

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

WILFREDO FAVELA AVENDAÑO, et  
al.,

Petitioners-Plaintiffs,

v.

NATHALIE ASHER, et al.,

Respondents-Defendants.

Case No. 2:20-cv-700-JLR-MLP

**DECLARATION OF DR. ROBERT  
GREIFINGER**

I, Robert B. Greifinger, declare as follows:

1. I am a physician who has worked in health care for prisoners for more than 30 years. I have managed the medical care for inmates in the custody of New York City (Rikers Island) and the New York State prison system. I have authored more than 80 scholarly publications, many of which are about public health and communicable disease. I am the editor of *Public Health Behind Bars: from Prisons to Communities*, a book published by Springer (a second edition is due to be published in early 2021); and co-author of a scholarly paper on outbreak control in correctional facilities.
2. I have been an independent consultant on prison and jail health care since 1995. My clients have included the U.S. Department of Justice, Division of Civil Rights (for 23 years) and the U.S. Department of Homeland Security, Section for Civil Rights and Civil Liberties (for six years). I am familiar with immigration detention centers, having toured and evaluated the medical care in approximately 20 immigration detention centers, out of the several hundred correctional facilities I have visited during my career. I currently monitor the medical care in three large county jails for Federal Courts. My resume is attached as Exhibit A.
3. I have reviewed the following documents associated with this case:
  - a. Declarations of Drew Bostock, Dkt. 150-1, 152-1, 154-1, 158-1, 163-1, 165-1, 170-1, 171-1, 173-1;
  - b. Declarations of Jack Lippard, Dkt. 162-1, 163-1;
  - c. Third Declaration of Mr. Naeem Khan;
  - d. U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, COVID-19 Pandemic Response Requirements (v. 5.0, October 27, 2020).
4. From the evidence I have reviewed, it is clear that the Northwest Detention Center (NWDC) is at serious, imminent risk of a COVID-19 outbreak at the facility. From the declarations filed by Mr. Drew Bostock and Mr. Jack Lippard, Defendants have reported

14 cases of COVID-19 at the facility since November 2020, including two GEO employees, three ICE Health Service Corps (IHSC) employees, and two detainees in general population units. Key developments include:

- a. Yesterday, December 10, 2020, a detainee in the general population, presumably Unit A-3, tested positive for COVID-19.
  - b. IHSC provides medical care to detainees at NWDC. On December 9, 2020, a third IHSC employee tested positive for COVID-19.
  - c. On December 3, 2020, a detainee transferred from the NWDC to another ICE detention facility in Florence, Arizona and was tested for COVID-19 upon entry to the new facility. The detainee tested positive for COVID-19. This detainee had been housed in general population, presumably in Unit A-3. It is unclear as to what date that ICE Health Services Corps learned and reported the positive test, as an incorrect date appears in Mr. Bostock's declaration. Dkt. 171-1 ¶ 3. It is also unclear from Mr. Bostock's declaration as to whether ICE is aware of how the transferred detainee initially contracted COVID-19.
  - d. On November 30, 2020, ICE reported that an IHSC employee tested positive for COVID-19 after having close contact with another COVID-positive IHSC employee at the facility.
  - e. On November 24, 2020, an IHSC contact employee tested positive for COVID-19. The employee reported for work on November 25, 2020 apparently knowing that she was infected and came into close contact with two other IHSC employees. Since that date, ICE has reported that two other IHSC employees have subsequently tested positive for COVID-19.
5. These recent developments at NWDC are raise great concern. They provide strong evidence that detainees, particularly those who are medically vulnerable to COVID-19, are at high risk of contracting COVID-19 at the facility. This is especially true given the rising rates of COVID-19 in the surrounding community, and NWDC's failure to properly screen and test employees and staff.
  6. Once introduced to a congregate facility, COVID-19 can spread like wildfire, as demonstrated by wide outbreaks of COVID-19 in correctional and detention facilities nationwide. Given the infectious nature of COVID-19, preventing further spread is virtually impossible if quick and comprehensive action is not taken. Rigorous testing and contact tracing are critical to controlling COVID-19.
  7. It is notable that neither Mr. Bostock or Mr. Lippard can identify the how the detainee initially tested and confirmed to have COVID-19 on December 3, 2020 contracted COVID-19, suggesting a failure of ICE's contact tracing efforts at NWDC, and a broader, general risk of COVID spread in the facility.
  8. Given the lack of clarity as to the source of COVID-19 infection for this initial detainee, whose infection was detected only upon transfer to a different facility, it is quite possible that COVID-19 could be spreading undetected throughout the facility. It is possible that a COVID-positive detainee placed in a New Intake Monitoring unit could have been released to the general population while still contagious. COVID-positive

GEO and IHSC employees may have infected other people at the facility. However, without additional information, it is impossible to identify the source of initial infection.

9. The failure to regularly test staff and others who come into contact with detainees at NWDC places everyone in great danger. One of the most common ways that COVID-19 enters congregate facilities, such as jails and detention centers, is through staff and contractors. Staff sometimes have a higher infection rate than detainees, and medical staff often have a higher rate of infection than other staff.
10. Testing to mitigate the risk of COVID-19 in a detention facility should be frequent and not once-off. This should be at least weekly to be able to respond rapidly to any new infections and isolate those who are infected. In school or sports settings, where people are congregating in groups, public health experts have identified regular rapid testing as part of efforts to contain transmission of the virus. In some contexts, this means testing multiple times a week, but the recommendation is almost at least weekly. This periodic testing is important for many reasons. Among the reasons: there is an incubation period for the virus, where individuals will test negative despite being infected; and individuals can be exposed and infected subsequent to the initial test.
11. Given the information provided, it is my opinion that Defendants have failed to adequately respond to the COVID-19 pandemic at the Northwest Detention Center, jeopardizing the health and safety of detainees, staff and employees, and the surrounding communities.
12. For the reasons above, it is my opinion that the protocols and practices adopted by ICE at NWDC are inadequate to prevent or manage the spread of COVID-19, and that medically vulnerable detainees face grave danger as a result. The best public health option is to release medically vulnerable individuals from detention, given the heightened risks to their health and safety.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11<sup>th</sup> day in December, 2020 in New York City, New York.



Robert B. Greifinger, M.D.

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 11, 2020, I electronically filed the foregoing and any attached exhibits 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 11th day of November, 2020.

s/ Aaron Korthuis  
Aaron Korthuis, WSBA #53974  
Northwest Immigrant Rights Project  
615 Second Avenue, Suite 400  
Seattle, WA 98104  
(206) 816-3872  
aaron@nwirp.org

# **EXHIBIT A**

ROBERT B. GREIFINGER, M.D.

380 Riverside Drive, Apt 4F  
New York, New York 10025

(646) 559-5279  
[bob@rgreifinger.com](mailto:bob@rgreifinger.com)

Physician consultant with extensive experience in development and management of complex community and institutional health care programs. Demonstrated strength in leadership, program development, negotiation, communication, operations and the bridging of clinical and public policy interests. Teacher of health and criminal justice.

SUMMARY OF EXPERIENCE

MEDICAL MANAGEMENT AND QUALITY IMPROVEMENT SERVICES 1995-Present

Consultant on the design, management, operations, quality improvement, and utilization management for correctional health care systems.

- Recent clients include (among others) the U.S. Department of Justice Civil Rights Division, monitoring multiple correctional systems and the U.S. Department of Homeland Security Office of Civil Rights and Civil Liberties. Federal court monitor for the Metropolitan Detention Center, Albuquerque, New Mexico, Orleans Parish Sheriff's Office, New Orleans, Louisiana, and Miami-Dade Corrections and Rehabilitation Department.
- National Commission on Correctional Health Care. Principal Investigator for an NIJ funded project to make recommendations to Congress on identifying public health opportunities in soon-to-be-released inmates.
- Associate Editor, Puisis M (ed), Clinical Practice in Correctional Medicine, Second Edition, St. Louis. Mosby 2006.
- Editor, Greifinger, RB (ed), Public Health Behind Bars: From Prisons to Communities, New York. Springer 2007.
- John Jay College of Criminal Justice. Professor (adjunct) of Health and Criminal Justice and Distinguished Research Fellow 2005 – 2016.
- Co-Editor, International Journal of Prison Health 2010 – 2016.

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES 1989 - 1995

Operating budget of \$1.4 Billion. Responsible for inmate safety, program, and security. Sixty-nine facilities housing over 68,000 inmates with 30,000 employees.

Deputy Commissioner/Chief Medical Officer, 1989 - 1995

- Operating budget of \$140 million; health services staff of 1,100. Accountable for inmate health services and public health. Directed major initiatives in policy and program development, quality and utilization management.
- Developed and implemented comprehensive program for HIV prevention, surveillance, education, and treatment in nation's largest AIDS medical practice.
- Managed the rapid implementation of an infection control program responding to a major outbreak of multidrug-resistant tuberculosis. Helped bring the nation's tuberculosis epidemic to public attention.
- Developed \$360 million five-year capital plan for inmate health services. Opened the first of five regional medical units for multispecialty ambulatory and long-term care.
- Implemented a centralized and regional pharmacy system, improving quality, service and cost management.

ROBERT B. GREIFINGER, M.D.

MONTEFIORE MEDICAL CENTER, Bronx, NY 1985 - 1989

A major academic medical center with 8,000 employees and annual revenue of \$500 million.

Vice President, Health Care Systems, 1986 - 1989

Director, Alternative Delivery Systems, 1985 - 1986

Operating budget of \$60 million with 1,100 employees. Managed a multi-specialty group, a home health agency, and prison health programs.

- Negotiated contracts, including bundled service, risk capitation, fee-for-service arrangements, and major service contracts. Developed a high technology home care joint venture.
- Taught epidemiology and health care organization at Albert Einstein College of Medicine. Lectured nationally on health care delivery and managed care.
- Conceived and collaborated in development of a consortium of six academic medical centers, leading to a metropolitan area-wide, joint venture HMO. Organized a network of physicians to contract with HMO's preparing for cost-containment.

WESTCHESTER COMMUNITY HEALTH PLAN, White Plains, NY 1980 - 1985

Independent, not-for-profit, staff-model HMO, acquired by Kaiser-Permanente in 1985. Operating revenue \$17 million with 200 employees and 27,000 members.

Vice President and Medical Director

Chief medical officer and COO. Managed the delivery of comprehensive medical services. Accountable to the Board of Directors for quality assurance and utilization management. Practiced pediatrics.

- Accomplished turnaround with automated utilization management, improved service, sound personnel management principles, and quality management programs.
- Implemented performance based compensation program.

COMMUNITY HEALTH PLAN OF SUFFOLK, INC. 1977 - 1980

Community based, not-for-profit, staff model HMO, with enrollment of 18,000.

Medical Director

- Developed and operated clinical services. Accountable for quality of care. Practiced clinical pediatrics, and taught community health and medical ethics at SUNY Stony Brook School of Medicine.

MONTEFIORE MEDICAL CENTER, Bronx, NY 1976 - 1977

Residency Program in Social Medicine, Deputy Director, 1976-1977

Unique clinical training program focused on community health and change agency. Developed curriculum and supervised 40 residents in internal medicine, pediatrics and family medicine.

UNITED STATES PUBLIC HEALTH SERVICE 1972 - 1974

Commissioned officer in the National Health Service Corps. Functioned as medical director and family physician in a federally funded neighborhood health center in Rock Island, Illinois. Honorable Discharge.

ROBERT B. GREIFINGER, M.D.

FACULTY APPOINTMENTS

1976 - 2002

Assistant Professor of Epidemiology and Social Medicine, Albert Einstein College of Medicine

2005 - 2016

Professor (adjunct) of Health and Criminal Justice and Distinguished Research Fellow, John Jay College of Criminal Justice

NATIONAL COMMITTEE FOR QUALITY ASSURANCE

Worked with NCQA since its inception in 1980. Began training surveyors in 1989, and continued as faculty for NCQA sponsored educational sessions. Served for six years as a charter member of the Review Oversight (accreditation) Committee. Served on the Reconsideration (appeals) Committee for six years. Surveyed dozens of managed care organizations, and reviewed several hundred quality management programs.

OTHER PROFESSIONAL ACTIVITIES

- 2012 – present Member, Board of Directors, Prison Legal Services, New York
- 2012 – present Member, Board of Directors, National Health Law Program
- 2011 – 2015 Member, Board of Directors, Academic Consortium of Criminal Justice Health
- 2010 - 2016 Co-editor, International Journal of Prisoner Health
- 2009 Recipient, B. Jaye Anno Award for Lifetime Achievement in Communication
- 2007-2015 Member, National Advisory Group on Academic Correctional Health Care
- 2007 Recipient, Armond Start Award, Society of Correctional Physicians
- 2005 - 2011 Member, Advisory Board to the Prisoner Reentry Institute, John Jay College
- 2002 - present Member, Editorial Board, Journal of Correctional Health Care
- 2002 - present Peer reviewer for multiple journals, including Journal of Correctional Health Care, International Journal of Prison Health, Journal of Urban Health, Journal of Public Health Policy, Annals of Internal Medicine, American Journal of Public Health, Health Affairs, and American Journal of Drug and Alcohol Abuse.
- 2001 - 2003 Member, Advisory Board to CDC on Prevention of Viral Hepatitis in Correctional Facilities
- 1999 - 2003 Member, Advisory Board to CDC on Prevention and Control of Tuberculosis in Jails
- 1997 - 2003 Member, Reconsideration Committee, NCQA
- 1997 - 2001 Moderator, Optimal Management of HIV in Correctional Systems, World Health Communications
- 1997 - 2000 Member, Reproductive Health Guidelines Task Force, CDC
- 1993 - 1995 Co-chair, AIDS Clinical Trial Community Advisory Board, Albany Medical Center
- 1992 - Present Society of Correctional Physicians
- 1991 - 1997 Member, Review Oversight (accreditation) Committee, NCQA



ROBERT B. GREIFINGER, M.D.

1983 - 1985 Executive Committee, Medical Directors' Division, Group Health Association of America (Secretary, 1984-1985)

EDUCATION

University of Pennsylvania, College of Arts and Sciences, Philadelphia; B.A., 1967 (Amer. Civilization)

University of Maryland, School of Medicine, Baltimore; M.D., 1971

Residency Program in Social Medicine (Pediatrics), Montefiore Medical Center, Bronx, NY; 1971-1972, 1974-1976, Chief Resident 1975-1976

CERTIFICATION

Diplomate, National Board of Medical Examiners, 1971

Diplomate, American Board of Pediatrics, 1976

Fellow, American Academy of Pediatrics, 1977

Fellow, American College of Physician Executives, 1983

Fellow, American College of Correctional Physicians (formerly Society of Correctional Physicians), 2000

License: New York, Pennsylvania (inactive)

ROBERT B. GREIFINGER, M.D.

Updated February 2018

PUBLICATIONS

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