procedure Manual about the
10 detainee selection process?

11 A. I wouldn't say I disagree with it, I just
12 don't -- in my personal past, it hasn't happened, number 6.

13 Q. And that's the one that reads, "The supervisor
14 will inquire from other staff about the detainee's attitude
15 and behavior"?

16 A. Yeah, I've never had that brought to me.
17 And as well as number 8.

18 Q. As it relates specifically to number 6, have you
19 been -- ever been instructed not to inquire about a
20 detainee's attitude or behavior?

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

22 A. No, it's just -- it's a question that's never
23 been brought to me.

24 Q. Let's look at number 7 there. It says "Staff
25 will explain the rules and regulations as well as

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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 Q. And in fact, I mean, there are consequences if
2 detainees don't comply with GEO's rules and regulations for
3 the detainee work?

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

5 A. I mean, if -- if they don't want to work, they
6 don't have to work. If they don't want to do the job, they
7 don't -- they don't have -- they don't have to do it.

8 Q. That's right, but if a detainee worker was doing
9 a lousy job consistently, GEO would have the right to
10 terminate that worker's assignment; correct?

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

12 A. I can't just say, You're not doing a good job,
13 you're not working anymore. They would have to refuse to
14 do it, and then they would either sign a refusal to work
15 form, which is the same thing as them quitting, or I would
16 submit the refusal to work form, and write down that they
17 refused to sign it, but there's no punishment for I don't
18 want to do this job.

19 Q. There's punishment or discipline for let's say
20 fighting during a detainee worker shift; correct?

21 MS. MELL: Object to the form.

22 A. There's punishment for fighting.

23 Q. Or stealing?

24 A. Correct.

25 (Exhibit-314 marked.)

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

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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 MR. WHITEHEAD: Let's take a look at detainee
2 job descriptions.

3 (Exhibit-315 marked.)

4 THE COURT REPORTER: This is Exhibit-No.-315.

5 THE WITNESS: Thank you.

6 Q. You've just been handed a number of job
7 descriptions. These are just job descriptions I found
8 within the documents that GEO produced to my office.

9 Have you seen any of these job descriptions
10 previously?

11 A. No. Not these specific pages. Maybe something
12 like this, but ...

13 Q. Do these strike you as a fair and accurate
14 representation of what GEO's job descriptions look like for
15 the detainee worker program?

16 MS. MELL: Object to the form of the question.
17 He's testified he's never seen them before.

18 A. Yes.

19 Q. Do you have any reason to doubt that these are
20 anything other than GEO's detainee worker job descriptions?

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

22 A. No. Like I just said, I don't believe I've ever
23 seen these exact forms.

24 Q. Now, looking at Exhibit-315, and the job
25 descriptions that are contained within, each of them has a

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 officers, to supervise and to make sure that the detainee
2 workers are carrying out their specific job duties?

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

4 A. I would disagree with that statement. We're not
5 there to stand over them and make sure they're not -- if it
6 says "Towels will not be used," my job isn't to stand there
7 and make sure they don't use towels, I'm multitasking. If
8 I see them using towels when they're not supposed to use
9 towels, I deal with it at that time.

10 Q. Well, going back to your job description of
11 directing and supervising the detainee work, wouldn't you
12 be failing at your job if you allowed a detainee worker to
13 do something other than what they were charged with doing
14 in their job description?

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

16 A. I wouldn't feel a failure in my job if they got
17 into a fight. They're not allowed to get into a fight.

18 Q. That's not what I asked you though.

19 My question was, if a detainee worker was doing
20 something other than what's listed in their job
21 description, would you be subject to a downgrade in your
22 performance as a sergeant or detention officer?

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

24 A. I don't know. It's never happened to me. I
25 don't believe so.

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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.

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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?

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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?

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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.

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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 Q. So maybe only two then right now?

2 A. I'm -- I think they have been trying to hire
3 one, but I don't know if one's been hired or not.

4 Q. Let me ask my question again then.

5 So in your ten years at the facility, are you
6 aware of GEO having any more than three janitors working?

7 A. Not to my knowledge.

8 Q. Are you aware of GEO using any other third-party
9 cleaning service?

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

11 Q. Do you know what I mean?

12 A. Yes.

13 Q. Like an outside cleaner?

14 A. Mm-hm.

15 Q. Are you aware of GEO ever using an outside
16 cleaner?

17 A. Yes.

18 Q. When was that?

19 A. On multiple times.

20 Q. Well, let's start with who?

21 Is it a company?

22 A. Yeah, a company. I can't tell you names.

23 Q. Well, the name of the company, do you know that?

24 A. I don't know. It would be like -- they would
25 come out and do the hood vents or whatever for the kitchen.

1 It's specialized cleaning.

2 Q. So the third-party cleaners that you've seen do
3 specialized cleaning?

4 A. Like cleaning out the hood vents of the kitchen,
5 things like that.

6 Q. I want to go back to Exhibit-315, the job
7 descriptions. Let's look at page 4. This is a job
8 description for general worker.

9 Are you there?

10 A. Yes.

11 Q. Now, again, this one lists specific work duties.
12 Do you see those?

13 A. Yes.

14 Q. Do the general workers have discretion to
15 deviate from these specific work duties?

16 A. The work duties are there. Those are the work
17 duties for the job.

18 Maybe I'm not understanding your question clear.

19 Q. No, I think it's a pretty simple question, so
20 maybe that's what's catching you off guard; right?

21 I mean, this list of specific work duties, this
22 is what GEO expects of the general workers; correct?

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

24 A. Correct.

25 It might not be -- for example, number 7, that

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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.

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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 A. I believe it would be a detainee who goes to get
2 the food and helps serve food during meal times.

3 Q. I've got a document I'd like for you to look at.
4 (Exhibit-316 marked.)

5 THE COURT REPORTER: This is Exhibit-316.

6 Q. You've just been handed Exhibit-316. It's a
7 two-page document.

8 Have you ever seen this before?

9 A. Yes.

10 Q. What are we looking at here?

11 A. Pod porter descriptions.

12 I misspoke earlier when you asked me what a pod
13 porter was. I was assuming you were talking about food
14 porter, which refers to server on the back side of this
15 page.

16 Q. These are people that work in the pods?

17 A. Correct.

18 Q. And there are various jobs within the pod?

19 A. Correct.

20 Q. And Exhibit-316 lists out those various jobs?

21 A. Yes.

22 Q. Let's start at the top of the document there.

23 In the text there it's bolded and underlined, I'm looking
24 at the last sentence, it reads, "This form along with the
25 voluntary worker agreement form and a memo must be turned

1 in before a detainee can be placed on the pod porter list
2 and begin getting paid."

3 Do you see that?

4 A. Yes.

5 Q. What is the memo?

6 A. It's a memo from an officer.

7 Q. What's in the memo?

8 A. Stating -- basically reiterating what this says.

9 Q. And is it a memo then about each worker?

10 A. Correct.

11 Q. Is there a title for the memo?

12 A. I mean, there's no specific title. You put
13 whatever you want.

14 Q. Is this something that you're coding in a
15 computer, or something that you print out, or --

16 A. Handwritten.

17 Q. -- fill out by hand?

18 A. Handwritten.

19 Q. It's a handwritten document?

20 A. Well, it could be printed, done on a computer.

21 Q. And who do you submit the form to?

22 A. This form, the Volunteer Work Agreement, and the
23 memo would be sent to classification -- well, sent to the
24 lieutenant's office, put in the classification box.

25 Q. So this is Alisha Singleton and Michael Heye

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

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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

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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

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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

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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 THE COURT REPORTER: Yes.

2 Q. Have you seen a document like this before?

3 A. Yeah. Yes.

4 Q. What are we looking at here?

5 A. The unit pod porter assignments.

6 Q. Is this essentially a schedule?

7 A. Yeah, lets you know who's supposed to clean
8 where and what they're signed up for.

9 Q. Do you know who creates this document?

10 A. Classifications.

11 Q. So this is Ms. Singleton or Mr. Heye?

12 A. Correct.

13 Q. So looking at the first page of Exhibit-309, it
14 starts with A-1 Pod.

15 Do you see that?

16 A. Correct.

17 Q. So the detainee workers listed here, they're
18 scheduled to work A-1 Pod at the following date and
19 whatever time is specified; is that correct?

20 A. That's their housing unit, Alpha, A-1 is the
21 housing unit. So they live with inside the housing unit.

22 Q. These are the people that are assigned to clean
23 the A-1 Pod?

24 A. Correct.

25 Q. And then below there, you see waiting list; what

1 is the waiting list?

2 A. That's when a position's not available, because
3 it was full, they go onto a waiting list. So as soon as
4 the job opens, they can take that job, or they can go, I
5 don't -- you know, I don't want it.

6 Q. So if GEO has enough detainee workers, it caps
7 the number of people working?

8 A. Correct.

9 Q. And those people that still want to work are
10 then placed on a waiting list?

11 A. Correct.

12 Q. Have you ever seen classifications permit too
13 many people to work on any given shift?

14 A. No.

15 Q. Have you --

16 A. Not that I'm aware of.

17 Q. Have you ever felt like the detainee workers
18 have been overstaffed in a unit that you've worked?

19 A. No, it's kind of always been this way, the same
20 type of format.

21 Q. So put another way, the idea is not too many,
22 not too few, just enough?

23 A. Yeah. I would -- I would agree with that
24 statement.

25 Q. Now, who has the final say with scheduling

1 matters? Is it GEO?

2 A. Their schedule?

3 Q. Yes, the detainee workers?

4 A. Like when they work or when they sign up to
5 work?

6 Q. Well, I know the detainee workers can request a
7 shift, but let's say everybody requested the same shift --

8 A. Mm-hm.

9 Q. -- is it the case that GEO could decide who
10 actually gets to work and who doesn't?

11 A. They would -- so if, you know, day -- day shift
12 breakfast kitchen is full, they would have the opportunity
13 to -- well, you can either keep waiting for breakfast, or
14 you can go to lunch, dinner, or the evening shift. That's
15 ultimately up to the detainee.

16 Q. But as it stands though, the official schedule
17 is the schedule that GEO sets?

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

19 A. I don't know who sets it.

20 Q. But --

21 A. I would assume GEO sets it.

22 Q. If I understood you, is it the case that
23 classifications, meaning Ms. Singleton or Mr. Heye, set the
24 schedule?

25 A. It's always been pretty much the same time frame

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?

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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

1 going to refuse to answer a question.

2 A. Correct, I'll refuse to answer.

3 MR. WHITEHEAD: Fair enough. All right, thank
4 you for your time. I don't have any other questions.

5 E-X-A-M-I-N-A-T-I-O-N

6 BY MS. MELL:

7 Q. Okay, Mr. Tracy, can you tell me, if you failed
8 to perform for GEO, GEO can terminate you; right?

9 A. Correct.

10 Q. And GEO -- GEO has the final say in terminating
11 you?

12 A. Correct.

13 Q. Right. So you're gone, you're gone?

14 A. Yeah.

15 Q. At GEO's say so?

16 A. Correct.

17 Q. Okay. That's not the same for the detainees, is
18 it?

19 MR. WHITEHEAD: Object to form.

20 A. No. So, for example, if you are a detainee, and
21 your duty was to sweep and mop, and you decided I'm done,
22 I'm not sweeping, mopping, I quit, or I -- there's a
23 refusal to work form, I would fill it out, ask you to sign
24 it. If you don't want to sign it, you don't have to, I
25 just write refusal, refused to sign, or something to that

1 nature. Then that gets turned into classifications, just
2 like everything else, and class -- sorry, classification
3 makes the final determination at that point whether or not
4 they're going to stay in the program or not.

5 If the detainee doesn't agree with the decision
6 that I've made, that classifications made, they can write a
7 grievance or appeal to classification, they can appeal to
8 the facility administrator, they can appeal to ICE.

9 At the end of the day, ICE has the final say so
10 whether somebody is taken off the work program, if it gets
11 appealed to ICE.

12 Q. All right. So, for each instance, where Counsel
13 went through the job descriptions set forth at Exhibit-316,
14 Exhibit-315, those two exhibits, and he -- and he went
15 through and asked you, okay, so --

16 A. Sorry.

17 Q. -- if a detainee fails to follow CSC staff
18 instructions, you can terminate him, what -- what did you
19 mean by that?

20 A. Basically if I --

21 MR. WHITEHEAD: First off, excuse me, object to
22 form.

23 A. Basically, like I kind of stated earlier, if
24 they refuse to do it, refuse to do their assigned job, I
25 would fill out a refusal to work form. They either sign it

1 or don't sign it. That form gets forwarded to
2 classification, and then classification makes a decision
3 whether they are removed or not removed.

4 If the detainee doesn't agree with the -- the
5 decision, they can write a grievance or an appeal form,
6 it's the same -- same thing, to immigration, immigration
7 can overturn that decision or agree with the decision.

8 Q. And what you say immigration, you mean ICE?

9 A. ICE.

10 Q. Okay. And with regard to the decision -- if a
11 detainee signs a refusal to participate form or refusal --
12 what's it called, a refusal --

13 A. A refusal to work.

14 Q. -- a refusal to work form, that detainee can
15 work in another area the next day?

16 A. Yeah, so maybe they're just having a bad day,
17 and I'm done, I quit, I quit, blah, blah, blah, they sign
18 it, and then the next day they want to work again, just
19 have them fill out these -- the papers we went through
20 earlier, and they either go back on the waiting list or
21 they get offered -- offered whatever's available.

22 MS. MELL: Okay. All right, I have nothing
23 further.

24

25

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1 F-U-R-T-H-E-R E-X-A-M-I-N-A-T-I-O-N

2 BY MR. WHITEHEAD:

3 Q. Well, Mr. Tracy, I believe I asked you earlier
4 if ICE played any role in the termination of detainee
5 workers; do you recall me asking you that question?

6 A. Yes.

7 Q. And you told me no; do you recall giving that
8 answer?

9 A. Yes.

10 Q. We took a break; correct?

11 A. (Nodding head.)

12 Q. Correct?

13 A. Correct.

14 Q. Did you meet with your attorney during that
15 break?

16 A. We spoke.

17 Q. Okay. And then we resumed your deposition;
18 correct?

19 A. Correct.

20 Q. And now you're giving me a different answer?

21 A. I did not under -- when you -- can you repeat
22 the question? Do you remember exactly how you phrased it?

23 Q. It's written in the transcript, but I'm curious,
24 how did you come to this new understanding about ICE
25 playing a role in the terminations?

1 MS. MELL: Object to the form of the question,
2 and mischaracterizes his prior testimony, and that wasn't
3 the testimony, and it is not inconsistent.

4 You can answer if you want to.

5 Q. No, it's not --

6 MS. MELL: If you understand the question.

7 Q. Please go ahead.

8 A. When you said -- I believe the way you asked it
9 is does ICE have any direction to who works. I'm assuming
10 you mean this paperwork gets turned into them, and they
11 personally hand pick who works where.

12 Q. So this is --

13 A. They can appeal any -- any decision we make,
14 disciplinary, anything, can be appealed to ICE.

15 Q. And how is it that you've come to this
16 understanding about ICE's role in the appeals process?

17 A. There's -- you -- I was -- I don't want to say
18 misled. I didn't understand what you were speaking about
19 earlier.

20 Q. My question though is how did you come to this
21 understanding about ICE's role in this appellant process
22 that you've just described for me?

23 A. Well, you never asked me about an appeal
24 process, and I was answering my attorney's question.

25 Q. So tell me, what -- what do you know about this

1 appellate process?

2 A. You can write a grievance to immigration and
3 explain the situation, just as a disciplinary process.

4 Q. Well, tell me step-by-step then -- well, strike
5 that.

6 Tell me every way in which ICE is involved in a
7 termination decision at the Northwest Detention Center of
8 Voluntary Work Program workers?

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

10 A. They -- they can overturn what we decide to do.
11 If I decide, for whatever reason, I'm going to
12 have you fill out this form because you don't want to work,
13 and you don't agree with it, you can, well, write a
14 grievance, it's basically an appeal, to immigration.
15 Immigration will go we agree or we don't agree. Same way
16 as disciplinary. Disciplinary can be appealed to -- for
17 fighting; maybe it's not a fight, maybe it's an assault,
18 and we got it wrong.

19 Q. So in the scenario you just described, GEO makes
20 a determination, and the detained worker can at some point
21 and through some process ultimately appeal to ICE --

22 A. Correct.

23 Q. -- is that fair to say?

24 A. Mm-hm.

25 Q. And ICE can overturn GEO's decision; correct?

1 A. Detainee-wise, ICE has the overall say
2 detainee-wise.

3 Q. My question was a little bit different though.
4 ICE can overturn GEO's decision about the
5 discipline and termination; is that correct?

6 A. Correct.

7 Q. Or ICE can agree with GEO's determination;
8 correct?

9 A. Correct.

10 Q. What is a UDC hearing?

11 A. Unit -- give me one second, it's been a
12 minute -- Unit Disciplinary Committee?

13 Q. Who is on the Unit Disciplinary Committee?

14 A. UDC is -- I believe it's just a -- it's usually
15 the seg lieutenant.

16 Q. I'm sorry, seg lieutenant, that sounds like an
17 abbreviation; what is that?

18 A. Segregation lieutenant.

19 Q. Who else is on the UDC?

20 A. I'm not sure.

21 I know -- I'm assuming you're going to ask me
22 about IDP?

23 Q. Yes.

24 A. That's a panel of, I believe, three people. I
25 don't know if it's the same now. When I was in segregation

1 on day shift, it was the seg lieutenant, if he's not
2 involved in the prior steps, a representative from
3 immigration, ICE, and another staff member that's not
4 involved.

5 Q. Now, IDP, is that different than UDC?

6 A. Correct.

7 Q. So which step comes first, UDC or IDP?

8 A. It depends on the severity of the charge. So a
9 Level 300, 400 charge would be a UDC.

10 Q. What is a Level 300, 400 charge?

11 A. The severity of the charges.

12 Q. Is 300, 400, is that severe or less severe?

13 A. No, less severe.

14 Q. Less severe, okay.

15 So if it's a less severe offense, it goes to
16 UDC?

17 A. Yeah.

18 Higher severity would be IDP.

19 Q. Give me an example of something that's higher
20 severity that would go to IDP?

21 A. Assault.

22 Q. Where would theft fall?

23 A. In the 300.

24 Q. Where would unsatisfactory performance in the
25 Voluntary Work Program fall?

1 A. 300. Or I don't know if there's a specific
2 charge to that, but 300 would probably be where it falls.

3 Q. So in the case of a less severe offense, for
4 example, unsatisfactory work in the Voluntary Work Program,
5 that would go to UDC; correct?

6 A. Correct.

7 Q. And it's your understanding that it's the
8 segregation lieutenant that's on the UDC panel?

9 A. Correct, if he's not involved. If he's
10 involved, then it would be another supervisory staff or
11 higher.

12 Q. So assuming the segregation lieutenant isn't
13 conflicted out, it would be him or her that would hear --

14 A. Correct.

15 Q. -- the charge?

16 A. Norm -- I believe so, normally.

17 Q. And is there anyone else that is part of the UDC
18 process?

19 A. Not to my knowledge.

20 Q. All right, so at the UDC hearing, the
21 segregation lieutenant can make a determination?

22 A. Mm-hm.

23 Q. Is that yes?

24 A. Correct.

25 I'm sorry.

1 Q. And is that the point at which a detainee worker
2 could appeal to ICE?

3 A. Correct.

4 Q. And ICE could either agree with GEO's
5 determination; correct?

6 A. Correct.

7 Q. Or disagree?

8 A. Correct.

9 Q. Now, is it the case for both the IDP proceedings
10 and UDC proceedings that GEO is calling -- is initiating
11 the matter?

12 MS. MELL: Object to the form.

13 A. What -- what do you mean?

14 Q. Well, who gets the ball rolling, whether it's
15 UDC or IDP?

16 MS. MELL: Object to the form.

17 A. That would be --

18 THE WITNESS: Sorry.

19 A. It would be whoever writes it up.

20 Q. GEO; correct?

21 A. Or --

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

23 A. Medical has written people up as well.

24 Q. So medical and GEO?

25 MS. MELL: Object to the form.

1 Q. Anyone else?

2 MS. MELL: Object to the form.

3 A. No, that's -- that's it.

4 Q. Who is Nels Riach?

5 A. Nels Riach.

6 Q. Nels Riach?

7 A. He's a segregation lieutenant.

8 Q. So he would be someone, for example, that would
9 conduct a UDC hearing?

10 A. Correct.

11 (Exhibit-317 marked.)

12 THE COURT REPORTER: This is Exhibit-317.

13 Q. You've just been handed Exhibit-317.

14 Have you seen this email before?

15 A. No.

16 Q. Have you seen an email like this before?

17 A. I'm sure sometime in my life at GEO I have.

18 Q. In reviewing Exhibit-317, do you have a guess as
19 to what's going on here?

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

21 Don't guess.

22 Q. No, please guess. I'm asking for your
23 understanding based on your review of the document.

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

25 And don't instruct my client to guess in a

1 deposition.

2 A. Based off of the words in the email, Jean A
3 number, was charged with 323 attempting to steal, he is
4 found guilty with the loss of the job in the kitchen.

5 Avalos -- I'm not reading the A number.

6 Q. Sure.

7 A. Just A number, 323, that's the charge,
8 attempting to steal, 309 is the charge, lying to staff. He
9 was found guilty with the loss of the job in the kitchen.

10 Flores, A number, 323 attempting to steel,
11 guilty with verbal reprimand. He was told he could go back
12 to work on the 27th.

13 Q. So these appear to be examples of Nels Riach, as
14 the segregation lieutenant, making a determination about
15 UDC proceedings; would you agree?

16 A. Correct.

17 Q. Are you aware of a time that ICE overturned
18 GEO's determination about firing a VWP worker?

19 A. I know it's happened. I can't give you a
20 specific case.

21 Q. When you say you know it's happened but you
22 can't give me a specific example --

23 A. Yeah, I've heard of it.

24 Q. Well --

25 A. Just the same way that they can reduce

1 segregation time in the IDP or they can say we don't agree
2 with it.

3 Q. Well, this is important here.

4 Are you aware of a time that ICE has overturned
5 GEO's determination about firing a VWP worker?

6 MS. MELL: Object to the form.

7 A. Yes.

8 Q. Tell me about that time.

9 A. I -- I can't tell you about the time. I know
10 it's happened. I can't give you a specific example from
11 ten years of work history.

12 Q. More than once?

13 A. I can't recall.

14 Q. Less than five?

15 A. I can't recall.

16 Q. So you have no recollection one way or another
17 whether it's between one and five times?

18 A. I don't know.

19 Q. Who would I ask if I wanted to know?

20 A. Ask Singleton.

21 Q. And what you just told me about detainee workers
22 appealing to ICE, is there a specific policy or regulation
23 that you're thinking of?

24 A. I don't know the policy -- I don't know if
25 there's a policy. I know that's one of their options they

1 have.

2 Q. How often do appeals like that take place?

3 A. I don't know. I'm not a part of the process.

4 Q. I don't mean to quarrel with you, but if you're
5 not a part of the process, how is it that you're aware --

6 A. We used to get paper grievances. We no longer
7 get paper grievances, they're all done by tablet. So when
8 I would get a paper grievance I'd be able to see he what it
9 is. Now I don't have the ability to look at the grievance
10 to see what the grievance is about.

11 Q. When was that change made?

12 A. Roughly a year and a half, two years ago.

13 Q. So prior to that change, when you had visibility
14 into the paper grievances, how often did detainee workers
15 appeal a GEO determination about discipline or firing from
16 the Voluntary Work Program?

17 A. It would usually come from segregation.

18 Q. So is that often, not often?

19 A. I don't -- I --

20 Q. You can't venture a guess?

21 A. It's been years since I've been in seg from when
22 we turned in the mail. I know that's always explained to
23 them as an option. Whether they want to venture down that
24 road or not, that's up to them.

25 MR. WHITEHEAD: All right, I think that's it for

1 me unless your attorney has more questions.

2 MS. MELL: I have plenty more now. You've
3 opened the door.

4 F-U-R-T-H-E-R E-X-A-M-I-N-A-T-I-O-N

5 BY MS. MELL:

6 Q. All right, so when you testified with regard to
7 who can write up a detainee, you said medical and GEO. Is
8 it correct that ICE officers who observe misconduct or
9 behavior that is write-upable, an ICE officer may write up
10 a detainee who is --

11 A. They --

12 MR. WHITEHEAD: Object to form.

13 A. They can write them up. I've never seen them
14 write a person up.

15 Q. Have you seen them come to you and say, Hey,
16 what's going on?

17 A. Correct.

18 MR. WHITEHEAD: Object to form.

19 A. I've been told, Hey, this is happening, or --

20 Q. And you need to address it?

21 A. Yeah.

22 Q. By an ICE officer?

23 A. But if you're an ICE officer and you tell me,
24 Hey, we saw this person do this, I can't write that up.

25 Q. Okay.

1 A. I have to write what I see.

2 Q. Okay.

3 A. So I can look into it, or they can tell somebody
4 that can review the cameras, but I can't go off of your
5 word. I can go look into the situation they're speaking
6 about, but I can't write it up based on their -- what
7 they've told me.

8 Q. Okay, but I -- you have had the experience where
9 ICE has directed you to take action relative to a
10 detainee --

11 MR. WHITEHEAD: Object to --

12 Q. -- participant in the VWP?

13 MR. WHITEHEAD: Object to form.

14 A. Say -- sorry, say that one more time.

15 Q. Is it my understanding from your testimony that
16 you've had the experience where an ICE officer has asked
17 you to look into something the ICE officer has observed of
18 a VWP participant?

19 MR. WHITEHEAD: Object to form, misstates prior
20 testimony.

21 A. I mean, it could be something as simple as, you
22 know, there's a group cleaning over here, and maybe they're
23 not cleaning, maybe they're trying -- a male trying to talk
24 to a female. ICE officer, Hey, what is going on over
25 there? Then you go look into it that way.

1 Q. Okay. And there's situations, for instance,
2 where ICE will be coming -- well, strike that.

3 ICE is in the facility all the time; right?

4 A. Correct.

5 Q. They're --

6 MR. WHITEHEAD: Object to form.

7 Q. ICE is around the detainee workers all the time?

8 MR. WHITEHEAD: Object to form.

9 A. Correct.

10 Q. And there are instances where, for example, ICE
11 officials are walking down the gray mile, and there's water
12 accumulated in an area that they think presents a security
13 risk, and they will address it?

14 MR. WHITEHEAD: Object to form.

15 A. I don't know if they'll directly address it with
16 that person, they'll address it -- I know they'll address
17 it with one of us.

18 Q. All right. And you feel obligated to respond to
19 ICE in that instance?

20 MR. WHITEHEAD: Object to form.

21 A. Correct.

22 Q. All right. And the action that you would take
23 to respond to it would be what?

24 A. Either talk to the group and tell them, you
25 know, less water, or make sure there's wet -- the wet floor

1 sign's down, or maybe split the hallway into two.

2 Q. All right. Is it correct that you are trained
3 to defer to ICE at the facility?

4 MR. WHITEHEAD: Object to form.

5 A. Defer to ICE?

6 Q. Defer to ICE.

7 If ICE is asking you to do something, you
8 respond to ICE?

9 A. Yes.

10 MR. WHITEHEAD: Object to form.

11 Q. Okay. So with respect to the questions you were
12 asked about a specific detainee policy and procedure, about
13 their ability to file a grievance to ICE, could you take a
14 like at Exhibit-313.

15 A. One sec.

16 Q. Let's see, where did that go? There you go.

17 Exhibit-313 is from the GEO Policy and Procedure
18 Manual; is that correct?

19 A. Correct.

20 Q. And is it correct that each and every GEO policy
21 and procedure is ultimately approved and signed off by ICE?

22 MR. WHITEHEAD: Object to form.

23 A. Correct.

24 This should it right here.

25 Q. All right. So is it correct, based on your

1 understanding, that any of the policies and procedures that
2 are enforceable specific to the Voluntary Work Program at
3 the Northwest Detention Center must be approved by ICE?

4 MR. WHITEHEAD: Object to form.

5 A. Correct.

6 Q. All right. And with respect to the protocols
7 and procedures that are applicable to the VWP, ICE has
8 final say with regard to the detainee's participation as
9 expressed on page 5, wherein it says "Detainee may file a
10 grievance to the Facility Administrator or local Field
11 Office Director if they believe they were unfairly removed
12 from work, in accordance with standard '6.2 Grievance
13 System'"; correct?

14 A. Correct.

15 Q. So this policy expressly communicates what
16 you've testified to as the ICE having the final say so with
17 regard to participation in the Voluntary Work Program;
18 correct?

19 MR. WHITEHEAD: Object to form.

20 A. Correct.

21 Q. And do you know, with regard to Exhibit-315,
22 whether or not the acronym CSC pertains to correctional
23 services, the predecessor interest to GEO?

24 A. That's would be my assumption. I'm not
25 positive, but ...

1 Q. So is it correct that you don't even know
2 whether or not these detainee job descriptions are GEO
3 detainee job descriptions or were ever approved by ICE?

4 A. Reading it, the descriptions, you know, match
5 the descriptions as close as I can think they match, but
6 yeah, just we don't go by CSC, so I don't want to say
7 that --

8 Q. Okay.

9 A. -- I know what that stands for or I know what
10 that means.

11 Q. Okay. And it's correct that you have never
12 punished any detainee based on your observation of their
13 behavior in a Voluntary Work Program --

14 MR. WHITEHEAD: Object to --

15 Q. -- in terms of sending them to segregation and
16 isolating them?

17 MR. WHITEHEAD: Object to form. We're outside
18 now the scope of the redirect or the next line of
19 questioning.

20 A. Not based on their participation in the
21 Voluntary Work Program. If they're working and get into a
22 fight, it's a separate situation. Not solely based on the
23 volunteer -- something from the Voluntary Work Program.

24 Q. Okay. So if a fight erupts in the VWP, you
25 follow your standard security and safety protocols?

1 A. Correct.

2 Q. And for the most part, for most of the VWP
3 participation, the correctional officers are performing
4 their usual and ordinary safety and security duties and
5 responsibilities, they are not assigned to oversee the VWP?

6 A. Correct, I --

7 MR. WHITEHEAD: Object to form.

8 A. I kind of said it earlier, we're multitasking.
9 Because I know you're over there sweeping, mopping, or
10 whatever, I still have to do everything else I would
11 normally do. That doesn't change because you're over there
12 sweeping or mopping.

13 Q. Right. So you're -- there are no detention
14 officers assigned to the VWP, correct, that just do VWP
15 oversight?

16 MR. WHITEHEAD: Object to form, outside the
17 scope.

18 Q. They're doing their security task?

19 A. It's a security task, it's not directly related
20 to the work program.

21 MS. MELL: Right. That's it, I think we're
22 done.

23 MR. WHITEHEAD: I think we're good.

24 MS. MELL: Okay.

25 THE VIDEOGRAPHER: This is the end of media two,

1 and concludes the deposition of David Tracy. The time is
2 approximately 1:13.

3 THE COURT REPORTER: Are you going to have this
4 one transcribed then?

5 MR. WHITEHEAD: Yes.

6 THE COURT REPORTER: And are you going to order
7 a copy?

8 MS. MELL: I'll have a copy if they have a copy,
9 but I won't order if they didn't.

10 You ordered?

11 MR. WHITEHEAD: I did.

12 (Deposition adjourned at 1:13 p.m.)

13 (Signature reserved.)

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S-I-G-N-A-T-U-R-E

I declare under penalty of perjury under the laws of the State of Washington that I have read my within deposition, and the same is true and accurate, same and except for changes and/or corrections, if any, as indicated by me on the CHANGE SHEET flyleaf page hereof. Signed in....., WA, on the.....day of....., 2019.

.....

DAVID M. TRACY

Taken: Tuesday, December 3, 2019

Keri A. Aspelund

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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 H. Spalding



NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

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C-H-A-N-G-E S-H-E-E-T

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SHOWING PAGE, LINE AND REASON.

PAGE LINE CORRECTION AND REASON

DAVID M. TRACY
TAKEN: Tuesday, December 3, 2019