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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AMMON BUNDY *et al*,

Defendants.

Case No.: 3:16-CR-00051

**JOINT STATUS REPORT REGARDING
JAIL CONDITIONS**

Certificate of Conferral: On May 24, 2016, Lissa Casey conferred with AUSA Gabriel who informed Lissa Casey that the Government takes no position on this joint status report.

Background

Prior to Bringing Issues before Court: Before the May 4 meeting, counsel for Ammon Bundy and stand-by counsel for Ryan Bundy had telephone contact and written correspondence with Captain Peterson regarding several topics, of serious concern related to the conditions of pre-trial confinement, and whether jail conditions and deprivations are more than lawfully allowed restrictions and legitimate governmental interests, including each defendant's access to members of the legal team(s), insufficient accommodations for religious practice, and defendants' being denied access to materials and resources reasonably required to defend their respective cases. Counsel for Ammon Bundy sent a letter to Captain Peterson that explained the

issues and asked for Administrative Remedies. That letter is attached to this status report as Exhibit 1. Standby counsel for Ryan Bundy sent a similar letter.

Ammon and Ryan Bundy's report on confinement conditions: Both Ryan and Ammon Bundy have been held at the Multnomah County Detention Center ("MCDC"), the county's most secure facility, since their arrests. Despite being presumed innocent, these defendants are treated as harshly and the same as convicted felons with whom they are comingled and housed. In fact, they are housed in single cells and are allowed out of their cells to use a common area for a certain number of hours per day, depending on their classification. During that "walk time" each person is expected to address all hygiene needs, make phone calls, get exercise, send requests to jail staff and address all other personal business. The only tables in the unit are in the common room, so the only access to a traditional desk-and-chair sitting position is in that common room, shared with others for a limited time each day. Each man spends the rest of each day locked in his cell. The defendants are denied any provision for electronic review of discovery, denied access to any typewriter or computer for drafting, and are allowed only limited access to writing devices and a few pages of paper at a time. Further, telephone access to each defendant by legal staff is often unpredictable, usually due to claims of short staffing by the jail. This has created exceptional difficulty when time is of the essence for conferral, review of potential filings, and discussion of legal strategy. Further, while the defendants are provided shared access to an "attorney" telephone line for incoming calls from attorney and legal teams, these calls are not allowed confidentiality, and at all times the calls are personally monitored and listened to by a supervising deputy who is within a foot or two of the telephone conversations. This arrangement is a direct deprivation of defendants' right to confidential communications with their attorneys and legal teams, particularly regarding legal

strategy, sensitive factual discussion, and obtaining advice of counsel. Further, no provision is made for timely delivery of legal documents or notes from the defendants to their attorneys or legal staff – *and nothing requiring more than one stamp can be sent out from defendants via mail*. Finally, the defendants’ legal papers, legal writings and notes regarding trial strategy have been regularly subject to confiscation, and in at least one instance (as described below) for Mr. Ammon Bundy, his legal notes and trial strategy were reviewed by law enforcement for content – and purposefully withheld from him.

MCSO’s report on confinement conditions: MCSO wishes to inform the Court that they are committed to housing inmates in the least restrictive housing available, based on a variety of factors, including their individual security needs and in-custody behavior. They also wish to inform the Court that the more restrictive the housing placement, the more often the inmate is provided a substantive review for consideration of less restrictive housing.

Status Report

At the May 4, 2016 status conference, the Court directed counsel and stand-by counsels to confer with MCSO staff and then file a joint report with the Court.

MCSO: The positions on each of Defendant’s requests are outlined below.

Ammon and Ryan Bundy’s overall status report: Defendants’ recollection of the colloquy in Court was that the Court confirmed that the date and time selected for the meeting was a date and time where Ryan Bundy and Kenneth Medenbach could personally attend. To date, Defendants there is *not* a viable agreement between them and the jail to allow them access to the resources they need to defend themselves in two complex prosecutions. The accommodations that the jail has agreed to, outlined below, are already, for the most part, existing jail policies. Therefore, these do not appear to defendants to be “accommodations.” In

addition to the conditions outlined in this status report, the conditions at the jail are affecting these Defendants' Due Process rights, rights to assistance of counsel, and right to a fair trial. These conditions also constitute impermissible punishment, and restrictions beyond legitimate government interests under the Constitution of the United States. Given the staffing issues at the jail, for example, the phone lines made available for attorney-client calls, during non-lockdown hours, are frequently unavailable, and even when available are unreliable and inconsistent. And, as pointed out above, even these calls are personally monitored by a supervising deputy who listens to the content of the call within a foot or two of each defendant during the duration of all such calls. Defendants are thus, not able to adequately confer with counsel, to have confidential communications, to ask and receive confidential legal advice, and to confidentially discuss strategy and trial preparation in defense of themselves.¹ Defendants want to actively participate in their defense and/or defend themselves. They strongly believe that the Sixth Amendment Right to Counsel provides "assistance of counsel," not them assisting their counsel. They want to direct their defense, with the assistance of their lawyers to do so. The current conditions of the jail make this impossible.

¹ See *Ching v. Lewis*, 895 F.2d 608, 609 (9th Cir. 1990) ("While prison administrators are given deference in developing policies to preserve internal order, these policies will not be upheld if they unnecessarily abridge the defendant's meaningful access to his attorney and the courts. The opportunity to communicate privately with an attorney is an important part of that meaningful access.") (Internal citation and quotations omitted.); *Keenan v. Hall*, 83 F.3d 1083, 1092 (9th Cir. 1996) (A prisoner has "a First Amendment right to telephone access, subject to reasonable security limitations."); *Strandberg v. City of Helena*, 791 F.2d 744, 747 (9th Cir. 1986); *Franco-de Jerez v. Burgos*, 876 F.2d 1038, 1042 (1st Cir. 1989) ("the Constitution does not permit the government to hold a criminal defendant incommunicado to the point where she must contact her husband by throwing a rock with a message out the window.") But, this is happening in this case, where both Ammon and Ryan Bundy (along with other defendants) have had to give hand signals through the jail window to individuals on the street to get messages to his family and his attorneys. See also *Halvorsen v. Baird*, 146 F.3d 680, 689 (9th Cir. 1998).

Ryan Bundy's status report: "My rights are being violated. My right to life is being violated. All of my First Amendment rights are being violated. My right to freedom of religion is being violated. I cannot participate in religious activities and temple covenants, and wear religious garments. I could wear them at Henderson, but MCDC is depriving me of the right to wear them. My right to freedom of speech is being hampered by monitoring and recording. My right to freedom of assembly is being violated; I am not allowed to see my brother and move about. Yesterday, I attempted to discuss these issues with the U.S. Marshals, and they said that these were simply the jail rules. I asked them specifically about if there was any reason for the 'keep separate' orders. In Henderson, my brothers and father were housed together. Up here, they make efforts to keep us separate. This violates my right to freedom of assembly. My Second Amendment rights are being violated. I never waived that right. My Fourth Amendment rights are being violated of freedom from search and seizure without effects. They routinely look through my documents and papers without a warrant. My Sixth Amendment rights are being denied. I cannot meet with other counsel in this case without extreme difficulty. I cannot have effective assistance of counsel. When I say my rights are being violated, I want the Court to know that all of my rights are being violated; every last one of them. I could argue that my right to life hasn't been taken. But the FBI tried to take that right when they attempted to kill me. They missed on that one. I still have the bullet to prove that. And yet I still remain in custody. I am being treated worse than the inmates who have been convicted and are serving sentences. They are being given perks and opportunities to work. Those presumed innocent are held tighter."

Kenneth Medenbach's status report:

Mr. Medenbach has sufficient access to his attorney and paralegal at this time. Counsel and paralegal have regular access to what the jail calls an attorney-client phone that does not appear to be recorded. Counsel has received assurances from the USAO that none of his defense team's jail calls are being monitored by the USAO.

Regarding discovery review, Mr. Medenbach believes at this point it can be accomplished with the assistance of the paralegal that the court has authorized. However, like other defendants, he has access to only a small fraction of discovery at this point and so it would be premature to assume that the current arrangement will continue to work. He is hopeful that he will have access to an electronic device that will allow him to review discovery and to write legal pleadings more effectively than a tiny pen.

There was an issue with Mr. Medenbach's access to the jail law library which was brought to the attention of the Captain Peterson. He confirmed a miscommunication led to the failure to provide law library access. He assured me that Mr. Medenbach would receive his allotted 6 hours every week going forward. Mr. Medenbach believes that 6 hours per week is sufficient. The issue has since been resolved and Mr. Medenbach has had access to the law library.

Mr. Medenbach has no desire to be transferred to another facility. He is housed in a single cell which allows him maximum space to organize and review legal materials and draft legal documents with a minimum of distraction. When he was housed in a dormitory in Jackson County he found it impossible to read or study because of the noise. If he remains incarcerated, he requests that he not be moved to another facility during the case."

Jason Patrick's Status Report:

Standby counsel Andrew Kohlmetz has been working with MCIJ commander Lt. Jose Martinez to facilitate access to discovery materials. Mr. Patrick will be allowed to possess printed copies of documentary discovery contained within banker's boxes delivered by Mr. Kohlmetz or his staff and screened for security purposes by MCIJ staff.

Because there has been no decision on allowing these defendants access to solid state hardware with which they can review electronic evidence, Mr. Patrick is submitting a request for indigent funds to allow a paralegal time to review the material with him in a visiting room. This is the only method by which he can currently review video evidence.

Mr. Patrick will for the time being rely on an approved law-clerk and his standby counsel, while continuing to object thereto, to provide him with requested legal research services and materials.

Mr. Patrick requests that any accommodations made for any one of these defendants concerning access to legal materials be made for all such defendants regardless of the particular facility in which they are held.

Furthermore, Mr. Patrick requests he be allowed to possess the following books, provided by Mr. Kohlmetz, as necessary to his pro-se representation: Federal Rules of Criminal Procedure, Federal Rules of Evidence, Federal Criminal Trial Handbook, and United States Sentencing Guidelines Manual.

Counsel for Ryan Payne's status report regarding issues for Defendants currently housed at Inverness:

At the last status hearing, counsel for Ryan Payne raised the issue that defense counsel (to include attorneys and investigators) are routinely being denied visitations with clients who are housed at the Inverness Jail due to "keep separate" determinations that were made by jail staff. Notably, this was not an issue prior to defendants being transported to the District of Nevada on Wednesday, April 13, 2016. Prior to the transport, counsel would routinely meet with clients in "contact rooms" and could see co-defendants in adjacent rooms meeting with their attorneys. However, subsequent to defendants return to Portland, and being processed anew through the Justice Center and Inverness Jail, counsel are denied visitations when a co-defendant is already using a separate room for visitation. This includes both contact visits and non-contact/paper-pass visitation spaces. In other words, even when rooms are available, it limits all visitations to one co-defendant at a time. The first three attempts after Mr. Payne returned from Nevada, counsel for Ryan Payne was unable to meet with him due to "keep separate" co-defendants meeting with their respective counsel, meetings which often last hours. Counsel for Mr. Payne raised the issue with the Officer in Charge at Inverness Jail and was informed that the "keep separate" determination was meant to separate co-defendants from where they are housed, but would not apply to lawyer visits. This is an appropriate solution. However, last week, the same issue arose and counsel was denied a visit until a co-defendant visitation concluded, which took approximately two hours.

Counsel appreciate the need for Inverness Jail to take any and all measures they deem appropriate to ensure a safe environment for all prisoners being housed at the facility. Counsel are further doing their best to resolve the access issues at the lowest level, by working with jail

staff. The U.S. Attorney's Office has been notified of the client access issue and supports the resolution of not limiting visitations during a time when co-defendants are also meeting with their legal teams. So, the defendants are not coming to the Court seeking relief at this time. However, the defendants want to alert the Court that this issue persists, so that if meaningful access to clients is denied and defendants do seek relief in a future filing, the Court is on notice of some of the history of this issue.

Finally, counsel will attempt to work with jail staff to ensure Mr. Payne is afforded adequate time and resources to provide him reasonable access to electronic discovery. This must also include time for him to access and review discovery from the Nevada case. At present, counsel in Nevada have no way to provide Mr. Payne discovery from Nevada, and this access issue will soon be the subject of a motion filed in the District Court of Nevada. To the extent an agreement is reached between the staff at the Justice Center (MCDC) and co-defendants confined at that facility, Mr. Payne respectfully requests the same resources and access be provided to him as well.

Counsel for Blaine Cooper's status report:

Counsel for Blaine Cooper has experienced the same limitations on Mr. Cooper that were set forth regarding co-defendant Ryan Payne. Notably, since the return from Utah, there have been several visits that were significantly delayed and/or could not occur because of the keep separate issue. Counsel for Mr. Cooper as well as the investigator for Mr. Cooper have tried on 3 separate occasions to meet with Mr. Cooper, but was prevented from doing so because co-defendants in this case were meeting with members of their legal team at the time.

The Meeting

Defendant Ammon Bundy and Ryan Bundy's Report on the Meeting: Mr. Ryan Bundy requested specifically that he be permitted to personally attend that meeting. He was not permitted to attend that meeting. From Ryan Bundy's perspective, the meeting did not occur, since he was not allowed to voice his requests and positions directly with jail staff. Ryan Bundy wishes to reiterate to the Court that Lisa Ludwig does not represent him: he represents himself. Ryan Bundy wishes to voice his frustration with the Court that the Court's order was violated by his lack of personal attendance. He is attempting to work through these issues directly with jail staff, but is forced to bring these issues back before the Court since his attendance was denied at the meeting.

The parties met in the jail lobby and counsel requested that the meeting take place within the unit where Ryan Bundy could be included. However, the meeting took place in conference room 308 in the administrative portion of the building. At the meeting with Captain Peterson and Lieutenant Morrison, we discussed the resources and accommodations that have been requested by the defendants. The requests that counsel raised at the meeting and MCSO's current position are outlined below. Defendants make these requests because, given the current conditions, it is impossible for them to defend themselves. They cannot conduct adequate legal research, draft motions, and defend themselves against two simultaneous federal prosecutions. For those accused in both Oregon and Nevada, they need to research Nevada laws, which is not being allowed. Even the legal research that they can do, they cannot print off and save for future meetings with counsel to discuss incorporation of their research into pleadings, notes or strategies.

1. **Ammon and Ryan Bundy's request:** General Office Supplies (paper, real pens, pencils, file folders, sticky notes, paper clips, etc.). Defendants need these basic supplies to separate, mark, and distill the voluminous discovery in this case. This allows for productive communications with counsel in phone and in-person meetings. To date, the Government has produced almost 45,000 pages of discovery. The defendants in this case need supplies to organize that much discovery.

MCSO Response: MCSO will permit:

- Flexible, corrections grade/safety ink pens
- Legal pads supplied by counsel, but they must fit in a “banker box” when not in use
- colored pencils purchased from commissary, to be used for highlighting or other notation
- up to 3 banker boxes of paper material at a time. Additional boxes of material may be exchanged at attorney visits on a one-for one bases. All items/material allowed within the facility is subject to search for contraband. Legal material is searched for contraband but is not read or viewed for content.
- 3 banker boxes (supplied by counsel)
- Sticky notes or tape flags ²

² Defendant Ammon Bundy reports that despite this so-called “accommodation” within the last week, Deputies have confiscated sticky notes and tape flags after an attorney visit and despite Captain Peterson’s promise. Within an hour after the attorney-client meeting, a Srgt. came into Defendant Ammon Bundy’s cell and further confiscated these same notes and flags and Mr. Bundy was given a stern verbal reprimand and threatened with future discipline and restrictions for these items.

- Accordion files and folders as long as they fit into the 3 boxes and contain no metal or other items of concern.

2. **Ammon and Ryan Bundy's Request:** Storage and working space (a desk and chair) in cell. Defendants must kneel or stand to write. This causes them great pain when writing or reading for very long, and over time is completely prohibitive to Defendants' ability to read and write. In order to adequately defend themselves in this case, they must look through tens of thousands of pages of discovery and distill information for their counsel to present to the Court and jurors in their defense. This is also essential so that meaningful discussion and defense trial strategy can take place.

MCSO Response: MCSO will not permit a chair inside the cell. Inmates may roll towels or fold their mattress and use a fixed shelf to create a desk-like arrangement in the cell. Placement of a chair inside of the cell is not authorized due to safety and security concerns, which must be considered in a maximum security corrections environment. There is a substantial shelf/work space provided in each cell at MCDC. The shelf extends out from the wall and runs approximately three quarters the length of the cell.

3. **Ammon and Ryan Bundy's Request re: Law Library:** Access to law library and legal research materials, including online materials, news sources, and Google alerts, etc. Given that this is a media case, Defendants need to access Facebook and email. A significant amount of the evidence that they anticipate will be part of the Government's case against them is from Facebook and social media. They need to be able to look at this evidence and present other evidence in their defense. The

media coverage in this case is important and intense. Defendants need to know what the public knows about their case and how the public perceives the pending litigation. Access to the internet is necessary for these defendants to defend themselves given the unique nature of this case.

Ammon and Ryan Bundy's report on Law Library: At MCDC, there is a law library shared among inmates, who can request access to it for up to 6 hours per week. The inmates also have access to a traditional table and chair in that law library during those 6 hours per week. The law library consists of a static computer terminal without a keyboard, mouse or attached printer. The computer is operated by a touch screen and does not have a word processing program or any capacity to save documents or searches. It is preloaded with legal resources supplied by the legal publishing vendor and is searchable. It is not connected to the internet and so in order for it to be current, it has to be manually updated by a law librarian. The law library also has blank legal forms available to inmates, but no typewriter or printer available to anyone. There is no access to the internet to conduct fact research or e-filing. There are no electrical outlets available to inmates in cells or common areas, with the exception of a very small number of cells used for the handicapped or inmates with medical issues. Given that this is a media case, accessing Facebook, videos, and media is essential for assisting in their defense. This access is for research, not social activities.

MCSO Response: MCSO has no wi-fi within the jail facility and no ability to provide a hard internet connection. MCSO is willing to allow inmates to use the law library in excess of 6 hours per week when other inmates cancel their visits. In

addition to the physical plant issues related to providing internet access, unfettered/unmonitored internet access would be a substantial threat to facility security and management. MCSO does not have the staff or resources to monitor this sort of access appropriately. It is the understanding of MCSO that the Court has suggested that the Government may need to provide a location with appropriate equipment and supplies outside of the MCSO jail for defendants to view voluminous discovery and case-related material, in addition to preparing for their defense. MCSO is in agreement with the Court and is committed to producing defendants as necessary for USM transport from MCSO facilities for this purpose. We believe this to be a far more reasonable, manageable and appropriate solution as MCSO does not have the facilities, infrastructure to support the equipment or level/type of access requested by defendants.

4. **Ammon and Ryan Bundy's Request:** A computer suitable for and capable of legal research and drafting legal pleadings. This case is on tight deadlines. Defendants need to be able to draft pleadings and craft legal arguments and then send those to their attorneys for incorporation into court documents. Defendants also need to be able to review and edit or annotate draft legal filings- before they are filed.
5. **Peter Santilli's Request:** Peter Santilli is currently in custody at Inverness Jail, and he believes it is necessary for him to have access to a laptop, iPad or similar device to review audio and video recordings. In addition to all of the other discovery, Mr. Santilli produced approximately 200 hours of audio and video recording during the relevant period of the alleged conspiracy, and he needs some way of reviewing this material. It usually takes much longer than an hour to review one hour of video

because due to audio quality and other reasons some sections usually need to be replayed, sometimes more than once, to understand what was stated. Given the upcoming trial date, there is no practical way for Mr. Santilli to review this material unless he has uninterrupted access to a device that will play these recordings for several hours a day.

Specs:

- a. Accessible only to inmate in his cell allowing work 24/7

MCSO Response: MCSO will not agree to permit a conventional laptop or desktop computer with external hard drive to be used in the facility. However, there is some precedent for allowing inmates to have devices to review discovery when housed in a single-cell unit. MCSO is willing to consider permitting inmates to have a solid-state device like an iPad, loaded with discovery including video, legal materials and a word-processing program to be made available to the person only in his cell. His legal team would be responsible for changing out the iPad to remove documents and reload it as needed. MCSO would consider making arrangements to charge the device so that the inmate would have access for most hours of the day. However, they have not made a final decision on this issue. They would also consider allowing an mp3 player to allow the men to review audio discovery. It is the understanding of MCSO that the Court has suggested that the Government may need to provide a location with appropriate equipment and supplies outside of the MCSO jail for defendants to view voluminous discovery and case-related material, in addition to preparing for their defense. MCSO is in agreement with the Court and committed to producing defendants as necessary for USM transport from MCSO facilities for this

purpose. We believe this to be a far more reasonable, manageable and appropriate solution as MCSO does not have the facilities, infrastructure or staff to support the equipment or level/type of access requested by defendants.

b. **Ammon and Ryan Bundy's Request:** Cordless printer and scanner.

Defendants need to be able to print off legal documents and get them to their attorneys. Many motions and pleadings in this case, as well as communications between defendants and their legal teams in preparation for trial, will contain exhibits from discovery or other sources. Defendants need to be able to scan those documents and attach them as exhibits to their legal pleadings.

MCSO Response: MCDC does not have the infrastructure due to staffing and physical plant limitations to provide access for those items as previously noted. Additionally, these items would pose a potential security concern as parts and pieces may be misused and jeopardize facility security. MCSO does not agree to permit these items to be used.

c. **Ammon and Ryan Bundy's Request:** Software necessary to review government discovery, software to review and edit pleadings and other documents including MS Word, Adobe Acrobat X, Microsoft Movie Editor and PowerPoint.

MCSO Response: MCSO has not taken a position on what software could be placed on an iPad, but without internet access it would be impossible to use the chosen discovery review program, Relativity, which is web-based.

- d. **Ammon and Ryan Bundy's Request:** Media cards and external hard drives for reviewing electronic resources and saving files to be reviewed by counsel.

MCSO Response: MCSO does not agree to permit these items. The items would not be permitted as there would be no way to utilize this equipment without extensive computer access and other hardware previously disallowed.

6. **Ammon and Ryan Bundy's Request:** Ability to have contact visits with attorneys, witnesses, investigators and other team members by phone and in person without surveillance. This request also includes specifically, a) contact visits with family members³ and b) that calls from attorneys and legal staff not be monitored electronically or in person.

MCSO Response: MCSO will not permit contact visits or unmonitored calls with individuals who are not members of the defendant's legal team. Such calls are subject to both the availability of the shared phones on the unit, and the limits of either the inmate's walk time or the restrictions of incoming calls to approximately 7 hours per day, only 5 during business hours. MCSO has extensive professional visitation hours for legal counsel to meet with their clients totaling 84 hours per week. Additionally, incoming attorney phone calls are allowed (based on availability of phones in the housing units) seven days a week for a total of 52.5 hours. Visitation is on a first come, first served basis with a variety of visitation rooms/booths available.

³ See e.g. *Brenneman v. Madigan*, 343 F. Supp. 128, 141 (N.D. Cal. 1972) (“As a general proposition, a pre-trial detainee should be able to visit with whomever he pleases, especially his children, for substantial periods of time each week.”)

7. **Ammon and Ryan Bundy's Request:** Ability to have contact with co-defendants to discuss investigation and trial strategy and share information. As the Government eventually discloses its theory of the case to the defendants, they need to be able to strategize together to help their counsel present a defense on their behalf. With multiple defendants being tried together, they want to prevent the Government from pitting them against each other by keeping them separate from each other while confined.

MCSO Response: MCSO will not permit co-defendants to have contact. The basis for the restriction is both because they have been so directed by the U.S. Marshal's service, and because, although the Malheur National Wildlife Refuge defendants have not been designated as a gang or "Security Threat Group", it is against facility policy to permit contact among members of a group that have shown that they can work together for a common goal.

8. **Ammon and Ryan Bundy's Requests:** In a separate request, the Bundys have asked for accommodations for their religious practice, including being permitted to wear temple garments beneath their jail clothes, being permitted to gather together with other LDS adherents to give and receive blessings, and extra towels or bedding in their cells to allow for kneeling to pray.

MCSO Response: MCSO will permit an extra towel for kneeling but will not permit gathering by LDS members for blessing and prayer service. Those requesting to be permitted to wear temple garments will be allowed to do so underneath their required jail uniform. MCSO will issue a "Special Handling Form" authorizing these items for use. Garments must be worn in the agreed-upon manner. The

inmate's Counsel will be responsible to arrange for soiled garments to be collected for laundering weekly and to ensure clean garments are provided in exchange. All items entering the secured perimeter of the facility will be subject to a complete and thorough search by staff. MSCO does not restrict the gathering of inmates for scheduled religious services unless inmates are to be kept separate from one another for security or case-related reasons.

9. **Ammon and Ryan Bundy's Request:** Ammon Bundy has also made requests for the following items to be placed back in his cell, as they were before the Government transferred him to Nevada:

- Dictionaries
- Personal hygiene items
- Bible and Book of Mormon
- Legal materials and work product
- Notes transferred by the U.S. Marshals back to Portland from Nevada.

MCSO Response: Lt. Morrison ⁴ personally inspected the only bag of property held for/by MCSO after the return of Inmate Bundy, Ammon #795069 from Henderson, NV. The clear property bag was not opened, however there appeared to be one religious book, several legal-type pads, miscellaneous paperwork and other written material. The property bag was later opened in the presence of Inmate Bundy and all but one of the items in the bag was returned to him. It was found that there was a debit card (the one item not returned to him) issued from the previous correctional

⁴ This was 17 days after the transfer, and after two other deputies had already reviewed the materials, legal notes and strategies, and other property, without Ammon Bundy's presence or awareness. Further, the discovery documents were shuffled and scattered.

facility Inmate Bundy had been housed at. This debit card contained his commissary funds. Lt. Lorrison worked with MCSO property staff, with the authorization of Inmate Bundy, to transfer the funds from the card to his current inmate account. MCSO property staff also worked to ensure that a fee was refunded to the card which had been assessed by the company managing the debit card.

Ammon Bundy's Conclusion: Given that there is no viable agreement between the jail and defendants in this case, Ammon and Ryan Bundy are contemplating whether to seek relief in state court for civil rights violations or through this Court via express modification of the pretrial detention provisions, reconsideration of their pretrial detention altogether, and, *inter alia*, a possible section 1983 claim. As trial approaches, these defendants need to be given the ability to adequately defend themselves. The harm is ongoing and is enhanced as trial approaches. They have been confined without that ability due to the conditions of their pretrial confinement while presumed innocent. They attempted to work through these issues with jail staff, but now are forced to evaluate other viable options to protect their rights as citizens who stand accused with the weight of the Government against them.

DATED this 24th day of May, 2016.

/s/ Michael Arnold

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April 20, 2016

Captain Derrick Peterson
Multnomah County Detention Center
11540 NE Inverness Drive
Portland, OR 97220

Multnomah County Attorney
501 SE Hawthorne Boulevard, Suite 500,
Portland, Oregon 97214

4 pages sent by fax to 503-988-3377

Re: Inmate: Ammon Edward Bundy – ID #795069 – Inmate Rights

Dear Captain Peterson:

I am writing you this in advance of Ammon's return to Oregon. While you and your team have generally been very responsive to our concerns, Ammon and I had a very poor experience with his jail in Nevada that set us back in our case. I am writing to be proactive with our concerns, as I am determined to keep this case on track for a September trial date.

This letter serves as Mr. Bundy's request for resources for his ability to adequately defend himself in his federal cases in the manner outlined below. Also, I write to confirm in advance that Mr. Bundy will immediately be returned to general population and not have to go through another two weeks of solitary confinement as he initially did in Oregon and then inhumanely did for several days in Nevada (<http://snip.ly/solitary-nevada>). It is our position that any additional administrative segregation of Mr. Bundy in Oregon would be a violation of 42 U.S.C. § 1983.

We are also requesting that Mr. Bundy be allowed access to a computer to type notes regarding his case and to review the complex volumes of electronic discovery. As you may know, the court has declared this case complex. Therefore, we would like him to have all avenues available to assist in defending this complex case. There are thousands and thousands of pages of discovery and many hours of video footage in both cases. It would be an unfair and arbitrary financial burden to require Mr. Bundy to only review e-discovery with an investigator present. Because of the complex nature of this case, Mr. Bundy also needs to make electronic notes so he can effectively distill and reference the massive amount of discovery in this matter, and then use those notes to consult with counsel and prepare a constitutionally adequate defense with his legal team.

If this request is not allowed, we request a hearing regarding this matter and reserve the right to bring this to the court's attention and/or file a section 1983 lawsuit.

Although I only represent Mr. Ammon Bundy, it is my client's position that a rising tide lifts all ships, and he believes it to be in his best interests if all of the defendants had the same technology and resources available to them that the United States Government has. Rest assured, the US Attorney and FBI case agents are not writing notes with a stubby pen and getting callouses on their fingers in the process. Therefore in addition to the above-mentioned items, please provide all defendants with the following items:

- a. General office supplies, including paper, pens, pencils, and file folders.
- b. Storage and working space in his cell for books and legal materials.
- c. A chair and table for writing (it is our understanding that Ryan Bundy was punished for using extra towels to place under his knees to allow him to write and pray after having a disagreement with a chaplain over Mormonism's place in the church of Christ).
- d. Access to a law library and legal research materials, including access to online research. It is important for the defendants to be able to scour the internet for exculpatory information given the unique public nature of their cases.
- e. A computer suitable for and capable of legal research and drafting of legal pleadings. Such computer should be equipped with and have the following specifications:
 1. Accessible only to the inmate in his cell, allowing him to work twenty-four hours per day and seven days per week.
 2. Cordless printer and scanner.
 3. The software necessary to review the discovery.
 4. Software necessary to review and edit pleadings and other documents, including MS Word, Adobe Acrobat X, Microsoft Movie Editor, and PowerPoint.
 5. Media cards and external hard drives for reviewing resources electronically (which can be provided by counsel) and saving files to be reviewed by counsel; and
 6. Means for access to electronic legal resources such as Google, LexisNexis, etc.
- f. Access to news sources related to his cases, including the ability to set up relevant Google alerts and read related stories in nearly real time.
- g. Ability to contact all attorneys (as permitted by me) by phone or in person without surveillance, including but not limited to Ken Medenbach and Ryan Bundy.

Given the complexities of this case and Mr. Bundy's right a speedy trial, he is an essential part of his legal team. He has the ability and the right to

represent himself in this limited capacity to assist with his own defense under the Sixth Amendment without waiving his right to counsel under Faretta v. California, 422 U.S. 806 (1975).

It is my professional opinion that Ammon Bundy cannot adequately be defended without access to these materials given the timelines guaranteed for speedy trial and the slow production of voluminous discovery. It's a matter of fundamental fairness. Of course, he may be willing to stipulate to the current situation, if the FBI and US Attorney's Office agreed to only use a tiny pencil and paper for the remainder of the case.

It is also important to note that enemy combatants were even allowed to use laptop computers at Gitmo as reported by the Washington Times in 2010: <http://snip.ly/gitmo>.

First Amendment Exercise of Religion

Additionally, it has come to my attention that one of the chaplains at the jail may be hostile to the LDS faith in violation of the First Amendment. Please counsel that individual to be open to all faiths, and also please permit the LDS members to congregate together to discuss scripture and pray. In particular, we are formally requesting that Ammon and Ryan Bundy be allowed to practice their religion together in addition to working on their cases together.

Eighth Amendment Inmate Treatment

Finally, please provide Mr. Bundy with reasonable access to exercise and daylight, as well as personal contact with his family in a contact room, supervised by jail staff, of course. It appears that he is arbitrarily confined to the downtown facility although he more than likely qualifies for Inverness under your own department's policies. **Please consider this notice of an administrative hearing regarding placement.**

Public Records Request and Spoliation Notice

This letter also serves as a public records request and request to preserve records. Please provide our office with the following:

Any record of communication, including but not limited to email, phone calls, any official correspondence, or internal memorandum, between your agency and any member of the Henderson Police Department, or the Henderson Detention Center; with the US Marshals Service; with the United States Attorney's Office; any other government agency, or anyone else involved regarding Mr. Bundy or Mr. Bundy's case.

If there are any copying charges associated with this request, please contact

our office, and we will promptly remit payment. If the estimate of charges is more than \$65.00, please contact our office before continuing. If there are any questions regarding this request, please contact our office. Thank you in advance for your efforts.

Sincerely,

/s/ Mike Arnold

Michael Arnold
mike@arnoldlawfirm.com

cc: Client
Dan Hill
Ryan Bundy via Lisa Ludwig