

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KARLENA DAWSON, et al.,

Plaintiff,

v.

NATHALIE ASHER, et al.,

Defendants.

CASE NO. C20-0409-JLR-MAT

SUPPLEMENTAL DECLARATION  
OF DREW H. BOSTOCK IN  
RESPONSE TO THE COURT’S  
ORDER TO FILE ADDITIONAL  
EVIDENCE

I, Drew H. Bostock, hereby make the following supplemental declaration with respect to the above-captioned matter in response to the Court’s Order to File Additional Evidence, Dkt. No. 73:

1. I am an Officer in Charge (“OIC”) with the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”) in the Seattle Field Office (“ERO Seattle”). I have held this position since December 2019. Prior to this, I was the Assistant Field Office Director from December 2017 to December 2019. I am currently assigned to the Northwest ICE Processing Center (“NWIPC”) in Tacoma, Washington. I have worked in various other positions within ICE since February 2007.

2. Among my responsibilities as the OIC, I manage the detained docket for the aliens who are detained at the NWIPC.

3. This supplemental declaration is based upon my personal and professional knowledge and information obtained from various records and systems maintained by DHS and

1 The GEO Group, Inc. in the regular course of business. I provide this declaration based on the  
2 best of my knowledge, information, belief, and reasonable inquiry for the above captioned case.

3  
4 Court's Question 1

5 Are detainees at NWDC currently able to maintain at least six feet of physical distance  
6 from other individuals?

7 4. ICE defers to GEO to answer this question as the party responsible for providing  
8 the facility, management, personnel and services for the detainees in custody at the NWIPC  
9 insofar as it relates to work, housing and recreation areas accessible to detainees.

10 5. ICE refers the Court to the declaration of Dr. Malakhova, who is Clinical Director  
11 for ICE Health Services Corps ("IHSC") at the NWIPC for specific steps taken to encourage  
12 detainees to maintain at least six feet of distance within the clinic and Medical Housing Unit  
13 ("MHU") at the NWIPC, which is run by IHSC.

14  
15 Court's Question 2

16 What steps have Defendants taken to instruct and/or encourage detainees to maintain at  
17 least six feet of physical distance from other individuals, particularly in light of guidance  
18 from Department of Homeland Security ("DHS") medical subject matter experts who  
19 explain that "social distancing is essential to slow the spread of the coronavirus"?

20 6. ICE defers to GEO to answer this question as the party responsible for providing  
21 the facility, management, personnel and services for the detainees in custody at the NWIPC  
22 insofar as it relates to work, housing and recreation areas accessible to detainees.

23 7. ICE refers the Court to the declaration of Dr. Malakhova, Clinical Director for  
24 IHSC at the NWIPC, for specific steps taken to assist and encourage detainees to maintain at  
25 least six feet of distance within the clinic and Medical Housing Unit ("MHU") at the NWIPC,  
26 which is run by IHSC.

27  
28 Court's Question 3

1 Under what circumstances, if any, are detainees unable to maintain a physical distance of  
2 six feet or more from other individuals at NWDC? If detainees are unable to maintain a  
3 distance of six feet or more from other individuals, are Defendants taking any measures  
4 to mitigate the risk entailed by these circumstances? If so, what are those measures and  
5 how will those measures mitigate the risk?

6 8. ICE defers to GEO to answer this question as the party responsible for providing  
7 the facility, management, personnel and services for the detainees in custody at the NWIPC  
8 insofar as it relates to work, housing and recreation areas accessible to detainees.

9 9. ICE refers the Court to the March 27, 2020 declarations of OIC Bostock (Dkt.  
10 No. 66) and March 26, 2020 declaration of Deputy Assistant Director for Clinical Services Dr.  
11 Ada Rivera (Dkt. No. 65), setting forth the significant measures ICE, GEO, IHSC and the  
12 Executive Office for Immigration Review (“EOIR”) have implemented to prevent the spread of  
13 COVID-19 within the facility, including but not limited to:

- 14 a. Medical prescreening procedures for all arriving detainees prior to physically  
15 entering the facility in order to identify and prevent possible spread of COVID-19  
16 to other detainees, staff and surfaces; (Bostock Decl., Dkt. No. 66, ¶ 11)
- 17 b. Additional initial medical screening of detainees for medical conditions and  
18 possible COVID-19 symptoms upon intake to identify detainees who may  
19 possibly have or been exposed to COVID-19; (Rivera Decl, Dkt. No. 65, ¶ 9)
- 20 c. Medical isolation, testing and cohorting in cases where there has been possible  
21 exposure to COVID-19 to prevent spread to other detainees; (Rivera Decl, Dkt.  
22 No. 65, ¶ 10)
- 23 d. Placement of all incoming detainee property in storage to prevent contact  
24 contamination; (Bostock Decl., Dkt. No. 66, ¶ 12)

- 1 e. Provision of all arriving detainees with hygiene supplies and educational flyers  
2 regarding the important of hand hygiene and covering coughs to prevent the  
3 spread of COVID-19; (Bostock Decl., Dkt. No. 66, ¶ 13)  
4
- 5 f. Housing of all incoming detainees in designated, celled housing units for a  
6 mandatory 14-day observation period before release to general population to  
7 ensure that arriving detainees are COVID-19 free before being released into  
8 general population; (Bostock Decl., Dkt. No. 66, ¶ 14)  
9
- 10 g. Increased sanitation by GEO staff of all high contact areas, housing units and  
11 work areas within the NWIPC; (Bostock Decl., Dkt. No. 66, ¶ 16)  
12
- 13 h. Stocking and distribution of soap and sanitation supplies within detainee housing  
14 units so that detainees can maintain personal hygiene and perform additional  
15 sanitation of tables, telephones, tablets and other high contact surfaces with every  
16 use to prevent the possible spread of COVID-19; (Bostock Decl., Dkt. No. 66, ¶  
17 17)  
18
- 19 i. Weekly education meetings by GEO to explain and demonstrate proper sanitation  
20 of high contact surfaces; (Bostock Decl., Dkt. No. 66, ¶ 18)  
21
- 22 j. Prescreening of all employees and staff (GEO, ICE, EOIR, etc) prior to entrance  
23 to the facility, including temperature checks, to prevent employees from spreading  
24 COVID-19 to detainees;<sup>1</sup> (Bostock Decl., Dkt. No. 66, ¶ 24)  
25
- 26 k. Prohibitions on social visitation and limitations on contact attorney visits to  
27 prevent outside visitors from spreading COVID-19 to detainees; (Bostock Decl.,  
28 Dkt. No. 66, ¶ 19, 20, 22)

---

<sup>1</sup> To assist in this, entrance to the NWIPC for all incoming staff and visitors is currently limited to a single, main entrance.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- l. Education of GEO and ICE employees regarding the importance of hand hygiene, covering coughs and the implementation of telework programs to prevent the possible spread of COVID-19 between staff and from staff to detainees; (Bostock Decl., Dkt. No. 66, ¶ 23)
- m. Instructions to GEO and ICE staff to stay home if they are sick, experiencing any symptoms of COVID-19, or have been in close contact with someone exposed to COVID-19 in order to prevent the possible spread of COVID-19 to detainees and staff; (Bostock Decl., Dkt. No. 66, ¶ 25)
- n. and various measures implemented by EOIR and ICE so that detainees, Immigration Judge and attorneys for both sides can conduct hearings or resolve cases without being in the same room in order to prevent the spread of COVID-19. (Bostock Decl., Dkt. No. 66, ¶ 28-30)

Court’s Question 4

How many tests for COVID-19 have Defendants conducted on (a) all individuals present at NWDC, including ICE employees, and (b) of that number, how many tests for COVID-19 have Defendants conducted specifically on detainees at NWDC? Have any of those tests returned positive identifications of COVID-19?

Detainees

10. ICE itself does not conduct testing for COVID-19 on any individuals present at the NWIPC except for detainees within the care of ICE’s Health Services Corps (“IHSC”).

11. As of April 3, 2020, three detainees at the NWIPC have been tested for COVID-19. All of those tests results were negative.

ICE and GEO Employees

1 12. Both GEO and ICE employees who are ill or believe they may have been exposed  
2 to COVID-19 are instructed to follow the advice of their personal care providers, including  
3 regarding testing for COVID-19.  
4

5 13. GEO and ICE employees who are tested for COVID-19 are instructed to remain  
6 self-isolated at home until they receive test results and not to come to the NWIPC.

7 14. Any GEO or ICE employee who tests positive for COVID-19 is instructed to  
8 remain at home for at least 14-days or longer, as instructed by their personal care provider.  
9

10 15. As of April 3, 2020, no ICE employees at the NWIPC have reported being tested  
11 for or diagnosed with COVID-19.

12 16. As of April 3, 2020, GEO has notified ICE of three GEO employees at the  
13 NWIPC who have been tested for COVID-19. Two received negative test results. Test results  
14 for the third employee are currently pending.  
15

16 17. GEO has informed ICE that GEO employees who are tested for COVID-19 are  
17 required to provide a doctor's letter clearing the employee to return to work before the employee  
18 will be permitted to return to the NWIPC.  
19

20 EOIR Employees

21 18. As of April 2, 2020, the Executive Office for Review ("EOIR") has not reported  
22 to ICE that any of its employees at the NWIPC have been tested for or diagnosed with COVID-  
23 19.

24 Private Bar Attorneys

25 19. ICE cannot speak to whether any private bar attorneys or their accompanying staff  
26 (such as interpreters) who have appeared at the NWIPC have been tested for or diagnosed with  
27  
28

1 COVID-19 as they are not required to report such information to ICE or EOIR, though ICE  
2 anticipates that most attorneys would so as a matter of courtesy.

3 20. As explained in paragraphs 22 and 28-30 of my March 27, 2020, ICE, GEO and  
4 EOIR have implemented significant safety measures to limit contact visits and the need for  
5 private bar attorneys to be physically present at the NWIPC for immigration hearings in order to  
6 limit the possibility that they could expose detainees or facility staff to COVID-19.  
7

8 Court's Question 5

9 How many detainees at NWDC have been placed in isolation for the "14-day observation  
10 period" or otherwise been quarantined or isolated due to screening results, symptoms, or  
11 any other COVID-19-related reason?

12 Isolation Due to Screening Results, Symptoms or other Specific COVID-19 Reasons

13 21. ICE refers the Court to the declaration of Dr. Malakahova, IHSC Clinical Director  
14 at the NWIPC for a full answer to this question.

15 14-Day Observation Monitoring

16 22. Since March 20, 2020, all incoming detainees to the NWIPC who do not meet the  
17 current IHSC protocol requirements for isolation monitoring due to possible COVID-19  
18 symptoms, exposure or testing, are placed in separate special housing units for 14 days of  
19 observation monitoring for signs or symptoms of COVID-19, as described in my March 27, 2020  
20 declaration.  
21

22 23. As of March 30, 2020, there are now three housing units at the NWIPC being  
23 used for this purpose, two for male detainees and one for female detainees. A third housing unit  
24 was added in the last week because detainees arriving on different dates and different risk  
25 classification levels cannot be commingled and to allow GEO to house fewer detainees per cell.  
26

27 24. A remote medical unit has been set up to monitor detainees in these observation  
28 units. IHSC has limited medical staff rotation at this post to reduce the likelihood that IHSC

1 staff will become infected and spread COVID-19 to the remaining detainee population or other  
2 staff.

3  
4 25. On April 2, 2020, GEO informed ICE that 65 detainees have been separated from  
5 the general population in these 14-day observation housing units. However, fifteen of the  
6 detainees from the 14-day observation housing units have been released from ICE custody prior  
7 to expiration of the 14-day period.<sup>2</sup>

8  
9 Court's Questions 6

10 What is the total number of detainees that have been transferred to or otherwise placed at  
11 NWDC since March 1, 2020?

12 26. As of the morning of April 3, 2020, there have been 407 arriving detainees and  
13 399 departing detainees<sup>3</sup> at the NWIPC since March 1, 2020.

14 27. The numbers of incoming and departing detainees by date are as follows:

15  
16  
17  
18  
19  
20  
21  
22  
23  
24

Date	Arrivals	Departures
3/1/2020	138 <sup>4</sup>	1
3/2/2020	2	16
3/3/2020	13	58
3/4/2020	17	13
3/5/2020	23	8
3/6/2020	7	12
3/7/2020	6	2
3/8/2020	3	0

25  
26 <sup>2</sup> These detainees were released for various reasons, such as posting bond.

27 <sup>3</sup> Departing detainees primarily consist of those who are released on bond, parole or some other form of release;  
28 detainees whose applications for relief from removal have been granted by an Immigration Judge; and detainees  
being removed from the United States pursuant to final orders of removal.

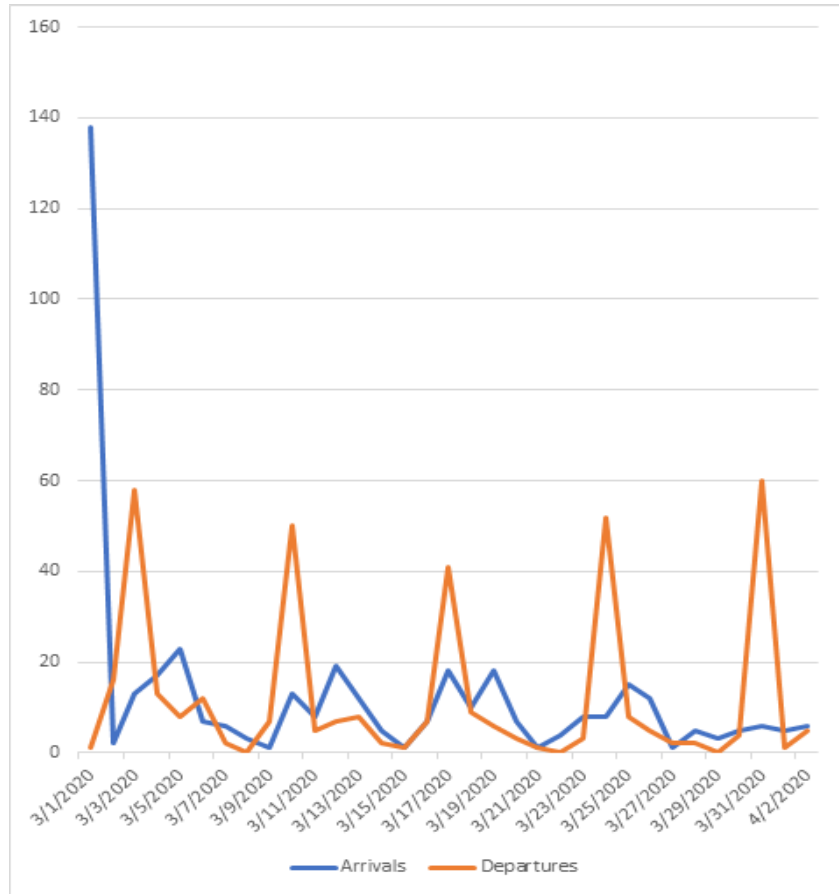
<sup>4</sup> Most of these arrivals are detainees transferred from the southern border. As explained in my March 27, 2020  
declaration, ICE does not expect any transfers from the southern border during the COVID-19 crisis. (Bostock  
Decl., Dkt. No. 66, ¶ 7)



1	3/9/2020	1	7
2	3/10/2020	13	50
3	3/11/2020	8	5
4	3/12/2020	19	7
5	3/13/2020	12	8
6	3/14/2020	5	2
7	3/15/2020	1	1
8	3/16/2020	7	7
9	3/17/2020	18	41
10	3/18/2020	10	9
11	3/19/2020	18	6
12	3/20/2020	7	3
13	3/21/2020	1	1
14	3/22/2020	4	0
15	3/23/2020	8	3
16	3/24/2020	8	52
17	3/25/2020	15	8
18	3/26/2020	12	5
19	3/27/2020	1	2
20	3/28/2020	5	2
21	3/29/2020	3	0
22	3/30/2020	5	4
23	3/31/2020	6	60
24	4/1/2020	5	1
25	4/2/2020	6	5
26		407	399
27			

28. The following is a chart showing how arrivals and departures at the NWIPC have

progressed since March 1, 2020:



29. As of the morning of April 3, 2020, the NWIPC is currently housing 794 detainees, or 50.4% of its 1,575 detainee capacity.

#### Court's Question 7

In addition to isolating any individual who shows symptoms or tests positive for COVID-19, what are Defendants' current plans, if any, in the event of a COVID-19 outbreak at NWDC—especially if it becomes widespread—to (a) provide medical care for detainees who contract COVID-19, particularly detainees who are elderly and/or have serious medical conditions and (b) manage the COVID-19 outbreak to minimize the possibility of spread to other individuals within NWDC and to the public at large?

30. Detainee health and safety are a priority for ICE. Since the onset of the COVID-19 outbreak, ICE has been regularly assessing current conditions and future projections regarding the course of the virus, regularly updating prevention and control protocols, and working with IHSC, GEO and EOIR staff to ensure appropriate screening and other procedures

1 to control the spread of COVID-19 are implemented at the NWIPC in compliance with the  
2 Centers for Disease Control’s (“CDC”) *Interim Guidance on the Management of Coronavirus*  
3 *Disease 2019 (COVID-19) in Correctional and Detention Facilities*.  
4

5 31. Detailed descriptions of IHSC’s COVID-19 screening and prevention protocols,  
6 including isolation and testing of detainees for COVID-19 and cohorting of asymptomatic  
7 detainees who were previously housed with a detainee undergoing testing to minimize spread of  
8 the virus are provided in the March 18, 2020 and March 26, 2020 declarations of IHSC Deputy  
9 Assistant Director for Clinical Services Dr. Ada Rivera.  
10

11 32. Detainees who are COVID-19 positive or presumptive positive will be housed  
12 individually first in the NWIPC Medical Housing Unit (“MHU”). Two additional housing units  
13 at the NWIPC have been designated as medical overflow units to house additional COVID-19  
14 positive and presumptive positive detainees should space become unavailable in the MHU.  
15 These housing units contain individual cells so that detainees can be housed separately.  
16

17 33. A remote medical unit has been set up for IHSC medical staff to treat detainees in  
18 these medical overflow units.  
19

20 34. In the event that a detainee at the NWIPC is diagnosed with COVID-19, such a  
21 detainee will be assessed by IHSC to determine the detainee’s degree of illness. IHSC will  
22 provide medical care to detainees who are diagnosed with COVID-19 to the point that medical  
23 staff determine a detainee requires hospital care. If IHSC determines that a detainee should be  
24 transported to the hospital, the detainee will be transported to a local hospital as any other  
25 resident of the state.  
26

27 35. Detainees who are transferred from the NWIPC to the hospital for treatment are  
28 still considered to be in ICE custody and therefore ICE is responsible for the financial costs of

1 their medical treatment. Any detainees released from ICE custody are independently responsible  
2 for the financial costs of their medical treatment, or those costs are transferred to the  
3 state/locality in which they choose to reside upon release.  
4

5 Court's Question 8

6 In the event of a COVID-19 outbreak, do Defendants' current plans include the  
7 possibility of release of detainees from NWDC? If so, how will Defendants determine  
8 which detainees will be released and how do Defendants plan to prevent or minimize the  
9 risk of the spread of COVID-19 from those released detainees to the public at large?

9 36. As stated in my prior March 27, 2020 declaration, ICE is conducting a  
10 discretionary review of certain detainees identified by IHSC, based on their medical records, as  
11 having a medical condition that places the detainee at-risk for COVID-19 according to CDC  
12 guidelines, to determine whether each detainee is legally eligible for release, and if so, whether  
13 release is appropriate. These reviews are continuing at this time.  
14

15 37. ICE is also adjudicating incoming parole requests submitted by detainees and/or  
16 their legal representatives.

17 38. All cases are currently being reviewed by ICE on an individualized basis to  
18 determine in the totality of the circumstances if the detainee is a danger to the community or a  
19 significant flight risk such that release is not appropriate.  
20

21 39. ICE will continue to assess the cases of all detainees at the NWIPC on a case-by-  
22 case-basis as circumstances change.  
23

24 40. Because the majority of detainees who have arrived at the NWIPC since the  
25 beginning of March 2020 came into custody as the result of local apprehensions within the  
26  
27  
28

1 Seattle Field Office's Area of Responsibility ("AOR"), ICE expects that most of those detainees  
2 will be returning to reside within the AOR if they were to be released.<sup>5</sup>

3  
4 41. ICE is conscious of the potential danger to the public that could result from the  
5 release of COVID-19 positive or suspected positive detainees. To that end, ICE does not intend  
6 to exercise its discretion to release a detainee who is waiting for COVID-19 test results or who  
7 has tested positive for COVID-19 and is still under medical treatment for COVID-19. In the  
8 event that ICE identified such a detainee that it deemed eligible for discretionary release, ICE  
9 would wait until the detainee had been medically cleared by IHSC for release to the community.  
10

11 42. Not all detainees are legally eligible for release on parole pursuant to Section  
12 212(d)(5)(A) of the Immigration and Nationality Act ("INA") and 8 C.F.R. § 212.5 (commonly  
13 referred to as "humanitarian parole"), release on recognizance, bond or conditional parole  
14 pursuant to INA § 236(a), or release on an Order of Supervision pursuant to 8 C.F.R. § 241.4.  
15 Many detainees are subject to mandatory custody pursuant to INA §§ 235(b), 236(c) and 241(a).  
16

17 43. Conversely, ICE may not legally continue to detain an alien who is legally  
18 entitled to release, e.g. an alien who has been granted and posted bond, granted relief from  
19 removal by an Immigration Judge, or had their removal proceedings terminated. In the event  
20 that a COVID-19 positive or suspected COVID-19 positive detainee at the NWIPC were legally  
21 eligible for release, ICE would be required to release that detainee. Prior to release, however,  
22 IHSC would notify the Pierce County Health Department and/or the Washington Department of  
23 Health to provide them the county and/or state the opportunity take whatever action they deem  
24  
25  
26

27 <sup>5</sup> The ICE Seattle Field Office's AOR consists of Alaska, Washington and Oregon. However, very few detainees  
28 are brought into custody from Alaska. The NWIPC also receives some of aliens apprehended in Idaho and Montana  
as there are no detained Immigration Court dockets in those states. However, Idaho and Montana officially fall  
within the AOR for the Salt Lake City ERO Field Office and therefore aliens apprehended in those states may be  
sent to detention facilities within that AOR.

1 necessary and appropriate concerning the detainee's release. To the extent possible, ICE would  
2 follow their recommendations regarding arrangements for release.

3  
4 Court's Question 9

5 Do Defendants currently possess the resources and ability to fully execute the plans  
6 referenced above, including necessary medical personnel, facilities, and equipment,  
7 including personal protective equipment?

8 44. ICE refers the Court to the declaration of Dr. Malakhova, Clinical Director for  
9 IHSC at the NWIPC for a full answer to this question.

10 Court's Question 10

11 As part of Defendants' case-by-case review for release of at-risk detainees who are not  
12 subject to mandatory detention provisions, how is each detainee's criminal history taken  
13 into account in determining whether to release that individual? (*See* Bostock Decl. ¶ 31.)

14 45. In considering release, ICE considers several factors, including the immigration  
15 and criminal histories of detainees who are not mandatory custody, to determine under a totality  
16 of the circumstances whether the detainee is a danger or a significant flight risk such that release  
17 is not appropriate. Criminal history may be considered both when assessing danger and flight  
18 risk. Specific factors that may be weighed in this individualized analysis include, but are not  
19 limited to: the number, age, nature and severity of the detainee's arrests and criminal  
20 convictions; sentences imposed and time actually served; past bench warrants, charges and  
21 convictions for failures to appear and/or failures to comply with court or other violations of court  
22 orders; probation and criminal parole history; evidence of recidivism and other criminal history,  
23 including current outstanding criminal warrants and no contact orders.

24 //

25 //

26 //

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is  
2 true and correct to the best of my knowledge and belief.

3  
4 Executed this 3rd day of April, 2020,

5  
6 \_\_\_\_\_  
7 Drew H. Bostock  
8 Officer in Charge  
9 U.S. Department of Homeland Security  
10 U.S. Immigration and Customs Enforcement  
11 Tacoma, Washington  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28