

Judge James L. Robart
Magistrate Judge Michelle L. Peterson

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JOSUE CASTAÑEDA JUAREZ, et al.,
Petitioners-Plaintiffs,
v.
NATHALIE ASHER, et al.,
Respondents-Defendants.

Case No. 20-cv-700-JLR-MLP

**NOTICE OF SUPPLEMENTAL
AUTHORITY**

Pursuant to Local Civil Rule 7(n), Petitioner-Plaintiffs (Plaintiffs) write to advise the Court of Supplemental Authority, issued after Plaintiffs filed their motion for a temporary restraining order. *See* Dkt. 22.

Plaintiffs attach a letter sent on May 12, 2020, by Senator Patty Murray, Senator Maria Cantwell, Representative Danny Heck, Representative Rick Larsen, Representative Adam Smith, Representative Pramila Jayapal, and Representative Derek Kilmer to Defendant Nathalie Asher, ICE Field Office Director, and George Zoley, CEO of the GEO Group, Inc. regarding steps taken to respond to COVID-19 at the Northwest Detention Center (NWDC) (Ex. A). The letter states that during a congressional telephonic briefing on April 24, 2020, ICE reported that:

- 1 • ICE has identified 128 detainees at the NWDC for potential release based on their higher
2 risk for severe illness as a result of COVID-19.
- 3 • ICE has released only 16 of these 128 medically vulnerable people identified at NWDC,
4 and ICE officers indicated that they “did not plan to release additional detainees from the
5 pool of 128 people identified as medically vulnerable.”
- 6 • Only 7 detainees have been tested in total at the NWDC since the COVID-19 outbreak.
- 7 The letter further notes that ICE could not confirm that the current occupancy level of 45% was
8 sufficient for maintaining social distancing guidelines, and that ICE officers could not
9 necessarily enforce social distancing guidelines among detainees. The letter is also available at
10 [https://www.murray.senate.gov/public/_cache/files/cb4d2533-6085-455f-ba17-
11 e7d73322b6dd/geo-nwdc-congressional-briefings-final.pdf](https://www.murray.senate.gov/public/_cache/files/cb4d2533-6085-455f-ba17-e7d73322b6dd/geo-nwdc-congressional-briefings-final.pdf).

12 Respectfully submitted on this 13th of May, 2020.

13 s/ Matt Adams
14 Matt Adams, WSBA No. 28287
matt@nwirp.org

15 s/ Aaron Korthuis
16 Aaron Korthuis, WSBA No. 53974
aaron@nwirp.org

17 Northwest Immigrant Rights Project
18 615 Second Ave., Suite 400
Seattle, WA 98104
19 Tel: (206) 957-8611

20 s/ Tim Henry Warden-Hertz
21 Tim Henry Warden-Hertz, WSBA No.
53042
tim@nwirp.org

22 Northwest Immigrant Rights Project
23 1119 Pacific Ave., Suite 1400
Tacoma, WA 98402
Tel: (206) 957-8652

s/ David C. Fathi
David C. Fathi, WSBA No. 24893
dfathi@aclu.org**

s/ Eunice H. Cho
Eunice H. Cho, WSBA No. 53711
echo@aclu.org**

Lauren Kuhlik*
Joseph Longley†
American Civil Liberties Union Foundation
National Prison Project
915 15th Street N.W., 7th Floor
Washington, DC 20005
Tel: (202) 548-6616

Omar C. Jadwat*
ojadwat@aclu.org
Michael Tan*
mtan@aclu.org
American Civil Liberties Union Foundation
Immigrants’ Rights Project
125 Broad Street, 18th Floor
New York, NY 10004

1 Enoka Herat, WSBA No. 43347
eherat@aclu-wa.org
2 John Midgley, WSBA No. 6511
jmidgley@aclu-wa.org
3 American Civil Liberties Union Foundation
of Washington
4 P.O. Box 2728
Seattle, WA 98111
5 Tel: (206) 624-2184

My Khanh Ngo*
mngo@aclu.org
American Civil Liberties Union Foundation
Immigrants' Rights Project
39 Drumm Street
San Francisco, CA 94111
Tel: (415) 343-0774

6 *admitted pro hac vice

**Not admitted in DC; practice limited to federal courts

7 †admitted pro hac vice; not admitted in DC; practice limited to federal courts

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CERTIFICATE OF SERVICE

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I hereby certify that on May 12, 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 those attorneys of record registered on the CM/ECF system.

DATED this 12th day of May, 2020.

s/ Aaron Korthuis
Aaron Korthuis
Northwest Immigrant Rights Project
615 Second Avenue, Suite 400
Seattle, WA 98104
(206) 816-3872
(206) 587-4025 (fax)

EXHIBIT A

Congress of the United States
Washington, DC 20515

May 12, 2020

George C. Zoley
Chief Executive Officer
The GEO Group Inc.
621 NW 53rd Street, Suite 700
Boca Raton, FL 33487

Nathalie Asher
Field Office Director
Tacoma Northwest Detention Center
1623 E J Street, Suite 2
Tacoma, WA 98421

Dear Mr. Zoley and Ms. Asher,

Given the ongoing novel coronavirus (COVID-19) outbreak and our continued conversations with staff and officials within the Northwest Detention Center (NWDC) and at Immigrations and Customs Enforcement (ICE), we write to request a weekly telephonic briefing for congressional offices in Washington state in order to ensure further steps are being taken by GEO and the NWDC to plan, mitigate, and respond to any potential outbreak at the Northwest Detention Center. This is especially important since last Friday, May 8, ICE confirmed that a detainee tested “recovered positive” during medical intake screening upon arrival at NWDC, the first known positive case at the NWDC to date.

As of April 25th, 2020, ICE has reported 29,675 as their total detained population. Further, 869 detainees, 42 ICE employees at detention facilities, and 102 ICE employees not assigned to detention facilities have tested positive for COVID-19.¹ The NWDC is one of the largest ICE dedicated facilities in the country, and as the numbers of detainees and detention facility staff infected with COVID-19 continues to climb, we share the concerns that public health experts have expressed regarding the continued spread of the coronavirus pandemic in detention facilities.

In our congressional telephonic briefing on April 24th, 2020, ICE informed us that 128 detainees at NWDC had been identified for potential release based on their higher risk for severe illness as a result of COVID-19. However, at the time of the call, only 16 people had actually been released and ICE indicated that they did not plan to release additional detainees from the pool of 128 people identified as medically vulnerable. In addition, ICE stated that only 7 detainees have been tested in total at the NWDC since the COVID-19 outbreak, despite the fact that ICE has

¹ ICE Guidance on COVID-19: Confirmed Cases (May 6, 2020), <https://www.ice.gov/coronavirus>

tested 1,528 detainees nation-wide, and Washington state was among the first states to be hit by the COVID-19 outbreak. We express concern over the delayed release and testing of these individuals, and would like to continue receiving weekly congressional telephonic briefings from ICE and officials operating the NWDC regarding the testing and release of other medically vulnerable individuals.

On congressional telephonic briefings, ICE has also claimed that it set an occupancy threshold of 70% inside its facilities to reduce the number of detainees, but also admitted that this threshold was likely insufficient to meet the social distancing guidelines recommended by the Centers for Disease Control and Prevention (CDC). ICE reported to our staffs that its occupancy is currently at 45%, well below this 70% figure, but equally could not confirm whether this threshold is actually sufficient for maintaining social distancing guidelines. Even more concerning were comments made by officials on congressional telephonic briefings that indicated that ICE officers could not necessarily enforce social distancing guidelines among detainees in the center.

We appreciate your prompt attention to the issues we have raised, and look forward to weekly congressional telephonic briefings surrounding the safety practices of the NWDC amidst the ongoing coronavirus pandemic.

Sincerely,

/s/ Patty Murray
United States Senator

/s/ Adam Smith
Member of Congress

/s/ Maria Cantwell
United States Senator

/s/ Pramila Jayapal
Member of Congress

/s/ Denny Heck
Member of Congress

/s/ Derek Kilmer
Member of Congress

/s/ Rick Larsen
Member of Congress