CARLOS R. HOLGUÍN (Cal. Bar No. 90754)
PETER A. SCHEY (Cal. Bar No. 58232)
Center for Human Rights & Constitutional Law
256 South Occidental Boulevard
Los Angeles, CA 90057
Telephone: (213) 388-8693
Email: crholguin@centerforhumanrights.org
pschey@centerforhumanrights.org

LEECIA WELCH (Cal. Bar No. 208741)
National Center for Youth Law
405 14th Street, 15th Floor
Oakland, CA 94612
Telephone: (510) 835-8098
Email: lwelch@youthlaw.org

Listing continues on next page

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

Jenny Lisette Flores, *et al.*,

Plaintiffs,

v.

Jefferson B. Sessions, Attorney General, *et al.*,

Defendants.

Case No. CV 85-4544-DMG (AGRx)

MEMORANDUM IN SUPPORT OF MOTION TO ENFORCE CLASS ACTION SETTLEMENT

Hearing: May 18, 2018
Time: 9:30 a.m.
Room: 1st St. Courthouse
Courtroom 8C

Counsel for Plaintiffs, continued

HOLLY S. COOPER (Cal. Bar No. 197626)
Co-Director, Immigration Law Clinic
CARTER C. WHITE (Cal. Bar No. 164149)
Director, Civil Rights Clinic
University of California Davis School of Law
One Shields Ave. TB 30
Davis, CA 95616
Telephone: (530) 754-4833
Email: hscooper@ucdavis.edu
ccwhite@ucdavis.edu

OUTLINE OF CONTENTS

I INTRODUCTION 1

II THE COURT MAY AND SHOULD PRESCRIBE PROCEDURAL REMEDIES TO PROTECT THE SETTLEMENT'S SUBSTANTIVE PROVISIONS. 3

III ORR UNLAWFULLY DENIES CLASS MEMBERS LICENSED PLACEMENTS. 4

A Youth have a compelling interest in licensed placement. 4

B ORR affords youth neither adequate notice nor opportunity to be heard in denying them licensed placements. 6

D Peremptory step-ups violate ¶¶ 19, 21 and 24B of the Settlement. 10

IV ORR UNLAWFULLY MEDICATES YOUTH WITHOUT PARENTAL AUTHORIZATION. 12

A ORR regularly compels youth to take psychotropic medications. 12

B ORR unlawfully usurps parental rights to make medication decisions. 14

C Psychotropic drugs threaten children with serious, long-term injury. 15

D ORR's disregard for state law safeguards in medicating youth violates the Settlement. 16

V ORR PEREMPTORILY EXTENDS MINORS' DETENTION ON SUSPICION THAT AVAILABLE CUSTODIANS MAY BE UNFIT 17

A ORR unlawfully demands exceptional abilities in custodians for stepped-up youth 18

B ORR prolongs children's detention on the specious ground that mental health care is elsewhere unavailable. 21

C ORR must give non-dangerous youth a prompt and meaningful opportunity to be heard regarding a proposed custodian's fitness. 22

VI CONCLUSION 25

TABLE OF AUTHORITIES

Cases

Beltran v. Cardall, 222 F. Supp. 3d 476 (E.D. Va. 2016) 23

Benjamin v. Jacobson, 172 F.3d 144 (2d Cir. 1999) 4

EEOC v. Local 580, Int'l Ass'n of Bridge, Structural & Ornamental Ironworkers, 925 F.2d 588 (2d Cir. 1991) 4

Flores v. Sessions, 862 F.3d 863 (9th Cir. 2017) 8-9, 18

Gerstein v. Pugh, 420 U.S. 103, 95 S. Ct. 854, 43 L.Ed.2d 54 (1975) 3

Local No. 93, Int'l Ass'n of Firefighters. v. Cleveland, 478 U.S. 501 (1986) 24-25

Mathews v. Eldridge, 424 U.S. 319 (1976) 4

Miranda v. Arizona, 384 U.S. 436 (1966) 3-4

O'Connor v. Donaldson, 422 U.S. 563 (1975) 24

Quilloin v. Walcott, 434 U.S. 246 (1978) 24

Santos v. Smith, 260 F. Supp. 3d 598 (W.D. Va. 2017) 23

Saravia v. Sessions, 280 F. Supp. 3d 1168 (N.D. Cal. 2017) 11, 24

Smith v. Sumner, 994 F.2d 1401 (9th Cir. 1993) 4

Stone v. City & Cty. of San Francisco, 968 F.2d 850 (9th Cir. 1992) 3

United States v. N.Y.C. Dist. Council of N.Y.C., 229 Fed. Appx. 14, 181 L.R.R.M. 3105 (2d Cir. 2007) 3

United States v. Volvo Powertrain Corp., 758 F.3d 330 (D.C. Cir. 2014) 3

Statutes and Regulations

42 U.S.C. § 622(b)(15)(A) 15

6 U.S.C § 279 1

8 U.S.C. §§ 1101 *et seq.* 1

Homeland Security Act, Pub. L. 107-296, 116 Stat. 2135 1

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 110 Pub. L. 457, 122 Stat. 5044 ..... 1, 9, 10

Tex. Fam. Code Ann. § 151.001(a)(4), (6) 17

Tex. Fam. Code Ann. § 266.004(a), (b) 14, 17

Tex. Fam. Code Ann. § 266.0042 17

Tex. Fam. Code Ann. § 32.001 17

Other Authorities

ACF Children's Bureau, ACYF-CB-IM-12-03, *Information Memorandum* (Apr. 11, 2012) 15

DFPS, CHILD PROTECTIVE SERVICES HANDBOOK §§ 11113.2, 11323 17

Government Accountability Office, GAO-12-270T, *Foster Children: HHS Guidance Could Help States Improve Oversight of Psychotropic Prescriptions* (Dec. 1, 2011) 15

ORR, Children Entering the United States Unaccompanied: § 1.3.2, *available at* www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.3.2 (last rev. Apr. 22, 2016) 7

ORR, Children Entering the United States Unaccompanied: § 2.7, *available at* www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.7 (last rev. June 12, 2017) 19

I INTRODUCTION

On January 28, 1997, the Court approved a class-wide settlement of this action. Exhibit 80, Plaintiffs' Exhibits, filed herewith ("PX"), at 556 ("Settlement"). The agreement sets standards for the detention and release of juveniles detained for alleged civil violations of the Immigration and Nationality Act, 8 U.S.C. §§ 1101 *et seq*.[1] The Settlement binds successors to the Immigration and Naturalization Service ("INS"), including Department of Health and Human Services' Office of Refugee Resettlement ("ORR"), which since 2002 has been responsible for the custody and release of unaccompanied class members.[2]

The Settlement requires ORR to minimize the detention of children and, thereby, the harm detention causes them. In the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 110 Pub. L. 457, 122 Stat. 5044, *codified in pertinent part at* 8 U.S.C. § 1232 ("TVPRA"), Congress incorporated this bedrock principle into federal law.

ORR has nonetheless adopted certain policies and practices that prolong children's detention under ever-harsher conditions, creating a continuum of trauma that class members—many of whom arrive in the United States having suffered horrific abuse abroad—are ill-equipped to endure.

---

[1] The Settlement covers "all minors who are detained in the legal custody of the INS," and binds the INS and Department of Justice, as well as "their agents, employees, contractors, and/or successors in office." Settlement ¶ 1. The Settlement is binding until "45 days following defendants' publication of final regulations implementing this Agreement." Exhibit 3, Plaintiffs' First Set of Exhibits, etc., Feb. 2, 2015 (Dkt. 101), at 54. Defendants have never published such regulations.

[2] In 2002, the Homeland Security Act, Pub. L. 107-296, 116 Stat. 2135 ("HSA"), dissolved the INS and transferred most of its functions to the Department of Homeland Security ("DHS"). Congress directed, however, that the ORR should have authority over unaccompanied minors detained pursuant to the INA. 6 U.S.C § 279. The HSA included savings provisions that continue the Settlement in effect as to the INS's successor agencies. HSA §§ 462(f)(2), 1512(a)(1).

First, ORR "steps up" youth from shelters to medium-secure, secure, and psychiatric facilities without the most rudimentary procedural fairness or transparency. Youth housed in shelters report being awakened in the small hours of the morning and soon thereafter finding themselves confined in juvenile halls or psychiatric facilities. ORR allows youth no administrative procedure—no interview, hearing or administrative appeal—by which they may defend themselves against needless step-up.

Second, ORR routinely administers children psychotropic drugs without lawful authorization. When youth object to taking such medications, ORR compels them. ORR neither requires nor asks for a parent's consent before medicating a child, nor does it seek lawful authority to consent in parents' stead. Instead, ORR or facility staff sign "consent" forms annointing themselves with "authority" to administer psychotropic drugs to confined children.

Finally, the above practices—unlawful in and of themselves—work a further injustice: once ORR steps up a class member, winning release to available custodians becomes exponentially more difficult, and prolonged detention all but certain. According to ORR policy, children who have ever been in a staff-secure or secure facility remain detained until ORR's director or his designee consents to release; such consent is typically many weeks in coming, if it comes at all, and is required even when the step-up was based on "inaccurate, or erroneous information."

Once ORR steps up a youth to a residential treatment center ("RTC"), an RTC doctor must authorize release. In effect, ORR's summarily dispatching a child to a psychiatric facility converts immigration-related custody into indefinite civil commitment, and ORR does so without affording youth the most rudimentary procedural protection.

Such a continuum of trauma would not be inflicted today on any other population. But ORR detains immigrant and refugee children and freely exalts its

own administrative convenience to deny basic protections the Settlement confers. It falls to this Court to remedy a palpable injustice.

II THE COURT MAY AND SHOULD PRESCRIBE PROCEDURAL REMEDIES TO PROTECT THE SETTLEMENT'S SUBSTANTIVE PROVISIONS.

This Court has affirmed its jurisdiction to enforce the Settlement and set out the principles for doing so. Order re: Plaintiffs' Motion to Enforce Settlement, July 24, 2015 (Dkt. 177), at 3 ("24A Order"). Those principles remain apposite and need not be repeated here.

As concerns remedy, the Court has "'inherent power to enforce consent judgments, beyond the remedial contractual terms agreed upon by the parties [because] a consent judgment contemplates judicial interests apart from those of the litigants.'" *United States v. N.Y.C. Dist. Council of N.Y.C.*, 229 Fed. Appx. 14, at *18, 181 L.R.R.M. 3105 (2d Cir. 2007). "Until the parties have 'fulfilled their express obligations' to comply with a consent decree, 'the court has continuing authority and discretion—pursuant to its independent, juridical interests—to ensure compliance.'" *Id*. at *18 n.5 (internal citation omitted, alteration in original); *United States v. Volvo Powertrain Corp*., 758 F.3d 330, 343 (D.C. Cir. 2014) ("Where, as here, a consent decree 'does not specify the consequences of a breach,' the district court has 'equitable discretion' to fashion a remedy for violations of the decree.") (internal citations omitted).

In *Stone v. City & County of San Francisco*, 968 F.2d 850, 861 & n.20 (9th Cir. 1992), the Ninth Circuit held that a federal court's authority to remedy violations of a consent decree are the same as when constitutional violations occur. The Supreme Court, of course, has often prescribed procedures, independently of the Due Process Clause, to protect constitutional rights. *E.g.*, *Gerstein v. Pugh*, 420 U.S. 103, 112, 95 S. Ct. 854, 43 L.Ed.2d 54 (1975) ("To implement the *Fourth Amendment's* protection against unfounded invasions of liberty and privacy," magistrate must review probable cause for arrest) (emphasis in original); *Miranda v. Arizona*, 384

U.S. 436, 478-79 (1966) (when detained individual is subjected to police questioning, "the privilege against self-incrimination is jeopardized [and] [p]rocedural safeguards must be employed to protect the privilege.").

This Court may accordingly prescribe procedures in furtherance of the Settlement's substantive standards. *E.g.*, *EEOC v. Local 580, Int'l Ass'n of Bridge, Structural & Ornamental Ironworkers*, 925 F.2d 588, 592 (2d Cir. 1991) (affirming "creation of backpay hearings" to further compliance with consent decree).

Constitutional principles of due process are in accord. Because the Government voluntarily entered into the Settlement, the substantive rights it provides are "state-created." *Smith v. Sumner*, 994 F.2d 1401, 1406 (9th Cir. 1993). ORR may not, therefore, deny class members those rights without due process. *Id*.[3] Each of the remedies Plaintiffs seek is justified under the familiar test for determining what process is due. *See Mathews v. Eldridge*, 424 U.S. 319 (1976).

The Court should enter a remedial order in the form proposed herewith.

III ORR UNLAWFULLY DENIES CLASS MEMBERS LICENSED PLACEMENTS.

A Youth have a compelling interest in licensed placement.

Settlement ¶ 19 requires ORR to place the general population of class members in non-secure facilities licensed to care for dependent, as opposed to delinquent, minors. ORR may deny youth a licensed placement only under defined circumstances. Settlement ¶ 21.

[3] Other circuits may hold to the contrary, at least as concerns prospective relief. *E.g.*, *Benjamin v. Jacobson*, 172 F.3d 144, 164 (2d Cir. 1999).

At any given time, ORR confines approximately 200 youth in three types of unlicensed facilities:[4] (1) "staff-secure" facilities; (2) RTCs; and (3) juvenile jails.[5] Class members have a clear interest in avoiding step-up to unlicensed facilities.

In contrast to children in licensed placements, children in staff-secure facilities and RTCs typically must wear institutional clothing, are kept under 24-hour surveillance, have limited contact with family, and are summarily disciplined for violations of facility rules. Decl. of Isabella M., Exhibit 10 (PX 61) ¶ 2 ("Isabella M.") (minor under 24-hour surveillance); Decl. of Gloria P., Exhibit 41 (PX 233) ¶ 2 ("Gloria P.") (same); Decl. of John Doe 2, Exhibit 74 (PX 470) ¶ 27 ("If you lose two points in a day, you don't go outside your room."). A children's lawyer describes security at a staff-secure facility as follows:

> The entrance to the area of the building where the UAC children are detained is always locked, and I must press a buzzer and wait for security to allow me to enter. The door is locked from both sides, and so a staff member is also required to unlock the door and let me out . . . Once I have entered the Morrison Facility, I must . . . await staff to open a second locked door before I can enter the hallway leading to the locked room where I meet with [my client]. To my recollection, every door that I have seen be opened at Morrison must be opened by a staff member with a key.

---

[4] A "licensed program" must be "licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children. . . . All homes and facilities operated by licensed programs . . . [must] be non-secure as required under state law. . . ." Settlement Definition 6. Although staff-secure, RTC, and secure facilities may hold a license of some sort, they are not "licensed placements" as the Settlement defines them. *See* 24A Order at 4 (Yolo juvenile hall "not licensed to care for dependent children.").

[5] ORR currently houses detained youth in three juvenile jails: Yolo County Juvenile Hall in California, and Shenandoah Valley Juvenile Center ("SVJC") and Northern Virginia Juvenile Detention Center ("NoVA") in Virginia. Decl. of Carlos Holguín, Exhibit 87 (PX 648) ¶ 3 ("Holguín").

Decl. of Leland Baxter-Neal, Exhibit 5 (PX 32) ¶¶ 9-10; *see also* Decl. of Nicolás C., Exhibit 2 (PX 13, 16-17) ¶¶ 7-8 ("The conditions of Paso are very different from those of the shelter in Kansas City. . . . Everything has a key. . . . I always have to wear a uniform, which makes me feel like a prisoner.").

Conditions in secure facilities are more restrictive and prison-like still. Class member Samuel W. describes them as follows:

> I am suffering a lot being in the Yolo Juvenile Detention Center. It is a jail and I sleep in a locked, small jail cell. I can't leave here and have no freedom at all. We only get one hour of time outside each day. I have to live in a small cell with concrete walls. We have to sleep on hard beds with very thin mattresses.

Decl. of Samuel W., Exhibit 44 (PX 248) ¶ 8 ("Samuel W.").

Youth in secure facilities report being handcuffed, locked in cells, and pepper sprayed. Decl. of Julio Z., Exhibit 64 (PX 420-21) ¶¶ 29, 31 ("Julio Z.") ("I sleep in a locked jail cell. . . . The guards also push us, pepper spray us[.] . . ."); Decl. of John Doe 1, Exhibit 73 (PX 460, 462) ¶¶ 9, 20 ("At Shenandoah, my room had a mattress, a sink, and a toilet . . . I was forced to wear handcuffs on my wrists and shackles on my feet for approximately 10 days in a row."); Decl. of John Doe 3, Exhibit 75 (PX 475) ¶ 12 ("[W]henever I was put in restriction, they took away my mattress and blanket. They took my clothes away about 8 times."); Decl. of D.M., Exhibit 76 (PX 483-84) ¶¶ 16-18 (Children strapped into chairs, and bags placed over their heads; youth thought, "they are going to suffocate me. . .").

B ORR affords youth neither adequate notice nor opportunity to be heard in denying them licensed placements.

Despite their clear interest in licensed placement, ORR regularly steps up youth without giving them notice or the least opportunity to be heard. Class member Roberto F.'s description is fairly typical:

> One day I had a disagreement on the soccer field. A staff member approached me suddenly. I was surprised and without thinking I reacted, but I was accused

> of beating him. About two days later, suddenly at four in the morning the supervisor came to tell me that they were going to move me to another program. And that is how I arrived at Shenandoah. They gave me no hearing or opportunity to explain my side of the facts.

Decl. of Roberto F., Exhibit 37 (PX 214, 218) ¶ 7 ("Roberto F."); *see also* Decl. of Jaime V., Exhibit 45 (PX 252-53) ¶¶ 11-14 (youth not told where he was going; thought he was being deported); Decl. of Ricardo U., Exhibit 39 (PX 225) ¶ 2 (stepped up minor falsely told he was being stepped down); Gloria P. (PX 233) ¶ 3 (stepped up minor falsely told she was going to another shelter).[6]

And ORR step-ups are *entirely* unilateral. The agency purports to use a "placement tool," into which it enters information about a child. ORR, Children Entering the United States Unaccompanied: § 1.3.2, *available at* www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-1#1.3.2 (last rev. Apr. 22, 2016). The tool generates a "score" and recommends placement: licensed or stepped up. Only ORR supervisory federal field specialists may override the tool's recommendation. *Id*.

Once ORR decides to step up a youth, it sometimes uses a form, "Notice of Placement in a Restrictive Setting," Exhibit 22, PX 114-15, which, to Plaintiffs' knowledge, exists only in English, to explain its reasons for step-up. Most youth report never having seen the form. Samuel W. (PX 248) ¶¶ 2, 7 ("I speak Spanish and only a few words of English. . . . When the government sent me to Yolo Juvenile Detention Center, . . . I don't remember them ever giving me any explanation of my rights in Spanish . . ."); Supp. Decl. of Isabella M., Exhibit 11 (PX 66-67) ¶ 6 (minor never given form notice of placement in restrictive setting); Supp. Decl. of David I., Exhibit 15 (PX 86-87) ¶ 3 (same).

[6] ORR's failing to notify children of the basis for step-up also denies notice of their right to judicial review in violation of Settlement ¶ 24C.

Even were ORR to issue its form notice consistently, it would do class members little good. Few read English, and ORR allows neither children nor their lawyers to inspect or rebut its evidence or otherwise oppose step-up. Short of going to federal court, children simply have no procdure by which they may contest ORR decisions to deny licensed placement.[7] Decl. of Sofia O., Exhibit 40 (PX 228) ¶ 5 ("Sofia O.") ("I did not have an opportunity to object to the transfer."); Gloria P. (PX 233) ¶ 3 ("I don't remember receiving any document that explained that I had the right to challenge the government's decision to send me to Shiloh."); Decl. of Javier C., Exhibit 30 (PX 170) ¶ 4 ("Javier C.") (same); Decl. of D.M., Exhibit 76 (PX 481) ¶ 5 ("But I never had a chance to dispute this [transfer.]").

This is not exactly what the Ninth Circuit envisioned when it affirmed this Court's order requiring ORR to provide minors bond hearings:

> For those minors in secure detention, bond hearings additionally provide an opportunity to contest the basis of such confinement. For example, the TVPRA allows children to be placed in secure detention facilities only if they pose a safety risk to themselves or others, or have committed a criminal offense. These are precisely the determinations made by an immigration judge at a bond hearing.
>
> Providing unaccompanied minors with the right to a hearing under Paragraph 24A therefore *ensures that they are not held in secure detention without cause*.

---

[7] ORR purports to allow children to request "reconsideration" of placement in a secure or RTC facility, but only *after* they have spent 30 days in one. Exhibit 22, PX 115. Youth who have spent far longer in such facilities report knowing nothing about this or any other means to request step-down. *E.g.*, Gloria P. (PX 233) ¶ 4 (youth detained nearly four months in RTC; "No one has sat down with me and reviewed whether I should be stepped down . . . or told me . . . what I have to do in order to step down."); Decl. of Carlos A. Exhibit 31 (PX 175) ¶ 5 ("Carlos A.") (youth detained three months in juvenile hall; "I don't remember them ever telling me that I could ask for the decision to put me here to be reviewed . . ."); Decl. of Gabriela N., Exhibit 19 (PX 103) ¶ 7 (same; youth detained three months in RTC).

Flores v. Sessions, 862 F.3d 863, 868 (9th Cir. 2017) (emphasis added).

ORR simply disregards the Ninth Circuit's holding, insisting that it "only applies to the question of dangerousness as it applies to release. An immigration judge's order may be taken under advisement when making a placement decision but is not binding on ORR . . ." Email from T. Biswas, Feb. 23, 2018, Exhibit 70, PX 448.[8]

Nor is class members' suing in federal court a viable remedy. ORR contrives to deny them counsel to challenge step-ups, thus ensuring that indigent, non-English-speaking minors have no meaningful chance to do so.

TVPRA § 235(c)(5) requires ORR to "ensure, to the greatest extent practicable . . . that all unaccompanied alien children who are or have been in the custody of [ORR], and who are not [from continguous countries], have counsel to represent them in *legal proceedings or matters and protect them from mistreatment*. . . ." (Emphasis added.)

Congress appropriates funds so ORR may provide lawyers to minors in its custody. Between 2009 and 2013, ORR paid the Vera Institute of Justice nearly $40 million to provide legal services. Exhibit 16, Plaintiffs' Exhibits, Aug. 12, 2016 (Dkt. 239-3), at 51. Vera sub-contracts with legal aid programs to represent class members. *Id*. at 7-9.

All this does class members little good in securing their rights under the Settlement:

> Lawyers whom the Vera Institute funds had, and continue to have, [little] latitude in advocating for detained immigrant and refugee children. . . . [D]uring my employment with [Vera-funded] HIAS Pennsylvania I was instructed that I could not assist detained children [to] challenge ORR's release

[8] Mr. Biswas issued his email in the case of former class member Santiago H. An immigration judge found Santiago not dangerous and ordered ORR to step him down. Custody Order, Feb. 21, 2018, Exhibit 68, PX 443. ORR simply refused.

> or placement decisions, no matter how arbitrary or otherwise unlawful ORR's decisions appeared. I know of no Vera-funded legal services provider who has ever represented a minor in federal court against ORR.

Decl. of Justin Mixon, Exhibit 81 (PX 588) ¶ 9 ("Mixon"); *see also* Affidavit of Lorilei Williams, Exhibit 85 (PX 617) ¶ 19 (ORR "hobbles free legal services providers who undertake to represent detained children."); Decl. of Megan Stuart, July 29, 2016, Exhibit 86 (PX 626-27) ¶¶ 22-24 (same).

As a practical matter, Vera-funded services are the *only* legal help most class members will ever get. Mixon (PX 587) ¶ 8 ("Apart from Vera Institute-funded legal services providers, I know of only a handful of lawyers who are truly versed in the rights of immigrant and refugee minors in ORR custody. In my experience, private practitioners generally lack the resources to pursue federal litigation on behalf of their clients[.] . . .").

ORR's blocking Vera lawyers from helping detained minors challenge step-up ensures that few, if any, class members will ever do so.

D Peremptory step-ups violate ¶¶ 19, 21 and 24B of the Settlement.

ORR's policies deny minors licensed placements on grounds neither the Settlement nor the TVPRA authorize.

The Settlement permits unlicensed placement in five circumstances[9]: the minor (1) has committed a violent crime or non-petty delinquent act; (2) threatened violence while in federal custody; (3) is an unusual escape-risk; (4) is so disruptive that secure confinement is necessary to protect the minor or others; or (5) must be protected from smugglers and the like. Settlement ¶ 21.[10]

---

[9] The TVPRA allows ORR only two: *i.e.*, the youth "is a danger to self or others or has been charged with having committed a criminal offense." TVPRA § 235(c)(2)(A).

[10] Even if an exception to licensed placement applies, ORR must house children in the "least restrictive setting" practicable, Settlement ¶ 11, and may not place minors in a

ORR's "Notice of Placement in a Restrictive Setting," Exhibit 22, however, posits seven reasons for secure, four for staff-secure, and four for RTC placement, a *total of 15* grounds for denying class members their right to licensed placement.

Some of these "extras" express little more than vague *suspicion* that a juvenile *might* be dangerous: *e.g.*, "inappropriate sexual behavior," or "[h]av[ing] self-disclosed . . . gang involvement prior to placement in ORR custody that requires further assessement." Paragraph 21, however, allows step-up under specific circumstances, not mere vague suspicion.

There can be no material dispute that ORR in fact dispatches youth to secure facilities precipitiously. In *Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017), ICE re-arrested several juveniles whom ORR had earlier released, allegedly because they were involved with gangs. *Id*. at 1178. ORR sent the youth to juvenile halls, including Yolo County's. *Id*. at 1199. Yet according to Yolo County Juvenile Hall's Chief Probation Officer, ORR's evidence for sending the minors to his facility was "often insufficient, and . . . the Yolo County Probation Department . . . did not have just cause to detain most of these minors." *Id*. at 1199.

The court preliminarily enjoined ORR to provide re-arrested juveniles bond hearings and to release those whom immigration judges found non-dangerous. *Id*. at 1205-06. Twenty-nine youth received hearings; judges ordered ORR to release twenty-six. Request for Judicial Notice, *Saravia v. Sessions*, No. 18-15114 (9th Cir., March 16, 2018), Exhibit 79 (PX 554-55). All told, ORR had wrongly sent 90 percent to secure facilities.

This Court has ample discretion to require meaningful procedural protection against ORR's wrongfully denying class members their right to licensed placement. It should do so by entering Plaintiffs' proposed order.

---

juvenile hall if "less restrictive alternatives," such as a "medium security facility" or "another licensed program" are available. Settlement ¶ 23.

IV ORR UNLAWFULLY MEDICATES YOUTH WITHOUT PARENTAL AUTHORIZATION.

ORR also regularly places youth on multiple psychotropic medications. It often tells children little or nothing about the drugs, nor does the agency obtain parental consent, or the legal equivalent thereof, to medicate children.

There can be no question that psychotropic drugs can seriously and permanently injure children, yet ORR routinely administers such drugs to youth in utter disregard of state laws designed to support children's mental health. Even when a child may truly benefit from psychotropics, both the law and common decency demand that parents decide whether their child should be medicated. Again, ORR prefers to act autocratically, regularly medicating children without consulting their parents, even those readily available to ORR and facility staff.

A ORR regularly compels youth to take psychotropic medications.

ORR regularly places detained children on multiple psychotropic drugs regardless of the child's concerns or wishes.

Sometimes, facility staff will not tell youth what drugs they are being given or why. *See, e.g.*, Julio Z. (PX 418) ¶ 16 ("I never knew exactly what the pills were."); Julio Z. Patient Profile, Exhibit 63 (PX 413) (listing Clonazepam, Divalproex, Duloxetine, Guanfacine, Latuda, Geodon, and Olanzapine); Decl. of David I., Exhibit 14 (PX 81) ¶ 7 ("David I.") ("I take four pills in the morning and about four to six pills in the evening. I don't know what all these pills are for, but I think the one I take at night are for depression and anxiety."); David I. Patient Profile, Exhibit 57 (PX 400) (listing Clonidine, Escitalopram, and Quetiapine); Decl. of Rosa L., Exhibit 17 (PX 95) ¶ 5 ("Rosa L.") ("I take 4 or 5 pills . . . one of the pills is for anxiety. I don't know what the other pills are for."); Rosa L. Patient Profile, Exhibit 58 (PX 402) (listing Aripiprazole, Chlorpromaz, Desmopressin, Escitalopram, Lamotrigine, Lithium, and Trazodone); Javier C. (PX 170) ¶ 5 ("I took nine pills in the morning and seven in the evening. I don't know what medications I was taking . . ."); Decl. of Maricela J., Exhibit 48 (PX 262) ¶ 4 ("Maricela J.") ("I take 4 pills in the morning . . .

then I have to take 5 more pills at night. I have not been told why I am required to take all this medication.").

ORR gives class members no choice but to take whatever psychotropic medications it prescribes. Youth report being told that if they refuse drugs they will remain detained, be denied release or privileges, or be physically forced to take them. *See, e.g.*, Julio Z. (PX 417-18) ¶¶ 15, 16 ("The staff threatened to throw me on the ground and force me to take the medication. I also saw staff throw another youth to the ground, pry his mouth open and force him to take the medicine. . . . They told me that if I did not take the medicine I could not leave, that the only way I could get out of Shiloh was if I took the pills."); David I. (PX 82) ¶ 8 ("I have not refused taking the pills because I was told that . . . would make me stay at Shiloh longer . . ."); Rosa L. (PX 95) ¶ 6 ("Sometimes they give me forced injections . . . one or two staff hold my arms and the nurse gives me an injection."); Maricela J. (PX 263) ¶ 8 ("I witnessed staff members forcefully give medication four times . . .two staff members pinned down the girl . . . and a doctor gave her one or two injections . . ."); Isabella M. (PX 62) ¶ 14; Sofia O. (PX 229) ¶ 11.[11]

Nor does ORR allow children who object to being medicated any procedural recourse. *See, e.g.*, Julio Z. (PX 418) ¶ 20 ("I tried to ask [the doctor] why I was being forced to take the medications but he would ignore my questions . . . I wasn't told of any way that I could challenge the decision to be on the medications."); Maricela J. (PX 262) ¶ 5 ("I have complained about receiving too many medications and Dr. Ruiz says it is not within his control . . ."); Javier C. (PX 171) ¶ 10 ("I wanted

[11] Youth report that Shiloh staff, in particular, will leave medicated children in common areas until they recover their senses. *See, e.g.*, Javier C. (PX 171) ¶ 8 ("[T]hey would come and give me a shot to tranquilize me. . . . [Then] they left me in the classroom near the wall to sleep."); David I. (PX 83) ¶ 11 ("Two staff grabbed me, and the doctor gave me the injection despite my objection and left me there on the bed.").

to stop taking all these medications . . . but . . . they told me that I had to continue because it calmed me.").

B ORR unlawfully usurps parental rights to make medication decisions.

ORR medicates children wholly without regard for their parents' wishes. *See, e.g.*, Decl. of Mother of Isabella M., Exhibit 12 (PX 71, 74) ¶ 4 ("Mother of Isabella M.") ("Nobody asked me for my permission to give medications to my daughter, even though the staff at Shiloh has always had my telephone number and address."); Maricela J. (PX 263) ¶ 7 ("I don't think anyone in my family was asked if it was okay for me to take medicine."); David I. (PX 81) ¶ 7 ("As far as I know, ORR did not ask my mother for permission before thay gave me the medication.").

ORR or facility staff instead sign forms "consenting" to children's medication, though the forms themselves recognize the consenting authority only of a "Parent, Guardian, or Conservator." *See, e.g.*, Decl. of Carter White, Exhibit 89 (PX 654-55) (Shiloh staff sign consent form, not parent, relatives or potential sponsor); (Isabella M. Medication Forms, Exhibit 59, PX 404-05 (medication forms signed by Shiloh staffer Tabatha Ketner as "Parent, Guardian, or Conservator"); Gabriela N. Medication Form, Exhibit 60, PX 407 (same); Sofia O. Medication Form, Exhibit 61, PX 409 (same); Julio Z. Parental Medical Authorization Form, Exhibit 62, PX 411 (medical consent supplied by Yolo Director F. Ray Simmons, not parent or guardian).[12]

[12] ORR's forms appear to require its own consent before facilities medicate children, but they do not suggest that facilities obtain consent from a child's parent or judicially authorized consenter. *See, e.g.*, ORR Authorization for Medical, Dental, and Mental Health Care for Carlos A., Exhibit 88, PX 651-52. As discussed below, Texas law requires such judicial authorization in the absence of parental consent. Tex. Fam. Code Ann. § 266.004(b).

C Psychotropic drugs threaten children with serious, long-term injury.

Psychotropic medications act on the central nervous system and affect cognition, emotions, and behavior, and serious, long-lasting adverse effects are common. In adults, psychotropic drugs can have serious and sometimes irreversible side effects, including psychosis, seizures, irreversible movement disorders, suicidal ideation, weight gain, and organ damage. Government Accountability Office, GAO-12-270T, *Foster Children: HHS Guidance Could Help States Improve Oversight of Psychotropic Prescriptions*, 5-6 (Dec. 1, 2011) ("HHS Guidance").

Comparatively little is known about the effects of psychotropic drugs on children and adolescents. ACF Children's Bureau, ACYF-CB-IM-12-03, *Information Memorandum*, 7-8 (Apr. 11, 2012) ("ACF Memorandum"). The FDA has approved only a few such drugs for children, and when these are prescribed, careful oversight and monitoring are essential. HHS Guidance at 4. Giving children *multiple* psychotropic drugs is almost always to be avoided because "[i]ncreasing the number of drugs used concurrently increases the likelihood of adverse reactions and long-term side effects, such as high cholesterol or diabetes . . . " *Id*.

The importance of oversight when giving psychotropic medications to children is well established. Without it, the potential for abuse—including using drugs as "chemical straight-jackets" to control children, rather than to treat actual mental health needs—is unacceptably high. *See* 42 U.S.C. § 622(b)(15)(A) (requiring states to develop "a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement," including "protocols for the appropriate use and monitoring of psychotropic medications."); ACF Memorandum 10-11 ("Strengthened oversight of psychotropic medication use is necessary" as is "close supervision and monitoring . . . [and] careful management and oversight" in administering children psychotropics.).

Not surprisingly, children medicated in ORR custody report negative side effects, including nausea, dizziness, somnolence, depression, and grotesque weight

gain. *See, e.g.*, Julio Z. (PX 418) ¶ 18 ("After taking the medication, I was more tired, I felt sad and my eyes got teary . . . I began to gain a lot of weight . . . In approximately 60 days, I gained 45 pounds."); Javier C. (PX 170) ¶ 5 ("The medicine made me fat. I used to be really skinny."); Maricela J. (PX 262) ¶ 5 ("When I take medicine, I do not have any mood. . . . I have suffered side effects including headaches, loss of appetite and nausea."); Mother of Isabella M. (PX 71, 74) ¶ 4 ("[T]hey are requiring [my daughter] to take very powerful medications for anxiety. I have noted that [she] is becoming more nervous, fearful, and she trembles. [She] tells me that she has fallen several times . . . because the medications were too powerful and she couldn't walk."); Letter re: Psychotropic Medications, Exhibit 27, Attachment 10, PX 158 (Yolo psychologist notes child "overmedicated"; recommends drugs be "taper[ed] off").

D ORR's disregard for state law safeguards in medicating youth violates the Settlement.

Facilities in which ORR places minors with mental health needs must "meet those standards . . . set forth in Exhibit 1." Settlement ¶¶ 6, 8.[13] Exhibit 1 requires that licensed programs "comply with all applicable *state child welfare laws* and regulations . . . and shall provide or arrange for the following services for each minor in its care: . . . *appropriate* mental health interventions when necessary. (Emphasis added). *See also* Letter from James De La Cruz, April 2, 2018, Exhibit 83, PX 598 (acknowledging applicability of Texas law to Shiloh RTC).

In Texas, where Shiloh RTC is located,[14] parents have the right to control a minor child's medical, dental, and psychological treatment absent a judicial

[13] Licensed or not, ORR may place children only in facilities that are "safe" and "consistent with . . . concern for the particular vulnerability of minors . . ." Settlement ¶ 12A.

[14] Though the most severe medication abuses occur at Shiloh RTC, juveniles at other ORR facilities are also administered psychotropics. *See, e.g.*, Julio Z. Parental

determination of unfitness. Tex. Fam. Code Ann. § 151.001(a)(6). Only rarely does Texas law permit non-parents to authorize a child's medical treatment. Tex. Fam. Code Ann. § 32.001. Even adults with the "actual care, control, and possession of the child" must obtain "written authorization to consent from a person having the right to consent" to treat a minor. Tex. Fam. Code Ann. § 151.001(a)(4).

When the state's Department of Family and Protective Services ("DFPS") acts *in loco parentis*, Texas law requires that it obtain judicial authorization to treat a minor. Tex. Fam. Code Ann. § 266.004(a), (b). DFPS may not unilaterally designate itself or treatment center staff as a child's medical consenter. DFPS, CHILD PROTECTIVE SERVICES HANDBOOK § 11113.2.

Consent to administer psychotropics to dependent youth must be given by someone lawfully authorized to do so, and the consenting party must be informed of risks and alternatives to the proposed medications. Tex. Fam. Code Ann. § 266.0042. The consenter must also be told about non-pharmacological alternatives to psychotropic drugs. CHILD PROTECTIVE SERVICES HANDBOOK, *supra*, § 11323.

Preferring autocracy to due process, ORR does none of this. The Court should order ORR to obtain parental consent, or the lawful equivalent thereof, and to otherwise comply fully with state law when administering psychotropic drugs to detained youth.

V ORR PEREMPTORILY EXTENDS MINORS' DETENTION ON SUSPICION THAT AVAILABLE CUSTODIANS MAY BE UNFIT.

Youth may spend weeks, months or even years in ORR custody. Each day, they risk offending staff or violating facility rules, whereupon ORR may summarily step them up.[15] Beyond subjecting them to institutional security and drugging, step-up

---

Medical Authorization Form, Dec. 4, 2016, Exhibit 62, PX 411 (Yolo Institutional Services Director provide medical consent in place of parent/guardian).

[15] At any given time, ORR detains about 40 youth in RTCs, 50 in juvenile halls, and 115 in staff-secure facilities. Holguín (PX 648) ¶ 4. ORR's data do not include the average length of stay for youth placed in these facilities. However, in December

deals youth an additional blow: once ORR sends a youth to an unlicensed placement, his or her chances of prompt release vanish.

Settlement ¶ 14 provides: "Where the INS determines that the detention of the minor is not required either to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that of others, the INS shall release a minor from its custody without unnecessary delay . . ."[16] Further grounding ORR's obligation to minimize children's detention, Settlement ¶ 18 provides, "Upon taking a minor into custody, the INS . . . shall make and record the prompt and continuous efforts on its part toward . . . the release of the minor . . ."

A ORR unlawfully demands exceptional abilities in custodians for stepped-up youth.

The Settlement is clear: ORR has three—and only three—reasons to continue youth in detention: (1) dangerousness; (2) flight-risk; and (3) the lack of a custodian who will not harm or neglect them. Settlement ¶ 14.

ORR professes not to detain youth as flight-risks. ORR, Interim Guidance on *Flores v. Sessions*, July 18, 2017, Exhibit 8, PX 48 ("Interim Guidance"). And since July 2017, immigration judges have reviewed a child's dangerousness. 24A Order, *aff'd*, *Flores v. Sessions*, *supra*, 862 F.3d 863.

ORR continues, however, to detain children indefinitely because it suspects a potential custodian may be unfit, and it does so entirely without timely neutral and

---

2017 ORR released just one youth to a custodian from Shenandoah Valley Juvenile Center, one from Yolo Juvenile Hall, and none from Northern Virginia Juvenile Detention Center. *Id*. (PX 649) ¶ 5.

Children in RTCs faced similar odds: ORR released one class member from MercyFirst to a custodian during December, and one from Shiloh. *Id*.

[16] If a child has more than one potential custodian, ORR must release first to a parent, then to a legal guardian, adult sibling, aunt, uncle, or grandparent, an unrelated adult or entity designated by the minor's parent, a juvenile shelter, and finally, if there is no likely alternative to long-term detention, an unrelated adult. Settlement ¶ 14.

detached review. *E.g.*, Interim Guidance, PX 48. In reality, ORR extends non-dangerous children's confinement for reasons having little or nothing to do with a custodian's actual propensity to harm or neglect.

In June 2017 ORR amended its online "Policy Guide" to provide: "The ORR/FFS elevates release decisions to the ORR Director, or the Director's designee, for any UAC in a secure or staff secure facility, or for any UAC who had previously been in a secure or staff secure facility. The ORR Director or designee makes release decisions for children in these types of facilities." ORR, Children Entering the United States Unaccompanied: § 2.7, *available at* www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.7 (last rev. June 12, 2017).

ORR's director must now approve the release of all class members "who are in or were previously placed in a secure or staff-secure facility [even if they] have prevailed in a *Flores* bond hearing on a question of dangerousness . . ." or were stepped up on the weight of "incomplete, *inaccurate or erroneous* information" that the minor was affiliated with a gang. FAQ: ORR DIRECTOR'S RELEASE DECISION, Jan. 26, 2018, Exhibit 24, PX 120 (emphasis added). Children, their parents and other available custodians describe a Kafkaesque experience in trying to free a child from ORR detention.

Class member Santiago H.'s experience illustrates ORR's refusal to release children from secure detention. In November 2017, ORR confined Santiago at the Shenandoah Valley Juvenile Center ("SVJC"). Case Review, undated, Exhibit 71, at PX 451. SVJC personnel determined that Santiago "does not present any mental health concerns," "gets along well with others," and "does not appear to present a risk to himself or the community at this time." *Id*. at PX 452. SVJC recommended ORR release Santiago to his aunt. *Id*. ORR ignored the findings and recommendation, leaving Santiago in secure confinement for months.

In February 2018, Immigration Judge John Bryant held a bond hearing and found Santiago not a danger to the community. The court ordered ORR to step him

down to a less secure placement. Custody Order, Feb. 21, 2018, Exhibit 68, PX 443. ORR ignored the order. Email from T. Biswas, Feb. 23, 2018, Exhibit 70, PX 448.

In March Santiago turned 18, and ORR turned him over to ICE. ICE dispatched Santiago to an adult detention facility. Later that month, Immigration Judge Karen Donoso-Stevens ordered Santiago released. Order of the Immigration Judge, March 20, 2018, Exhibit 69, PX 445. Santiago is now free to live with his aunt, which ORR could block *only* because she would harm or neglect him. The only difference: Santiago was now a day older.[17]

In September 2017, ORR placed class member Nicolás C. at the Paso staff-secure facility in Portland, Oregon. According to his mother, ORR prolonged her son's confinement because she had earlier suffered from cancer:

> [Case worker] Erich . . . assured me again and again that the [release] process would not take long, about 30 days at the most. . . . I sent [all the documents he requested] without delay. . . .
>
> However, Erich kept asking me for more and more documents: among them, files from doctors to verify that my cancer would not hinder me from taking care of my son. These . . . caused me great sorrow, and they did not seem necessary to have my son. I believe that a mother has the right to take care of her child even though she is incapacitated, although I am not. It occurred to me that they were looking for an excuse to deny me my son[.] . . .

Decl. of Mother of Nicolás C., Exhibit 1 (PX 3, 7) ("Mother of Nicolás C.") ¶¶ 7-8; *see also* Grandfather of Gabriela N., Exhibit 67 (PX 438) ¶ 9 ("Grandfather of Gabriela N.") (youth detained six months at Shiloh RTC; "I got the impression that the home investigator didn't think I made enough money to be able to support [my granddaughter] and myself."); Decl. of Camila G., Exhibit 55 (PX 393) ¶ 8 ("Camila

[17] If Santiago's example provokes a feeling of déjà vu, it is with good reason. *See* 24A Order at 8 (youth spent months in secure ORR detention, only to be released pursuant to immigration judge's order after turning 18 and being transferred to ICE custody).

G.") (youth detained for one year and three months; "My case worker told me that the only reason that I haven't been released to my aunt . . . is because I don't have an official birth certificate[.] . . . My mother died before she could register me for [one].").[18]

B ORR prolongs children's detention on the specious ground that mental health care is elsewhere unavailable.

ORR also extends detention of youth summarily placed in RTCs on the theory they cannot get mental health care anywhere else. Notice of Placement in a Restricive Setting, Exhibit 22, PX 114 (grounds for RTC placement include, "ORR has determined that you have a psychiatric or psychological issue that cannot be addressed in an outpatient setting.").[19]

---

[18] Accounts abound of ORR prolonging children's detention for no apparent reason. *E.g.*, Carlos A. (PX 176) ¶ 10 (minor detained four months; "My case manager said the only reason that I haven't been released is that the government is now reviewing my case. They have not told me how long it would take . . ."); Decl. of Miguel B., Exhibit 32 (PX 179) ¶ 5 (youth detained five months; "My mom began trying to get me back . . . Someone came to inspect her house and everything came out well. Neither of us understands why I am still here."); Roberto F. (PX 214, 217) ¶ 6 (youth detained ten months; "[M]y mom moved from Kansas to Texas to be closer to me. . . . They continued to take long making the decision to let me live with her. According to her, the government did a study of the home, and everything went well.").

[19] The evidence suggests that months or years of detention itself brings on the psychological distress for which ORR then medicates children:

> Since last year, when my daughter became a prisoner, I have noticed that she is more and more depressed . . . She tells me that she doesn't want to be in the detention center. When my daughter and I lived together in Honduras, we never had mental problems. . . . In my opinion, detention is affecting [Isabella] a lot, and she would quickly get better if they were to return her to me.

Mother of Isabella M. (PX 70-71, 73-74) ¶ 3; *see also* Grandfather of Gabriela N. (PX 439) ¶¶ 14-15 (granddaughter "did not have any mental health problems. . . . I think that being locked up for several months has made her be more anxious and upset."); Excerpts from ORR File for Victoria R., Exhibit 84, PX 605 ("Separation from family" and "Frustration of lengthy reunification process" are "Major Stressors" for the child).

Since May 2017—some 10 months now—ORR has detained Isabella M. In early October 2017, ORR placed her at the Shiloh RTC, from which it has doggedly refused to release her because "[t]he doctor has said I can't leave until I can control myself. He hasn't told me a time frame for how long it will be before I'm ready." Isabella M. (PX 61) ¶ 3. Isabella M.'s mother corroborates:

> During the summer of last year, a home investigator, Jorge Arango, came twice to evaluate my house. . . . When he finished, he told me that everything was approved . . . Much time went by without any further word . . . I called several times asking when they were going to give me [Isabella] back. They always answered that it depended on the doctor . . .

Mother of Isabella M. (PX 71, 74) ¶ 5; *see also* Decl. of Daniella Q., Exhibit 9 (PX 57) ¶ 3 ("I have been told that the doctor has to say it is alright to release me to my dad."); Decl. of Victoria R., Exhibit 13 (PX 78) ¶ 4 (same); Decl. of Arturo S., Exhibit 21 (PX 110) ¶ 3 (same).

C ORR must give non-dangerous youth a prompt and meaningful opportunity to be heard regarding a proposed custodian's fitness.

Rather than assess custodians' basic fitness, ORR consistently demands extraordinary prowess of stepped-up class members' custodians.[20] The Settlement, however, allows ORR to detain a non-dangerous minor only if it "has reason to believe [an available custodian] may *harm or neglect* the minor . . ." Settlement ¶ 11 (emphasis added).[21]

Even assuming, *arguendo*, the Settlement were to allow ORR to demand exceptional qualifications of custodians for stepped-up youth, it affords no

---

[20] Inasmuch as ORR steps up youth autocratically in the first place, its leveraging step-up to confine youth until and unless a doyen appears is palpable exacerbation.

[21] ORR's prolonging class members' confinement via such policies also violates their right to placement in the least restrictive setting consistent with their best interests, a violation of TVPRA § 235(c)(2)(A).

meaningful chance to be heard on the need for extra qualifications or whether a given custodian possesses them. Again, ORR simply decrees what qualifications a custodian must have and then decides unilaterally whether he or she possesses them. ORR knows that more process than that is surely due.

In *Beltran v. Cardall*, 222 F. Supp. 3d 476 (E.D. Va. 2016), ORR refused to release a youth on the ground he "'require[d] an environment with a high level of supervision and structure,' and it did not 'appear . . . that [his mother's] home [could] provide the structure and supervision necessary[.] . . .'" *Id*. at 480 (internal citation omitted).

The minor's mother sued to compel ORR to release her son. *Id*. at 481. The district court initially denied a writ, *id*., but the Fourth Circuit reversed in part and instructed the trial court to decide whether ORR had denied due process. *Id*. Held: "[O]nce ORR decided to withhold RMB from Petitioner's care, ORR 'ha[d] the burden to initiate' proceedings to justify its action. . . . [It] could not simply require Petitioner to change the agency's mind." *Id*. at 486 (internal citations omitted). The court ordered ORR to release the minor immediately, adding that ORR could refer any concerns it may have for the youth's well-being to state juvenile authorities. *Id*. at 489.

Again in *Santos v. Smith*, 260 F. Supp. 3d 598 (W.D. Va. 2017), ORR refused to release a minor to his mother on the ground that "'he requires an environment with a high level of supervision and structure that [his mother is] unable to provide at this time[.] . . .'" *Id*. at 602. Again, the family sued to compel release. *Id*. at 600. Again, the court held that ORR's refusing release denied due process: "[H]ad better or more process been given (especially as to the delay and the burden being on Ms. Santos to initiate and justify reunification, rather than the default rule being otherwise), the outcome could have been different. . . ." *Id*. at 614.

ORR remains undeterred, regularly extending children's confinement because it questions their proposed custodians' fitness while refusing to submit its suspicions

to neutral and detached review. *E.g.*, Mother of Nicolás C. (PX 4, 8) ¶ 14 (nobody "has told me anything about my son. I have not been made aware of any procedure by which a mother can oppose the prolonged detention of her child [.] . . ."); Decl. of Sister of Victoria R., Exhibit 65 (PX 426-27, 429-30) ¶ 4 ("They didn't give me any opportunity to explain to them . . . that nothing would happen [to my sister] if they would let me take care of her."); Grandfather of Gabriela N. (PX 439) ¶ 12 ("When I reached out to [my granddaughter's] social worker at Shiloh, she told me that ORR threw out my application [to be her custodian] . . . ORR has never officially told me . . . that my application has been rejected."); Camila G. (PX 394) ¶ 13 (child detained one year and three months; "I don't know what I can do or what the next step can be for me to try and get out of the shelter if ORR does not allow me to live with my aunt . . .").

In *Beltran* and *Santos* the courts held ORR's vetting of custodians lacking in threshhold constitutionality.[22] Here, a consent decree requires ORR to release minors promptly to qualified custodians whether or not release is constitutionally required.

---

[22] ORR may not detain youth "for their own good" without proving that their parents are unfit. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) ("Due Process Clause would be offended '[if] a State were to attempt to force the breakup of a natural family . . . without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest.'") (internal citations omitted).

Obviously, ORR detention also impairs children's right to physical liberty. *Saravia*, *supra*, 280 F. Supp. 3d at 1195.

The Settlement expands these rights, entitling class members to release to specified non-parents, including grandparents and adult siblings.

ORR's confining youth until it thinks them mentally fit raises further constitutional concerns. It is hard to distinguish such detention from civil commitment, which, of course, represents a "massive curtailment of liberty," lawful only with due process and proof of dangerousness to others. *O'Connor v. Donaldson,* 422 U.S. 563, 575 (1975) (government may not "confine the mentally ill merely to ensure them a living standard superior to that they enjoy in the private community").

Cf. Local No. 93, Int'l Ass'n of Firefighters. v. Cleveland, 478 U.S. 501, 525 (1986) (consent decree may confer greater relief than could have been obtained at trial).

ORR's peremptorily declaring custodians unfit falls short of constitutional minimums, and it can hardly satisfy the Settlement. The Court should order ORR to release non-dangerous class members promptly to available custodians or else submit doubts about their fitness for neutral and detached review.

VI CONCLUSION

For the foregoing reasons, this Court should grant this motion and enter Plaintiffs' proposed order.[23]

Dated: April 16, 2018

Respectfully submitted,

CARLOS R. HOLGUÍN, PETER A. SCHEY
Center for Human Rights & Constitutional Law

LEECIA WELCH
National Center for Youth Law

HOLLY COOPER, CARTER WHITE
U.C. Davis School of Law

/s/
Carlos Holguín

/s/
Leecia Welch

/s/
Holly Cooper

[23] Counsel wish to acknowledge the invaluable assistance of U.C. Davis students Gladys Hernandez, Christian Hatchett, and Mayra Sandoval in preparing this brief. Plaintiffs will separately move the Court to award them attorney's fees and costs incurred in the prosecution of this motion.

CARLOS R. HOLGUÍN (Cal. Bar No. 90754)
PETER A. SCHEY (Cal. Bar No. 58232)
Center for Human Rights & Constitutional Law
256 South Occidental Boulevard
Los Angeles, CA 90057
Telephone: (213) 388-8693
Email: crholguin@centerforhumanrights.org
pschey@centerforhumanrights.org

LEECIA WELCH (Cal. Bar No. 208741)
National Center for Youth Law
405 14th Street, 15th Floor
Oakland, CA 94612
Telephone: (510) 835-8098
Email: lwelch@youthlaw.org

Listing continues on next page

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

Jenny Lisette Flores, *et al.*,

Plaintiffs,

v.

Jefferson B. Sessions, Attorney General, *et al.*,

Defendants.

Case No. CV 85-4544-DMG (AGRx)

EXHIBITS IN SUPPORT OF MOTION TO ENFORCE SETTLEMENT (VOL. 1: EXS. 1-20, PAGES 1-108, PUBLICLY FILED EXHIBITS ONLY)

Hearing: May 18, 2018
Time: 9:30 a.m.
Room: 1st St. Courthouse
Courtroom 8C

Counsel for Plaintiffs, continued

HOLLY S. COOPER (Cal. Bar No. 197626)
Co-Director, Immigration Law Clinic
CARTER C. WHITE (Cal. Bar No. 164149)
Director, Civil Rights Clinic
University of California Davis School of Law
One Shields Ave. TB 30
Davis, CA 95616
Telephone: (530) 754-4833
Email: hscooper@ucdavis.edu
ccwhite@ucdavis.edu

I, Carlos Holguín, do hereby declare that true and correct copies of the following documents are attached hereto:

INDEX TO EXHIBITS

No.	Description	Page(s)
1	Declaration of the Mother of Nicolás C., February 6, 2018 (proposed to be filed partially under seal)	1-10
2	Declaration of Nicolás C., February 4, 2018 (proposed to be filed partially under seal)	11-19
3	Morrison Paso Case Review re: Nicolás C., September 17, 2017 (proposed to be filed partially under seal)	20-26
4	Custody Order of the Immigration Judge re: Nicolás C., December 19, 2017 (proposed to be filed partially under seal)	27-28
5	Declaration of Leland Baxter-Neal, February 6, 2018 (proposed to be filed partially under seal)	29-34
6	Email from Erich Corona re: Nicolás C., January 9, 2018 (proposed to be filed partially under seal)	35-38
7	Declaration of James M. Owens, February 7, 2018 (proposed to be filed partially under seal)	39-43
8	ORR Interim Guidance re: Custody Hearings, July 18, 2017	44-55
9	Declaration of Daniella Q., February 28, 2018 (proposed to be filed partially under seal)	56-59
10	Declaration of Isabella M., December 1, 2017 (proposed to be filed partially under seal)	60-63
11	Supplemental Declaration of Isabella M., February 28, 2018 (proposed to be filed partially under seal)	64-68
12	Declaration of the Mother of Isabella M., February 28, 2018 (proposed to be filed partially under seal)	69-75
13	Declaration of Victoria R., February 28, 2018 (proposed to be filed partially under seal)	76-79

14 Declaration of David I., November 30, 2017 (proposed to be filed partially under seal) 80-84

15 Supplemental Declaration of David I., February 28, 2018 (proposed to be filed partially under seal) 85-88

16 Declaration of Eduardo A., March 1, 2018 (proposed to be filed partially under seal) 89-93

17 Declaration of Rosa L., December 1, 2017 (proposed to be filed partially under seal) 94-97

18 Supplemental Declaration of Rosa L., February 28, 2018 (proposed to be filed partially under seal) 98-100

19 Declaration of Gabriela N., December 1, 2017 (proposed to be filed partially under seal) 101-104

20 Supplemental Declaration of Gabriela N., February 28, 2018 (proposed to be filed partially under seal) 105-108

21 Declaration of Arturo S., February 28, 2018 (proposed to be filed partially under seal) 109-112

22 ORR Form Notice of Placement in a Restrictive Setting, February 5, 2018 113-115

23 ORR FAQ: July 2017 Bond Hearings for Unaccompanied Alien Children (UAC) 116-118

24 ORR FAQ: ORR Directors Release Decision, January 26, 2018 119-121

25 Letter from Carlos Holguín to Office of Immigration Litigation, December 19, 2017 122-129

26 Email from Sarah Fabian re: Flores Meet and Confer Discussion, January 12, 2018 130-131

27 Letter from Leecia Welch to Office of Immigration Litigation re: Psychotropic Medications, and Attachments, January 16, 2018 (proposed to be filed partially under seal) 132-161

28 Letter from Carlos Holguín to Office of Immigration Litigation, February 16, 2018 162-164

29 Email from Sarah Fabian re: Flores Meet and Confer Discussion, March 2, 2018 165-168

30 Declaration of Javier C., November 15, 2017 (proposed to be filed partially under seal) 169-173

31 Declaration of Carlos A., November 16, 2017 (proposed to be filed partially under seal) 174-177

32 Declaration of Miguel B., November 16, 2017 (proposed to be filed partially under seal) 178-181

33 Declaration of Luis D., November 15, 2017 (proposed to be filed partially under seal) 182-192

34 Declaration of Andrés D., July 11, 2017 (proposed to be filed partially under seal) 193-197

35 Declaration of Jorge E., July 11, 2017 (proposed to be filed partially under seal) 198-205

36 Declaration of Gustavo H., July 11, 2017 (proposed to be filed partially under seal) 206-210

37 Declaration of Roberto F., July 11, 2017 (proposed to be filed partially under seal) 211-220

38 Declaration of Natalia T., November 21, 2017 (proposed to be filed partially under seal) 221-223

39 Declaration of Ricardo U., November 21, 2017 (proposed to be filed partially under seal) 224-226

40 Declaration of Sofia O., December 1, 2017 (proposed to be filed partially under seal) 227-231

41 Declaration of Gloria P., December 1, 2017 (proposed to be filed partially under seal) 232-235

42 Declaration of Edwin B., March 1, 2018 (proposed to be filed partially under seal) 236-242

43 Letter from Carlos Holguín to Cynthia Nunes Colbert, *et al.,* re: Legal Representation for Specified Class Members, March 12, 2018 (proposed to be filed partially under seal) 243-246

44	Declaration of Samuel W., October 26, 2017 (proposed to be filed partially under seal)	247-250
45	Declaration of Jaime V., October 26, 2017 (proposed to be filed partially under seal)	251-254
46	Declaration of Mateo X., October 26, 2017 (proposed to be filed partially under seal)	255-256
47	Declaration of Mario Y., October 26, 2017 (proposed to be filed partially under seal)	257-260
48	Declaration of Maricela J., November 30, 2017 (proposed to be filed partially under seal)	261-264
49	Declaration of Teresa K., November 30, 2017 (proposed to be filed partially under seal)	265-268
50	Declaration of Diego E., January 16, 2018 (proposed to be filed partially under seal)	269-273
51	Declaration of Daniel F., March 21, 2018 (proposed to be filed partially under seal)	274-278
52	Declaration of Alejandro G., March 21, 2018 (proposed to be filed partially under seal)	279-285
53	Transcript of Testimony of James De La Cruz, *Saravia v. Sessions*, Case No. 3:17-cv-03615-VC (N.D. Cal. June 29, 2017), Dkt. No. 28	286-382
54	Defendant Brent Cardall's Responses to Plaintiff's Request for Admission, Set One, *Saravia v. Sessions*, Case No. 3:17-cv-03615-VC (N.D. Cal. Sept. 20-21, 2017), Dkt. No. 61-3	383-390
55	Declaration of Camila G., April 3, 2018 (proposed to be filed partially under seal)	391-396
56	Patient Profile – Active Medications of Victoria R., January 9, 2018 (proposed to be filed partially under seal)	397-398
57	Patient Profile – Active Medications of David I., November 27, 2017 (proposed to be filed partially under seal)	399-400

58 Patient Profile – Active Medications of Rosa L., July 31, 2017 (proposed to be filed partially under seal) 401-402

59 Medication Information and Reconciliation and Over-the-Counter Medication Release Forms for Isabella M., September 28-29, 2017 (proposed to be filed partially under seal) 403-405

60 Medication Information and Reconciliation Form for Gabriela N., September 7, 2017 (proposed to be filed partially under seal) 406-407

61 Medication Information and Reconciliation Form for Sofia O., September 18, 2017 (proposed to be filed partially under seal) 408-409

62 Yolo County Juvenile Detention Facility Parental Medical Authorization Form for Julio Z., December 14, 2016 (proposed to be filed partially under seal) 410-411

63 Patient Profile – Active Medications of Julio Z., December 12, 2016 (proposed to be filed partially under seal) 412-413

64 Declaration of Julio Z., November 13, 2017 (proposed to be filed partially under seal) 414-424

65 Declaration of Sister of Victoria R., March 13, 2018 (proposed to be filed partially under seal) 425-431

66 Declaration of Proposed Sponsor of Victoria R., March 13, 2018 (proposed to be filed partially under seal) 432-435

67 Declaration of Grandfather of Gabriela N., March 15, 2018 (proposed to be filed partially under seal) 436-441

68 Custody Order of the Immigration Judge re: Santiago H., February 21, 2018 (proposed to be filed partially under seal) 442-443

69 Order of the Immigration Judge with Respect to Custody re: Santiago H., March 20, 2018 (proposed to be filed partially under seal) 444-446

70 Email from Toby Biswas re: Santiago H. Follow Up, February 23, 2018 (proposed to be filed partially under seal) 447-449

71 Case Review re: Santiago H., November 29, 2017 (proposed to be filed partially under seal) 450-452

72 ORR Information Memo re: Community Safety Initiative for the Unaccompanied Alien Children Program, August 16, 2017 453-457

73 Declaration of John Doe 1, *John Doe 1 v. Shenandoah Valley Juvenile Ctr. Comm'n*, Case No. 5:17-cv-00097-EKD-JCH, (W.D. Va. Jan. 17, 2018), Dkt. No. 34-1 458-464

74 Declaration of John Doe 2, *John Doe 1 v. Shenandoah Valley Juvenile Ctr. Comm'n*, Case No. 5:17-cv-00097-EKD-JCH, (W.D. Va. Jan. 5, 2018), Dkt. No. 34-2 465-471

75 Declaration of John Doe 3, *John Doe 1 v. Shenandoah Valley Juvenile Ctr. Comm'n*, Case No. 5:17-cv-00097-EKD-JCH (W.D. Va. Jan. 5, 2018), Dkt. No. 34-3 472-478

76 Declaration of D.M, *John Doe 1 v. Shenandoah Valley Juvenile Ctr. Comm'n*, Case No. 5:17-cv-00097-EKD-JCH, (W.D. Va. Jan. 2, 2018), Dkt. No. 34-5 479-484

77 Declaration of R.B., *John Doe 1 v. Shenandoah Valley Juvenile Ctr. Comm'n*, Case No. 5:17-cv-00097-EKD-JCH, (W.D. Va. Jan. 8, 2018), Dkt. No. 34-6 485-490

78 Transcript of Jonathan White, *Saravia v. Sessions*, Case No. 18-15114 (9th Cir. Oct. 27, 2017), Dkt. No. 9-2 491-548

79 Exhibit 1 to Appellees' Request for Judicial Notice, *Saravia v. Sessions*, Case No. 18-15114 (9th Cir. March 16, 2018), Dkt. No. 20 549-555

80 Stipulated Settlement Agreement, *Flores v. Reno*, Case No. CV 85-4544-RJK(Px) 556-584

81 Declaration of Justin Mixon, October 19, 2017 585-591

82 Email from Sarah Fabian re: Correspondence re: Legal Representation for Flores Class Members, March 23, 2018 592-594

83 Letter from James De La Cruz to Flores Counsel re: Psychotropic Medications, April 2, 2018 (proposed to be filed partially under seal) 595-601

84 Individual Service Plan – Residential Treatment for Victoria R., Shiloh Treatment Center, Inc., December 26, 2017 (proposed to be filed partially under seal) 602-606

85 Declaration of Lorelei Alicia Williams, previously filed in this case in Docket No. 239-2, August 5, 2016 607-618

86 Declaration of Megan Stuart, previously filed in this case in Docket No. 239-2, August 1, 2016 619-646

87 Declaration of Carlos Holguín, April 10, 2018 647-649

88 ORR Authorization for Medical, Dental, and Mental Health Care for Carlos A., July 31, 2017 (proposed to be filed partially under seal)..... 650-652

89 Declaration of Carter White, April 14, 2018, attaching Shiloh Treatment Center Consent to Medical Care Form..... 653-655

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of April, 2018, at Santa Clarita, California.

Respectfully submitted,

Carlos Holguín

/s/ Carlos Holguín

Exhibit 1

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Mi nombre es [redacted]. Nací el día [redacted], 1981 in Tezoatlán de Segura y Luna, en el estado de Oaxaca, México. He estado viviendo en los estados unidos desde 2005 y actualmente yo vivo en Sebring, Florida.

2. Yo soy la mamá de [redacted], quién actualmente se encuentra detenido por la Oficina de Resentamiento de Refugiados en un centro de detención en Portland, Oregon. Llevo más de 4 meses cumpliendo con todo lo que me piden para recuperar el custodia de mi hijo.

3. Yo vine a los estados unidos para buscar una vida mejor para mi hijo. [redacted] era pequeño cuando me mudé a los estados unidos y lo dejé con mis padres y hermanos en México mientras que yo intentaba establecerme en EE.UU. Yo siempre he mantenido contacto con mi familia y con mi hijo, con solo una única interrupción. En 2007 me enfermé de cáncer. El doctor me dijo que el cáncer había expandido en mi cuerpo, era muy avanzado, hasta terminal. Yo estaba internada en un hospital por casi un año, y se me hizo muy difícil comunicarme con [redacted]. Volví a comunicarme con él en 2008 cuando mi salud empezó a mejorar. Desde entonces mi salud ha mejorado, gracias a Dios, aunque sigo recibiendo quimioterpia una vez al mes.

4. La primera vez que me di cuenta de que [redacted] había llegado a los Estados Unidos fue cuando recibí un correo de voz de él, en que me dijo que se encontraba detenido en Kansas City. Esto fue a setiembre de 2017. Yo no sabía que él hubiera puesto en marcha su plan para venir los Estados Unidos. Cuando recibí el mensaje me preocupé mucho y hasta que pensé que tal vez fue una broma de mal gusto. Acaba de pasar el Huracán Irma por Florida, y había muchos problemas con encontrar señal del celular. Tuve que manejar una hora y media a otro lugar para poder hacer llamadas y recibir mensajes, pero él no me había precisado dónde la inmigración lo tenía detenido. Llamé a muchos lugares en los días siguientes tratando de saber algo de [redacted] y su paradero. Me puse mal y muy desesperada, pues no sabía dónde estaba él ni como comunicarme. Llamé a muchas oficinas del gobierno, llamé a Inmigración, llamé a ICE, llamé al FBI, y a otras oficinas donde el gobierno tiene preso a la gente para la deportación, y otros sitios hasta que no sabía dónde pero era de gobierno. En ningún lado me dieron información.

05/23/2013 05:23 18633859412 LITTLE FROGGIES PAGE 02/15

5. En estos días a mediados de septiembre, cuando no sabía dónde estaba mi hijo, recibí una llamada de personas desconocidas que no se identificaron, que me dijeron que tenían a mi hijo y que yo tendría que pagar $1,400 para que me lo devolviera. Me exigeron un depósito $400 en una cuenta del banco y después otro pago de $1,000 cuando me presentara ante ellos para recogerlo a mi hijo. Yo dije que yo quería hablar con mi hijo para saber si de verdad lo tenían y me dijeron que no, entonces yo colgué.

6. Yo no sabía nada más de mi hijo hasta el 19 de septiembre, cuando recibí un mensaje por facebook de Erich Corona, el case manager de mi hijo en Portland. Al principio, tenía dudas si de veras fuera él legítimo. Me acordaba que me habían llamado una vez esos tipos estafadores diciendo que tenían mi hijo. No creí que de veras tenían a mi hijo hasta que pude hablar con él. Entonces sí me dio cuenta que era cierto. Cuando hablé con él, sentí como que me había regresado el alma a mi cuerpo. Había pasado noches sin dormir, buscando y buscando mi hijo sin saber dónde andaba. Una tortura día en día. Hasta que me puse a llorar de la emoción al escuchar su voz.

7. Erich me explicó que iba a mandarme unos formularios para aplicar ser patrocinadora de mi hijo, y me pidió muchos documentos. Desde el principio, me aseguraba una y otra vez que el proceso no iba a tardar mucho, unos 30 días a más tardar. Inmediatamente, me puse a reunir todos los documentos que me pidío Erich, y se los mandé sin demora ninguna. Dentro de una semana le había mandado todos los documentos que pidieron. Cada papel que me pidieron les he mandado de lo más pronto posible.

8. Sin embargo, Erich seguía pidiendome más y más documentos: entre ellos, archivos de médicos para comprobar que mi cancer no me estorbaría cuidar a mi hijo. Estos parecían muy personales, me causaron mucha pena, y no me parecían necesarios para tener mi hijo. Creo que una madre tiene derecho de cuidar a su hijo auque esté incapacidata, aunque yo no lo estoy. Se me ocurrió que estaban buscando una excusa para negarme a mi hijo por estar enferma. Pero yo tengo una hija de cuatro años y nunca la he faltado nada. No obstante, les mandé todos los documentos que me pidieron tan pronto que pude obtenerlos del doctor. A pesar de todo, sigue el gobierno en no entregarme a mi hijo.9. Al contrario, luego me exigieron todas las direcciones donde viví antes. Puse la dirección de un PO Box por una de ellas, porque la había usaba siempre, y de todos modos, tuve que ver con una casa en que viví en 2011 y 2012 y yo no me acordaba el número de la casa. Me dijeron que eso no se hace. Tuvé que manejar una hora y media a la casa en sí para conseguir el número.

05/23/2013 05:23 18633859412 LITTLE FROGGIES PAGE 03/15

11. Luego me dijeron que me presentara para que me tomaran huellas digitales, aunque me habían asegurado varias veces que sacarme las huellas no fue necesario. Erich me contactó al principios de diciembre de 2017 para avisarme que tuve cita para el 15 de noviembre para las huellas, pero a él se le había olvidado avisarme. Me dijo que habían puesto una nueva cita para el 8 de enero, y que mi esposo y yo teníamos que ir. Como siempre, con esto también cumplimos, aúnque nos costó manejar dos horas y media en llegar al sitio donde sacan las huellas. Unos días después, Erich me llamó para avisarme que el gobierno había perdido las huellas de mi esposo, y que tuvimos que presentarnos otra vez el 2 de febrero para sacar huellas.

12. También me hicieron un chequeo de casa, o sea el "home study." Una señorita llegó a la casa el 13 de diciembre, y pasó como una hora y media. Revisó la casa y todo los cuartos, incluyendo el cuarto de mi hija de 4 años y el cuarto que nosotros habíamos preparado para [redacted]. Luego me hizo una entrevista, y me hizo muchas preguntas sobre mi situación de inmigración y como había entrado a los Estados Unidos. Me dijo que si me dan a mi hijo y no se presenta él por sus citas en la corte, las inmigración pueden llevar de preso a todos de la casa. Me aseguró la investigadora que en una semana tendrían resultados del "home study" y que para el año nuevo seguramente iban a entregarme a mi hijo. Me pusé tan emocionada, hasta que le compré unos regalos de Navidad para mi hijo. Todavía los tengo, aún envueltos con papel de regalo de Navidad. Me da una tisteza profunda cada vez que los veo.

13. Últimamenete, Erich me ha informado que ya iban a trasladar an [redacted] a un albergue cercana en Florida, que llegaría mi hijo el 1 o el 2 de febrero, pero ya pasaron las fechas indicadas, y ahora me dicen que aún no tienen donde alojarlo en Florida.

14. Según el abogado de mi hijo, mi hijo se enfermó tanto que lo llevaron al hospital la noche del 30 de enero. Pregunté a respeto con el case manager, y me respondió que lo habían llevado al doctor pero no era nada preocupante. Luego mi hijo me llamó, y me dijo que sentía muy mal, que estaba sangrando de la nariz y que no había comido. Alguien cortó la llamada sin darle tiempo de explicarme más. Nadie de Morrison ni del gobierno me han dado más información sobre la salud de mi hijo, los estudios, resultados o tratamiento médico que le están dando. Nadie me ha comunicado para pedir mi permiso para darle a mi hijo cualquier tratamiento médico o medicación.

15. Desde que supe que el gobierno estaba deteniendo mi hijo, ya hace más de cuatro meses, la única persona del gobierno con quien he hablado ha sido Erich, excepto cuando Erich fue a vacaciones

05/23/2013 05:23 18633859412 LITTLE FROGGIES PAGE 04/15

yo hablé con otro case manager, Maribel. Aparte de la investigadora de casas, nadie más del gobierno me ha comunicado para informe sobre mi hijo. No me han avisado de ningún procedimiento por el cuál una madre puede oponerse a la detención prolongada de su hijo, o que los oficiales migratorios no esás cumpliendo con sus mullples promesas de entregarle un hijo a una mamá desesperada. Durante meses, nadie me han dada información clara ni honesta.

16. Han pasado los meses y con cada día que pasa lo pienso menos probable el deseo que cualquier mamá en mis zapatos esperaría: el momento o el día que su hijo por fin llegue a casa. Primero le dicen a uno que en unas semanas va a tener su hijo, después, en un mes, y después, en otro mes—pero nunca cumplen. Con tanta tardanza, yo me he preguntado, ¿En qué estoy equivocando? ¿No he llenado todos los documento bien? ¿No he enviado cada cosa que me piden? ¿Porque no quieren liberar a mi hijo? Si están demorando hasta que cumpla mayor de edad para deportarlo, ¿porque no me lo dicen de una vez? Quiero que al menos me lo permitan ver un día, si solo por un rato, para que valga la pena que una familia sufre. [redacted] no es ningún peligroso para detenerlo por tanto tiempo. Una madre lo sabe, y el juez de inmigración ya lo decidió. ¿Qué madre no quisiera tener a su hijo en sus brazos, si solo por un momento?

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 6 de febrero del año 2018, en Sebring, Florida.

[redacted]

///

X

05/23/2013 05:23 18633859412 LITTLE FROGGIES PAGE 05/15

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. My name is [redacted]. I was born on [redacted], 1981 in Tezoatlán de Segura y Luna, in the state of Oaxaca, Mexico. I have been living in the United States since 2005 and currently I live in Sebring, Florida.

2. I am the mother of [redacted], who is currently being held by the Office of Refugee Resettlement in a detention center in Portland, Oregon. I have been fulfilling everything they ask me for more than 4 months to recover custody of my son.

3. I came to the United States to find a better life for my son. [redacted] was small when I moved to the United States and left him with my parents and siblings in Mexico while I was trying to establish myself in the United States. I have always maintained contact with my family and my son, with only one interruption. In 2007 I got sick with cancer. The doctor told me that the cancer had expanded in my body, it was very advanced, even terminal. I was admitted to a hospital for almost a year, and it was very difficult for me to communicate with [redacted]. I began to communicate with him again in 2008 when my health began to improve. Since then my health has improved, thank God, although I still receive chemotherapy once a month.

4. The first time I realized that [redacted] had arrived in the United States was when I received a voicemail from him, in which he told me he was being held in Kansas City. This was in September of 2017. I did not know that he planned to come to the United States. When I received the message I was very worried and thought maybe it was a joke in bad taste. Hurricane Irma had just passed through Florida, and there were many problems with finding a cell phone signal. I had to drive an hour and a half to another place to make calls and receive messages, but he had not told me where immigration had detained him. I called many places in the following days trying to find out something about [redacted] and his whereabouts. I got sick and very desperate, because I did not know where he was or how to communicate with him. I called many government offices, called immigration, called ICE, other offices where the government holds people in jail for deportation, and other places I did not know where but it was government offices. Nowhere did they give me any information.

5. These days in mid-September, when I did not know where my son was, I received a call from unknown people who did not identify themselves, who told me they had my son, and that I would have to pay $1,400 to get him back. They demanded a $400 deposit in a bank account and then another $1,000 payment when I met with them to pick up my son. I said that I wanted

to talk to my son to know if they really had him and they said no, so I hung up.

6. I did not know anything else about my son until September 19, when I received a message on Facebook from Erich Corona, my son's case manager in Portland. At first, I had doubts if it were really legitimate. I remembered that they had called me once those scammers saying they had my son. I did not think they really had my son until I could talk to him. Then I did realize that it was true. When I spoke with him, I felt like my soul had returned to my body. I had spent nights without sleep, searching and searching for my son without knowing where he was. A torture day by day. I started crying from emotion when I heard his voice.

7. Erich explained to me that he was going to send me some forms to apply to be my son's sponsor, and he asked me for many documents. From the beginning, he assured me again and again that the process would not take long, about 30 days at the most. Immediately, I began to gather all the documents that Erich asked me, and I sent them without delay. Within a week I had sent him all the documents they asked for. Every paper they requested I sent as quickly as possible.

8. However, Erich kept asking me for more and more documents: among them, files from doctors to verify that my cancer would not hinder me from taking care of my son. These seemed very personal, they caused me great sorrow, and they did not seem necessary to have my son. I believe that a mother has the right to take care of her child even though she is incapacitated, although I am not. It occurred to me that they were looking for an excuse to deny me my son for being sick. But I have a four-year-old daughter and she has never lacked anything. However, I sent them all the documents they asked for as soon as I could get them from the doctor. In spite of everything, the government has yet to provide my son to me.

9. On the contrary, they then demanded all the addresses where I lived before. I put the address of a PO Box for one of them, because I had always used it, and anyway, it had to do with a house in which I lived in 2011 and 2012 and I did not remember the house number. They told me that that is not how it is done. I had to drive an hour and a half to the house itself to get the house number.

10. Then they told me to show up so they could take my fingerprints, although they had assured me several times that getting my fingerprints was not necessary. Erich contacted me at the beginning of December of 2017 to let me know that I had an appointment for November 16 for the prints, but he had forgotten to let me know. He told me that they had put a new appointment for January 8, and that my husband and I had to go. As always, we also complied with this, although it took us two and a half hours to get to the place where the prints are taken. A few days later, Erich called me to let

me know that the government had lost the fingerprints for my husband, and that we had to show up again on February 2 to have prints taken.

11. I was also given a home check, or "home study." A young lady arrived at the house on December 13 and it took like an hour and a half. She checked the house and all the rooms, including my 4-year-old daughter's room and the room we had prepared for [redacted]. Then she interviewed me, and asked me a lot of questions about my immigration situation and how I had entered the United States. She told me that if they give my son to me and he does not show up for his court dates, immigration can arrest everyone in the house. The investigator assured me that in a week they would have results of the "home study" and that for the New Year they would surely give me my son. I got so excited, I even bought some Christmas presents for my son. I have them, still wrapped with Christmas wrapping paper. They give me a deep sorrow every time I see them.

12. Lastly, Erich informed me that they were going to transfer [redacted] to a nearby shelter in Florida, that my son would arrive on February 1 or 2, but the dates have already passed, and now they tell me that they still do not have where to host him in Florida.

13. According to my son's lawyer, my son became so ill that he was taken to the hospital on the night of January 30. I asked the case manager about that situation, and he replied that he had been taken to the doctor but it was not worrisome. Then my son called me, and he told me that he felt very bad, that he was bleeding from his nose and that he had not eaten. Someone cut the call without giving him time to explain more. No one from Morrison or the government has given me more information about my son's health, the studies, results or medical treatment he is receiving. No one has contacted me to ask for my permission to give my son any medical treatment or medication.

14. Ever since I learned that the government detained my son, more than four months ago, the only person from the government I spoke with was Erich, except when Erich went on vacation I spoke with another case manager, Maribel. Apart from the home investigator, no one else from the government has told me anything about my son. I have not been made aware of any procedure by which a mother can oppose the prolonged detention of her child, or that immigration officials are not fulfilling their multiple promises to give a child to a desperate mother. For months, no one has given me clear or honest information.

15. Months have passed and with each passing day I think less likely the dream that any mother in my shoes would wait for: the time or the day that her son finally gets home. First they tell you that in a few weeks you will have your child, then, in a month, and then in another month-but they never fulfill their

promises. With such delay, I have asked myself, what am I doing wrong? Have I not filled all the documents correctly? Have I not sent everything they ask from me? Why do they not you want to free my son? If you are delaying release until he reaches the adulthood so he can be deported, why won't they just say this at once? I want them to at least allow me to see him one day, if only for a while, so that it's worth it for a family to suffer. [redacted] is not dangerous to be detained for so long. A mother knows that, and the immigration judge already decided. What mother would not want to have her son in her arms, if only for a moment?

I declare under perjury to tell the truth and that all the information I have provided here is correct and complete, I am aware of the legal consequences of declaring with falsehood before the authority.

Done on February 6, 2018, in Sebring, Florida.

/s/

[redacted]

/ / /

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.
2. On this day I translated the declaration of [redacted] from Spanish to English. The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of February 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 2

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo la siguiente:

1. Yo nací en Oaxaca, México [redacted] 2000. Tengo 17 años de edad. Actualmente me encuentro detenido en un centro de detención en Portland, Oregon llamado Morrison Paso Staff Secure Program en donde he estado desde septiembre del 2017.

2. Me detuvieron inicialmente en Kansas City los policías a finales de agosto del 2017. El 13 de septiembre me transfirieron a un shelter de la Oficina de Resentamiento de Refugiados en Kansas City y estuve detenido por aproximadamente 5 días.

3. En el shelter los trabajadores no me dijeron la razón por la cual estaba ahí y tampoco me dijeron cuanto tiempo iba a estar con ellos. En el shelter yo podía caminar libremente pero me dijeron que si me iba, que la policía iba a llegar a arrestarme. No habían llaves ni barras en las puertas o las ventanas en el shelter. Si quería salir afuera del shelter tenía que ser acompañado por un trabajador. No me acuerdo si me dejaron saber cuáles eran mis derechos mientras estaba en el shelter. Pero nunca tuve consulta con un abogado en el shelter.

4. Cuando yo estaba en el shelter, no tuve ningún problema o pelea con otros jóvenes, ni un incidente o problema de comportamiento. Después de aproximadamente 5 días en el shelter, los trabajadores me dijeron que iba a ser trasferido y que recogiera todas mis cosas. Esto pasó el 18 de septiembre del 2017, ese mismo día que me dijeron que iban a transferir, me pusieron en un avión y me transfirieron a Morrison Paso Staff Secure Program (Paso) en Portland, Oregon.

5. Antes de que me transfirieran, los trabajadores nunca me dijeron la razón por la cual me estaban transfiriendo o si podía hacer una disputa acerca de la transferencia. No me acuerdo haber recibido ninguna notificación en escrito acerca de la transferencia o acerca de mis derechos para disputar.

6. Cuando llegue a Paso el 18 de septiembre, le pregunte a los trabajadores ahí porque había sido transferido y ellos me dijeron que era porque había un reporte que un trabajador hizo en Kansas City.

7. Las condiciones de Paso son muy diferentes a las del shelter en Kansas City. En Paso todas las puertas están con llave menos las de las recámaras. En el pasillo puedo caminar libremente pero solamente es un pasillo corto. Todo está con llave. Siempre tengo que preguntarle a un trabajador que me abra la puerta para poder moverme dentro de la facilidad. Por ejemplo, si me muevo de mi cuarto a la sala necesito permiso de un trabajador para que me abra la puerta y necesito hasta una llave para poder ir al baño. Cada vez que pasamos de un pasillo a otro pasillo, tenemos que mover el cinturón de nuestra ropa para mostrar que no tenemos nada escondido allí.

8. En Paso siempre tengo que ocupar un uniforme, que hace sentirme como prisionero. Aquí nos dan un uniforme para ir a la escuela y uno para estar afuera con los demás. La única ropa que tenemos son los dos uniformes, y no nos permiten tener o llevar otra ropa.

9. En Paso, solo tengo contacto con los trabajadores y otros jóvenes inmigrantes detenido como yo. Yo comparto un cuarto con otro muchacho. El cuarto tiene dos camas y he compartido el cuarto con varios muchachos. Mis pertenencias están bajo llave y cuando quiero utilizar mis pertenencias tengo que pedir permiso a un trabajador para que le quite llave y ellos siempre revisan lo que estoy sacando. Las otras cosas que tenemos, como lápices y un teléfono que solo funciona para escuchar música, nos las dan los trabajadores y si nos portamos mal, nos las quitan.

10. Todos los días los trabajadores en Paso nos revisan el cuarto mientras estamos en la escuela. Me permiten hablar con mi madre por teléfono solo el lunes, miércoles y viernes. Si quiero hablar con ella en otro día, no me permiten hablar con ella los días que me toca.

11. En Paso, es requerido que vaya a la escuela 5 días a la semana. La escuela está en el mismo edificio solo que en otro pasillo. Si alguien no va a las clases, le quitan privilegios, como poder escuchar música.

12. Desde que llegué a Paso, me reúno con mi consejera una vez por semana por una hora. Bajo la recomendación de la consejera, me dan pastillas para dormir todos los días porque estando encerrado no puedo dormir y quiero tomármelas. En el shelter en Kansas vi una consejera una vez, y no me recomendaron tomar pastillas para dormir.

13. He visto al doctor cuatro o cinco veces desde que llegue a Paso. En unas de esas me dieron inyecciones que me dijeron que fueron vacunas. Yo pregunté si era necesario, y me dijeron que no era opcional, y que yo tenía que tenerlas.

14. Pedí una audiencia con el juez para entender la razón por cual estoy detenido. Me representaron en mi audiencia mis abogados, Leland y Jenny, el 19 de diciembre de 2017. Mis abogados me explicaron que el juez determinó que no soy un peligro pero que el gobierno todavía tenía que aprobar a mi madre como mi patrocinadora. Sin embargo, nadie en Paso o ningún otro oficinal del gobierno me explicaron los resultados de mi audiencia.

15. Durante los primeros meses en Paso, no tuve ningún problema, excepto que me hicieron un reporte por haberme marcado con un fierro en mi cuerpo. No recibí ningún castigo por esto. Pero, después de que gané mi audiencia con el juez, y nada cambió, yo empezaba a sentir frustración y fue más difícil no enojarme. Yo siempre hice mucho esfuerzo para hacer todo lo que me decían, y cumplir con todas las reglas, aunque a veces los otros muchachos molestan mucho, pero empezaba a creer que nunca iba a salir. Después de la audiencia con el juez, tuve tres reportes de mi comportamiento. Dos de los otros reportes fueron porque le dije algo a otro muchacho que me estaba molestando, sin embargo yo nunca lo toqué. Tampoco recibí ningún castigo en esas situaciones. El último reporte de que me acuerdo, tuve una pelea verbal con un muchacho y luego él me golpeó. Yo no lo golpeé a él, el staff nos separó y lo sacaron a él de la clase. Los supervisores hablaron conmigo y me quitaron mis privilegios de televisión, juegos y mi música por tres días.

16. Me han dicho información confusa acerca de cuándo me van a liberar. A principios de enero, después de que gané mi audiencia, me dijo la directora de Paso que serían tan siquiera 30 días hasta que me regresaran al shelter o me reunifiquen con mi madre. Más luego, me dijeron que sería al menos 30 días más para que me pudieran bajar de nivel. El lunes el 29 de enero, me dijeron que me podían bajar de nivel el 1 de febrero, pero todavía sigo detenido, ahora por más de cuatro meses. No creo que mi estado de custodia haya sido revisado cada 30 días. No he tenido ninguna reunión con un funcionario del gobierno al respecto.

17. Nunca me han dado ningún cargo ni me han declarado culpable de ningún cargo criminal.

18. Nunca he intentado escapar de mi detención desde que estuve en Kansas City.

19. Todo lo que quiero en este momento es ser reunificado con mi madre en Florida. Me han dado muy poca información acerca del proceso de reunificación con mi madre. Erich, un trabajador aquí, solo me dice que van a trasladarme a un shelter en Florida, y que están esperando otra vez las huellas de mi padrastro, pero que supuestamente se perdieron la primera vez. Erich pretende mantenerme informado acerca del proceso para reunificarme con mi mama, pero cada semana me dice lo mismo: que están esperando por las huellas.

Declaro bajo protesta de ley y castigo de perjurio que lo anterior es cierto y correcto.

Hecho el dia 04 de febrero, del ano 2018, en Portland Oregon.

[redacted]

///

DECLARATION BY [redacted]

I, [redacted] declare and say the following:

1. I was born in Oaxaca, Mexico on [redacted], 2000. I am 17 years old. I am currently being held in a detention center in Portland, Oregon called Morrison Paso Staff Secure Program where I have been since September 2017.

2. Police officers initially detained me in Kansas City at the end of August 2017. On September 13, I was transferred to a shelter in the Office of Refugee Resettlement in Kansas City and detained for approximately 5 days.

3. In the shelter the workers did not tell me the reason why I was there and they did not tell me how long I would be with them. In the shelter I could walk freely but they told me that if I left, that the police would arrest me. There were no keys or bars on the doors or windows in the shelter. If I wanted to go outside the shelter I had to be accompanied by a worker. I do not remember if they let me know what my rights were while I was in the shelter. But I never had consultation with a lawyer in the shelter.

4. When I was in the shelter, I did not have any problems or fights with other young people, nor had an incident or behavior problem. After about 5 days in the shelter, the workers told me I was going to be transferred and to collect all my things. This happened on September 18, 2017, that same day they told me they were going to transfer, they put me on a plane and transferred me to Morrison Paso Staff Secure Program (Paso) in Portland, Oregon.

5. Before I was transferred, the workers never told me the reason why they were transferring me or if I could make a dispute about the transfer. I do not remember receiving any written notification about the transfer or about my rights to dispute.

6. When I arrived at Paso on September 18, I asked the workers there why had I been transferred and they told me it was because there was a report that a worker made in Kansas City.

7. The conditions of Paso are very different from those of the shelter in Kansas City. In Paso all the doors have keys except those of the bedrooms. In the hallway I can walk freely but it is a short hallway. Everything has a key. I always have to ask a worker to open the door so I can move inside the facility. For example, if I move from my room to the living room, I need a worker's permission to open the door and I need a key to go to the bathroom. Every time we move from one hallway to another hallway, we have to move the belt of our clothes to show that we have nothing hidden there.

8. In Paso I always have to wear a uniform, which makes me feel like a prisoner. Here they give us a uniform to go to school and one to be outside with others. The only clothes we have are the two uniforms, and they do not allow us to have or wear other clothes.

9. In Paso, I only have contact with workers and other immigrant youth detained like me. I share a room with another boy. The room has two beds and I have shared the room with several boys. My belongings are locked and when I want to use my belongings I have to ask a worker for permission to remove the key and they always check what I'm taking out. The other things we have, like pencils and a phone that only works to listen to music, are given to us by the workers and if we behave badly, they take them away from us.

10. Every day the Paso workers check the room while we are at school. They allow me to talk to my mother by phone only on Monday, Wednesday and Friday. If I want to talk to her on another day, I'm not allowed to talk to her on the days that I am scheduled.

11. At Paso, you are required to go to school 5 days a week. The school is in the same building only as in another hallway. If someone does not go to the classes, they take away privileges, such as being able to listen to music.

12. Since I arrived in Paso, I meet with my counselor once a week for one hour. Under the recommendation of the counselor, they give me pills to sleep every day because when I am locked up I cannot sleep and I want to take them. At the shelter in Kansas I saw a counselor once, and I was not recommended to take sleeping pills.

13. I have seen the doctor four or five times since I arrived in Paso. In some of those they gave me injections that they told me were vaccines. I asked if it was necessary, and they told me that it was not optional, and that I had to have them.

14. I requested a hearing with the judge to understand the reason why I am being detained. My lawyers, Leland and Jenny, represented me at my hearing on December 19, 2017. My lawyers explained to me that the judge determined that I am not a danger but that the government still had to approve my mother as my sponsor. However, no one in Paso or any other government office explained the results of my hearing.

15. During the first months in Paso, I did not have any problem, except that they made a report for having marked myself with an iron in my body. I did not receive any punishment for this. But, after I won my hearing with the judge, and nothing changed, I started to feel frustrated and it was harder not to get angry. I always made a lot of effort to do everything that was said to me, and to comply with all the rules, although sometimes the other boys bother a lot,

but I started to believe that I was never going to leave. After the hearing with the judge, I had three reports of my behavior. Two of the other reports were because I said something to another boy who was bothering me, however I never touched him. I did not receive any punishment in those situations either. The last report that I remember, I had a verbal fight with a boy and then he hit me. I did not hit him, the staff separated us and they took him out of the class. The supervisors talked to me and took away my television privileges, games and my music for three days.

16. They have told me confusing information about when they will release me. In early January, after I won my hearing, the Principal told me that it would not be even 30 days until they returned me to the shelter or reunited me with my mother. Later on, they told me that it would be at least 30 more days so that they could lower me in level. On Monday, January 29, they told me that they could lower me on February 1, but I am still in detention, now for more than four months. I do not think my custody status has been reviewed every 30 days. I have not had any meeting with a government official about it.

17. I have never been charged or convicted of any criminal charges.

18. I have never tried to escape my detention since I was in Kansas City.

19. All I want at this time is to be reunited with my mother in Florida. I have been given very little information about the reunification process with my mother. Erich, a worker here, just tells me that they are going to move me to a shelter in Florida, and that they are waiting again for the fingerprints of my stepfather, but that supposedly they were lost the first time. Erich tries to keep me informed about the process to reunite with my mother, but every week she tells me the same thing: they are waiting for the prints.

I declare under protest of law and punishment of perjury that the above is true and correct.

Done on February 4, of the year 2018, in Portland Oregon.

[redacted]

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.

2. On this day I translated the declaration of [redacted] from Spanish to English. The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th day of February 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 3

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Detained
[redacted]

EXHIBIT E	Morrison Paso Case Review dated September 17, 2017 20170917_Morrison Paso_CaseReviewx

Case Review

UAC Basic Information

First Name: [redacted]
Last Name: [redacted]
AKA:
Status: ADMITTED
Date of Birth: [redacted]2000
A No.: [redacted]
Age: 17
Country of Birth: Mexico
Gender: M
LOS: 72
Current Program: Morrison Paso
Admitted Date: 9/19/2017

(•) 30 day Case Review ( ) Discharge ( ) Transfer Are there any changes?: ( ) Yes (•) No

Previous Placement:
Minor is a transfer from The Villages Shelter Kansas; minor was stepped-up to current program due to self-disclosed human smuggling/run-risk concerns; First time in ORR care.
Religious Affiliation:
Catholic
Case Manager:
Erich Corona
Clinician:
Brittany Russ

Document any new information regarding the UAC not indicated in the UAC Assessment and/or the previous case summary below

Medical

List any allergies:
N/A
Do you feel unwell?
( ) Yes (•) No
If yes, what are your symptoms?
N/A
Additional medical information:
N/A

Medical History

Condition	Yes/NO	Date of Diagnosis/Clarification
Pregnant	( ) Yes (•) No	
Tuberculosis	( ) Yes (•) No	
Varicella	( ) Yes (•) No	
Measles	( ) Yes (•) No	
Mumps	( ) Yes (•) No	
Rubella	( ) Yes (•) No	
Asthma	( ) Yes (•) No	
Diabetes	( ) Yes (•) No	
Cancer	( ) Yes (•) No	
Cardiac Issues	( ) Yes (•) No	
Sexually Transmitted Disease	( ) Yes (•) No	
Respiratory/Lung Disorder	( ) Yes (•) No	
Physical Disability	( ) Yes (•) No	

Medication History

Medication	Dosage	Timeframe	Medical Condition
			N/A
			N/A
			N/A
			N/A
			N/A

Legal

Know Your Rights Presentation provided? (•) Yes ( ) No

Date:	9/19/17
Legal screening completed?	◉ Yes ○ No
Date:	9/21/17
Any possible legal relief identified?	○ Yes ◉ No
Specify:	Minor has not been identified for legal relief at this time as of 11.17.17

Mental Health

Provide a short summary of the UAC's current functioning:

10/18/17-Minor continues to attend individual and group counseling weekly. Minor has been able to follow rules and regulations and is redirected easily. Minor expresses feelings and thoughts in session and reports what he needs in regards to his coping skills. Minor has not presented with any harm to self or other thinking. Clinician has no concerns at this time regarding minor and his functioning.

10/29/17-Minor continues to participate in program activities and requirements and follows all rules and regulations. Minor attend individual and group counseling and provides input and discusses feelings. Minor has started family sessions with his sponsor and is willing to discuss his feelings and concerns when needed. Sponsor has been flexible and available for family sessions. Minor has begun to become honest regarding the details of his journey and discussion of his future. Minor reports zero harm to self or other thinking. There are no mental health concerns at this time.

11/17/17-Minor continues to comply with program rules and regulations. Minor has showed appropriate behaviors within the program and a high level of emotional intelligence. Minor has been able to attend outings and show appropriate behavior in the community. Minor continues to report no thoughts of self harm or harm to others. Minor also has participated actively in individual, family and group therapy. Minor appears to remain receptive and compliant with expectations.

Psychological Evaluation

Date of Evaluation:

Evaluator:

Axis I:

Axis II:

Axis III:

Axis IV:

Axis V:

Summary of Recommendations:

Trafficking

Who planned/organized your journey?

During initial intake, Minor stated that he and his mother planned the trip to the US. However, during sponsor assessment on 9/27/17, Minor's mother denied paying for minor's journey, as she stated that neither she, nor her parents, were aware that the minor had made the journey on his own accord. CM contacted minor's grandparents in COD on 9/28/17, who reported that they were not aware that the minor had made the journey to the US to see his mother, as they were originally notified by the minor's supervisor at the tortilla shop, who wanted to know if the minor was going to come into work after missing the previous day of work. CM have informed the minor about this discrepancy and he continues to be adamant that his mother paid for his journey ($8,000 USD). Upon further assessment in program, minor disclosed that he saved $600 USD and his friends lent him $600 USD for his journey. Minor stated that he initially did not want to inform the program of his friend's names and stated that they were they ones who arranged for his entire journey, including the arrangements for transport from Arizona to Florida to his mother. Minor stated that his is expected to payback his friends whenever he can have permission to work in the US and stated that there will be no consequences for him nor his family for delaying payment to his friends given his current situation.

What were you told about the arrangements before the journey?

Minor reports that the guide did not explain details, he just told minor to get ready to leave around July 30 and to take just few clothes.

Did the arrangements change during the journey? ○ Yes ◉ No

If yes, how?

Minor reports that everything went as planned during his journey across the border.

Does your family owe money to anyone for the journey? ○ Yes ◉ No

If yes, how much?

Whom is the money owed?

N/A- During initial intake, Minor stated that he and his mother planned the trip to the US. However, during sponsor assessment on 9/27/17, Minor's mother denied paying for minor's journey, as she stated that neither she, nor her parents, were aware that the minor had made the journey on his own accord. CM contacted minor's grandparents in COD on 9/28/17, who reported that they were not aware that the minor had made the journey to the US to see his mother, as they were originally notified by the minor's supervisor at the tortilla shop, who wanted to know if the minor was going to come into work after missing the previous day of work. CM have informed the minor about this discrepancy and he continues to be adamant that his mother paid for his journey ($8,000 USD). Upon further assessment in program, minor disclosed that he saved $600 USD and his friends lent him $600 USD for his journey. Minor stated that he initially did not want to inform the program of his friend's names and stated that they were they ones who arranged for his entire journey, including the arrangements for transport from Arizona to Florida to his mother. Minor stated that his is expected to payback his friends whenever he can have permission to work in the US and stated that there will be no consequences for him nor his family for delaying payment to his friends given his current situation.

Who is expected to pay?

Friend(s) in Mexico; $600 USD.

What do you expect to happen if payment is not made?

Minor stated that there will be no consequences if payment is delayed.

Coercion Indicators

Did anyone threaten your or your family? ◉ Yes ○ No

If yes, who made the threats?

Minor has NOT been threatened, however: During sponsor assessment on 9/27/17, sponsor reported that on 9/18/17 around 12PM EST, she was contacted by an unknown number by a person named Eric, who informed her that her son was at safe house somewhere in Arizona with a lady who was caring for him, where he was safe, and was instructed to send her $800 dollars via bank account number [redacted]0-8. Per sponsor, Eric stated that once the minor arrived to Florida via van, she would have to pay an additional $400 dollars in person. Sponsor stated that she did not send any money to the bank account, since she received a phone call on 9/19/17 from Paso Program from Case Manager, who allowed her to speak to her son. Per sponsor, she was relieved to hear her son's voice and was confused as to why the person on the phone was requesting monies, as she reports not being aware that minor had made the journey into the US, without the consent of the family. Furthermore, sponsor reports being apprehensive initially about the authenticity of PASO program as well, until she received an FRP packet in the mail on 9/21/17 and was able to watch the sponsor video (this sponsor was a victim of hurricane irma and reported connectivity issues in her area during this time.) Sponsor stated that as of 9/19/17, the unknown number contacted her on two other occasions and left two voicemails allegedly threatening her to send the $800 USD, or else "something bad" would happen to her son. As of 9/19/17, the sponsor reports that she has stopped using her old cell phone and is currently only using her home phone to communicate with PASO Program. Sponsor reports that she has continued contacting her parents in Mexico since 9/18/17, were her family denies being asked or threatened for any types of monies from anyone regarding the minor's alleged transportation costs. CM Created a Freud SIR and notified Sebring PD, who instructed CM to notify the sponsor to contact them, if she felt like pressing charges and wanted police to become involved. CM relayed this information to sponsor; sponsor stated that she would speak to her husband first before proceeding, as her family in COO, had not reported any type of harm by the alleged individuals in Arizona.

Were you ever physically harmed? Yes No

If yes, how?

n/a

Was anyone around you ever physically harmed? Yes No

If yes, who?

n/a

Were you ever held against your will? Yes No

If yes, where?

n/a

Did anything bad happen to anyone else in this situation or anyone else who tried to leave? Yes No

What happened and to whom?

n/a

Did anyone ever keep/destroy your documents? Yes No

If yes, who and what?

n/a

Did anyone ever threaten to report you to the police/immigration? Yes No

If yes, who?

n/a

Are you worried anyone might be trying to find you? Yes No

If yes, who?

n/a

Debt Bondage/ Labor Trafficking

Did you perform any work or provide any services? Yes No

If yes, what and where?

Back in COO, minor used to work every day in the fields from Monday to Saturday planting and gathering vegetables, and spreading pesticide on the fields.

Who arranged the work?

Minor found that job through a neighbor who was already working in the fields.

What type of work did you perform?

Minor used to work planting and gathering vegetables, and spreading pesticide on the fields

What was the work schedule?

Every day from Monday to Saturday from 5:00 am -12:00 pm

Did work conditions change over time?

No

Is there a debt? Yes No

If yes, has any debt amount increased? Yes No

By how much?

When did it increase?

Why did it increase?

n/a

Have you or your family ever been threatened over payment or work for the journey? Yes No

If yes, who threatened you and how?

N/A

What did you expect would happen if you left the job or stopped working?
Nothing.

Were you ever made to work or do anything you did not want to do? ○ Yes ○ No

Did you receive pay or did someone else keep the pay?
Minor received the payment

Were you paid what was promised when you started working?
yes

Were expenses taken out of the pay? ○ Yes ○ No

If yes what?
N/A

How did you get to the work site?
walking

Where did you live while working?
Minor was living with his maternal grandparents while working on the fields.

Commercial Sexual Exploitation

Did anyone ever ask you to see you naked or in your underwear in exchange for money/anything of value? ○ Yes ○ No

Did anyone ever pay/accept money/anything of value from other people in order to see you naked or in your underwear? ○ Yes ○ No

Did anyone ever ask to take pictures or recording of you naked or engaged in sex acts? ○ Yes ○ No

If so, did they offer you money/anything of value to do this or did they accept money/anything of value from others in order to see these pictures or recordings? ○ Yes ○ No

Did anyone ever ask or expect you to perform sexual acts in exchange for money/anything of value? ○ Yes ○ No

Did anyone ever promise or give money or anything of value to you in exchange for sexual acts? ○ Yes ○ No

Based on the information provided above in the "Trafficking" section, is there a trafficking concern? ○ Yes ○ No

If yes, date of trafficking referral:

Sponsor Information (not by Privacy)

Current Sponsor	Cat (1,2,3)	Sponsor Name	DOB	Address	Phone	Legal Status	Relationship
■		[redacted]	■1981	[redacted]	[redacted]	Without status	Mother

Sponsor Risk Assessment / Sponsor Risk Assessment

Substance use concerns? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Domestic violence concerns? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Child abuse or neglect concerns? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Mental health issues? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Does the sponsor have any family support? ○ Yes ○ No
Specify:
please reference UAC portal.

Does the sponsor have any identified special needs? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Does the sponsor have financial needs? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Does the sponsor have adequate housing? ○ Yes ○ No
If yes, explain:
please reference UAC portal.

Are there any concerns with the disciplinary practices/philosophy of sponsor?
please reference UAC portal.

Does the sponsor have any criminal history? ○ Yes ◉ No

List any Felony convictions:

please reference UAC portal.

List any Misdemeanor convictions:

please reference UAC portal.

List any Probation/Parole:

please reference UAC portal.

List and describe any disclosed criminal activity:

N/A

History of Incarceration:	Crime	Date	Length of Sentence	Location

Are there any parent/child relational issues? ○ Yes ◉ No

If yes, explain: please reference UAC portal.

Does the sponsor have an Order of Removal? ○ Yes ◉ No

If yes, date issued:

Has the sponsor sponsored any other UAC in ORR care? ○ Yes ◉ No

Additional sponsor information:

please reference UAC portal.

Sponsor Sponsored UACs:	Name of UAC	A Number	Relationship	Facility sponsored from

TVPRA 2008

Based on the most recent trafficking screening, is the child a victim of a severe form of trafficking in persons? (Indicate 'yes' only if ORR has issued a trafficking eligibility letter for UAC.) ○ Yes ◉ No

Date eligibility letter issued:

Based on the most recent screening for disabilities, does the child have a disability as defined in section 3 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12102[1]? ○ Yes ◉ No

If yes, specify disability:

n/a

Based on the most recent screening, has the child been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened? ○ Yes ◉ No

If yes, provide a short summary:

n/a

Based on the sponsor risk assessment, does the sponsor clearly present a risk of abuse, maltreatment, exploitation, or trafficking to the UAC? ○ Yes ◉ No

If yes, provide a short summary:

n/a

Recommendations

Discharge: ○ Yes ◉ No

Sponsor: [redacted]

Discharge w/ Post Release: ○ Yes ◉ No

Date of PR referral:

Refer to Home Study ○ Yes ◉ No

Reason for HS referral: N/A

Care Plan

Reunification: Program has obtained complete FRP and all supporting documentation/proof of relationship was established via authenticated BC from the Mexican Consul. Sponsor assessment revealed NO safety concerns, as sponsor is familiar with her community and has been very forthcoming in providing information and completing paperwork. Given the CAT1 established relationship and lack of safety concerns, coupled with Clear online background/sex offender checks for sponsor and alt. care provider, the program will not be requiring fingerprints at this time nor CA/N checks. Program is working on conducting family sessions, as clinician and case manager believe that youth has resentment towards his mother, given their 15 year estranged relationship. Minor currently wishes to reunify with his mother and has not disclosed any type of child abuse by sponsor nor caregivers in COC. Program feels that sponsor has been very receptive and forthcoming during family sessions and believe that the sponsor will be able to adequately meet minor's needs. Program submitted for a CAT1 straight release on 10/30/17, Case Coordinator concurred with recommendation on 11/3/17; Pending FFS approval to elevate memo to HQ. Upon doing so, program will then submit a transfer request -preferably to a shelter in FL, where the minor may receive visitations from his mother/sponsor, while he awaits his release decision from ORR.

Legal: Minor was provided with his KYR on :9/19/17 and Legal screening on:9/21/17; Minor has not been identified for any type of legal relief as of 11/17/17.

Mental Health: Minor will continue to attend weekly and individual counseling with clinician and will present needs and concerns as they arise. Minor and clinician will continue family sessions with sponsor.

Certification

Signature:

Brittany Russ, MSW, CSWA Erich Corona, BS

Date:

Exhibit 4

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
1220 SW 3RD AVENUE, SUITE 500
PORTLAND, OR 97204

In the Matter of:
[redacted]

Case No.: [redacted]

Docket: PORTLAND DETENTION CENTER

RESPONDENT

IN REMOVAL PROCEEDINGS

CUSTODY ORDER OF THE IMMIGRATION JUDGE

Request having been made for a change in the custody status of the respondent pursuant to 8 C.F.R. Part 236 and having considered the representations of the Department of Homeland Security and the respondent, it is HEREBY ORDERED that: N of a danger to the community; bond granted subject to HHS/ORR identifying, evaluating, and approving an appropriate sponsor.

RICHARD ZANFARDINO
Immigration Judge
Date: Dec 19, 2017

Appeal: NO APPEAL (A/I/B)
Appeal Due By: 1-18-18

CERTIFICATE OF SERVICE
THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [ ] Alien's ATT/REP [M] HHS/ORR
DATE: 12/19/17 BY: COURT STAFF
Attachments: [M] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

Form EOIR 1 - 1T (Custody - REMOVAL)

Exhibit 5

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

METROPOLITAN PUBLIC DEFENDER
IMMIGRANT DEFENSE OREGON
630 SW 5th Ave., Suite 500, Portland Or. 97204
Phone: 503-225-9100

DECLARATION OF LELAND BAXTER-NEAL

I, Leland Baxter-Neal, declare and say as follows:

1. I am an attorney in good standing barred to practice in the state of Oregon. My bar number is 155347. I am employed as a staff attorney at Metropolitan Public Defender, in a non-profit immigration project called Immigrant Defense Oregon.

2. In that capacity, myself and co-counsel Jenny Hernandez represented [redacted] in his Dec. 19, 2017, "*Flores* bond hearing" pursuant to *Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017). [redacted] is currently detained by the Office of Refugee Resettlement (ORR), at a "staff-secure" facility operated by Morrison Child & Family Services ("Morrison"). We continue to represent [redacted] for the purposes of enforcing his rights under the settlement in *Flores, et al., v. Sessions, et al.*, No. CV 85-4544 DMG (C.D. Cal.) ("the *Flores* settlement") and seeking his release to his mother.

3. The aforementioned *Flores* bond hearing was held on Dec. 19, 2017, at the Portland Immigration Court in front of Immigration Judge Richard Zanfardino. In advance of the Flores bond hearing, ORR counsel Thomas Pabst told me that that ORR would not be arguing at the bond hearing that [redacted] is a flight risk because, when determining whether to release a minor in ORR custody to a sponsor, ORR does not consider whether that minor is a flight risk. ORR counsel affirmed the same in its briefing in advance of the hearing. At the hearing, ORR counsel told the immigration judge that his argument in support of detaining [redacted] would be limited only to asserting that [redacted] was a danger to the community. At the conclusion of that hearing, the immigration judge sided with [redacted] and ruled that the he is not a danger to the community.

4. As [redacted] counsel, I contacted the staff at Morrison by email to Erich Corona, [redacted] case manager, on Jan. 2, 2018, to inquire as to his custody status. Mr. Corona had previously told me that the staff at Morrison had recommended [redacted] be placed with his mother, who lives in Florida, and that while that request for placement was pending, Morrison staff had also requested [redacted] be "stepped down" to a less restrictive facility in Florida to be closer to his mother. Mr. Corona responded by email the same day that "everything was still pending in terms of [redacted] transfer."

5. I contacted Mr. Corona by email again on Jan. 9, 2018, for an update on [redacted] custody status. Mr. Corona replied, "We are currently working on [redacted] transfer request," and described several factors that had delayed ORR's processing. On Jan. 19, 2018, Ms. Hernandez and I provided a demand letter via email to Scott Lloyd, Director of the Office of Refugee Resettlement, Maria Ivall, the Federal Field Specialist who oversees the staff secure center at Morrison, and Thomas Pabst, ORR counsel. In that letter, we demanded ORR immediately release [redacted] to his mother's care, as [redacted] continuing detention in a staff-secure facility and separation from his mother was in violation of the *Flores* settlement, and [redacted] statutory and constitutional rights. Our office provided ORR until Jan. 29, 2018, to release [redacted] and asserted that, if [redacted] were not released, we would take legal action to enforce his rights.

6. Ms. Ivall replied by email later the same day, Jan. 19, 2018, confirming receipt of the letter and stating that "the case has been elevated to ORR headquarters and we will get back to you." As of this date, our office has not received a reply to our letter.

7. On Jan. 30, 2018, I emailed Ms. Ivall again to inquire as to [redacted] status. Ms. Rodriguez replied by email later the same day as follows:

> "My apologies in advance, unfortunately I am unable to provide you with details of the case. Please feel free to make a formal request to ORR of the UC's file for more detailed information. I am more than happy to explain or discuss the

process of step down as well as reunification if needed, however I am including ORR's link below for information.

I can tell you that the goal for staff secure UCs is to step down for as long as it is warranted and it is safe to do so. At this time in this particular case, the step down request is in the process of being submitted to ORR for approval. As of yet I am not aware of any approved placements. The care provider will send you a notification when UC has been approved to transfer since they are in charge of informing all stakeholders. They should provide you with the location where this UC is being transferred if/when accepted since you are the representing attorney."

8. On Feb. 1, 2018, I contacted Mr. Corona at Morrison to confirm if he had any updated information as to [redacted] custody status. Mr. Corona replied by email on Feb. 2, 2018, that, "Maria's email is the most current information we have on hand. We will notify you when the UC is discharged from our program once he is accepted by a shelter program in FL." Mr. Corona added that, "There is nothing we nor FFS can do at this time to expedite his transfer, we simply have to wait until a program has the capacity to accept him in FL."

9. The Morrison center where [redacted] is detained is classified by ORR as "staff-secure." To schedule my visits and phone calls with [redacted] I must contact the staff at Morrison in advance and request they schedule the call or visit. The entrance to the area of the building where the UAC children are detained is always locked, and I must press a buzzer and wait for security to allow me to enter. The door is locked from both sides, and so a staff member is also required to unlock the door and let me out so that I may leave at the conclusion of my legal visits.

10. Once I have entered the Morrison facility, I must sign in on a clipboard and note the time and reason for the visit, and then await staff to open a second locked door before I can enter the hallway leading to the locked room where I meet with [redacted] To my recollection, every door that I have seen be opened at Morrison must be opened by a staff member with a key. When my client concludes his meeting with me, he undergoes a brief visual inspection by security in which he must pull away the waistband of his shorts to show

that he has nothing concealed before he is allowed through the locked door that leads to the area where the youth are held. Based on my own direct experience, and conversations with [redacted], it is my belief that his movements from place to place are tightly restricted and closely monitored, and his behavior is subject to strict guidelines and punishment if he does not comply.

11. In the two months that Ms. Hernandez and I have represented [redacted], I have visited him in person or spoken with him by phone approximately 10 times. I have had the opportunity to get to know him and observe his moods and discuss with him his feelings. While I am not a mental health professional, I am deeply concerned that [redacted] continued detention, paired with inconsistent information from ORR about if and when he will be reunited with his mother, are causing significant harm to his mental health and wellbeing.

12. [redacted] has repeatedly been given timelines for his release that have then come and gone. For as long as I have represented him, he has been told by staff at Morrison that a request to transfer him to a lower security facility in Florida, to be closer to his mother, "is pending." Both he and I have been told at different points that his transfer to the lower security would happen within a matter of weeks, or, more recently, by Feb. 2, but when those dates come, nothing happens. [redacted] has also been told previously that his release to his mother would happen in 30 days, only to have that date come and go as well. Following his bond hearing before an immigration judge, in which he was found not to be a danger to the community, [redacted] has a three minor altercations with other boys at the detention center, mostly verbal altercations, written up as "Serious Incident Reports," called SIRs. Both [redacted] and I were then told by staff that he would not be transferred out of the facility until he had at least thirty days without a SIR.

/

/

/

/

13. [redacted] very badly wants to be reunited with his mother, and is unhappy being locked in the detention center. He has expressed this directly to me on multiple occasions. Further, I have observed, and he has reported, increasing frustration that, dispute winning his bond hearing now nearly two months ago, he continues to be detained. This frustration appears to be leading to a lack of patience with other students and, at times, a sense of despair about his case. I believe, and he has expressed to me, that the three SIRs following his successful bond hearing were directly related to the negative effects of the continued detention and inconsistent reports about when and if he would be released.

14. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

I, Leland Baxter-Neal, certify under penalty of perjury that the foregoing is true and correct. Executed on Feb. 6, 2018.

Leland Baxter-Neal
Oregon Bar No. 155347

Exhibit 6

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

Leland Baxter-Neal

From: Erich Corona <Erich.Corona@morrisonkids.org>
Sent: Tuesday, January 09, 2018 11:48 AM
To: Leland Baxter-Neal
Cc: Jenny Hernandez; Brittany Russ; Jessica Mena; Kenneth Ramirez; Maribel Reyes
Subject: RE: [redacted]

Importance: High

Good morning Leland,

We are currently working on his transfer request. Please keep in mind that ORR is now getting back from VACA mode and will resume its normal operations. Furthermore, this minor was initially submitted for release on 10/30/17, however, due to some technical issues, ORR was not able to look at this case until 11/21/17.

When a the covering FFS reviewed this case on 11/21/17, the covering FFS requested a discretional HS. The Positive HS results were received on 12/27/17.

Furthermore, we have been experiencing technical issues with the UAC portal for the past couple of weeks, which as prevented us from creating the transfer online.

I am currently working on the transfer request, now that the minor's mother has attended her fingerprint appointment and her CA/N checks have been initiated (Items which needed to be initiated before UC could be transferred due to discretional HS recommendation).

We will notify you once FFS approves his transfer; thank you for continuing to advocacy for this youth.

Saludos,

morrison child & family services

Erich Corona | Case Manager
11035 NE Sandy Blvd. | Portland,OR 97220
(503) 258-4623(d)|(503) 896-1158(c)
Check out our website: Morrisonkids.org

Disclaimer: Information contained in this message and or attachments is intended only for the recipient(s) named above and may contain confidential and or privileged material. If you are not the intended recipient, any disclosure, copying, distribution or action taken on it is prohibited. If you believe you have received this email in error, please contact the sender, delete this email and destroy all copies.

From: Leland Baxter-Neal [mailto:lbaxterneal@mpdlaw.com]
Sent: Tuesday, January 9, 2018 11:37 AM
To: Erich Corona <Erich.Corona@morrisonkids.org>
Cc: Jenny Hernandez <jhernandez@mpdlaw.com>; Brittany Russ <Brittany.Russ@morrisonkids.org>; Jessica Mena <Jessica.Mena@morrisonkids.org>; Kenneth Ramirez <Kenneth.Ramirez@morrisonkids.org>; Maribel Reyes <Maribel.Reyes@morrisonkids.org>
Subject: RE: [redacted]

Hi Erich,

I just wanted to follow up and check in on [redacted] transfer. Has he been formally stepped down yet and transferred to Florida, or is it still pending?

If it is still pending, is it currently pending at the stage of the field supervisor approving him to be stepped down, or has it been approved but is pending with the Florida shelter having everything ready to receive him?

Please update us with any details regarding the delay in stepping him down.

Thanks!

Leland

From: Erich Corona [mailto:Erich.Corona@morrisonkids.org]
Sent: Tuesday, January 02, 2018 3:32 PM
To: Leland Baxter-Neal
Cc: Jenny Hernandez; Brittany Russ; Jessica Mena; Kenneth Ramirez; Maribel Reyes
Subject: RE: [redacted]
Importance: High

Hello Leland,

Hope you had a good new year as well!
Everything is still pending in terms of [redacted] transfer.
We will keep you posted before it is approved so that you may provide legal counsel over the phone.
We will provide the new program's info once he is accepted into another program.

Saludos,

morrison child & family services

Erich Corona | Case Manager
11035 NE Sandy Blvd. | Portland,OR 97220
(503) 258-4623(d)|(503) 896-1158(c)
Check out our website: Morrisonkids.org

Disclaimer: Information contained in this message and or attachments is intended only for the recipient(s) named above and may contain confidential and or privileged material. If you are not the intended recipient, any disclosure, copying, distribution or action taken on it is prohibited. If you believe you have received this email in error, please contact the sender, delete this email and destroy all copies.

From: Leland Baxter-Neal [mailto:lbaxterneal@mpdlaw.com]
Sent: Tuesday, January 2, 2018 10:46 AM
To: Erich Corona <Erich.Corona@morrisonkids.org>
Cc: Jenny Hernandez <jhernandez@mpdlaw.com>
Subject: [redacted]

Hi Erich,

Happy new year! I wanted to check in and see how things are going with [redacted] and his step down to Florida. If he hasn't been stepped down, are things on track and do you know when he might be transferred? And if he has been transferred, can we get the name and location of the facility and a point of contact there from you?

Thanks! Hope you enjoyed the holidays.

Cheers,

Leland Baxter-Neal

Attorney | Immigrant Defense Oregon
Metropolitan Public Defender
630 SW Fifth Ave., Suite 500
Portland, OR 97204
503.225.9100

Exhibit 7

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARATION OF JAMES M. OWENS

I, James M. Owens, declare and say as follows:

1. All facts stated herein are of my own personal knowledge, and if sworn I could competently testify thereto.

2. I am an attorney licensed to practice law in the State of California. I am a Retired Assistant County Counsel from Los Angeles County. I retired in March of 2014. For the last 15 years of county service, I managed the Dependency Division in Los Angeles County. The Dependency Division handles child abuse and neglect cases for the Los Angeles County Department of Children and Family Services. We had 120 attorneys handling approximately 25,000 dependency cases and appeals. The attorneys staffed 20 courts and would routinely handle over 1,000 matters each court day. I am very familiar with laws and time lines relating to children detained by and placed in custody of California child welfare agencies.

3. In preparation for this declaration, I have reviewed a time line provided to me by Attorney Carlos Holguin. I have been asked to analyze the time frames and circumstances of the child [redacted] detention based upon federal and state laws applicable to the detention of dependent children and timelines child protection agencies typically follow when placing children with a non-offending parent after they have been removed from an unfit home. I am not familiar with federal immigration laws or how dependency law may be applicable to the instant case.

4. I am informed and believe that the [redacted] has been detained in a non-licensed facility since September 18, 2017. I am also informed and believe that the child's mother is an appropriate custodian and is willing to provide care and supervision for the child. I am informed that there was a home study conducted on the mother's home on or about October 30, 2017. The home study recommended release to the child's mother. The results of the home study were received December 27, 2017.

5. Child welfare is state managed and federally funded. Many of the state laws designed to expedite placement of children are mandated by the federal funding statute commonly called the Adoptions and Safe Families Act. The requisite components of all state

plans are contained at 42 USC section 671. Pursuant to this statute, child welfare agencies are required to place children with appropriate parents quickly. Prior to detaining children from their parents, the agency is required to provide "reasonable efforts" to prevent or eliminate the need to remove the child from a parent. *See* 42 U.S.C. § 671(a)(15). This is codified in California law at Welfare and Institutions Code section 309, which provides that the social worker shall "immediately release the child to the custody of the child's parent" unless the child has no parent willing to provide care, social worker believes that the child's detention is a matter of immediate and urgent necessity for the protection of the child, the parent, guardian or custodian is a flight risk, the child has left a placement in which he or she was placed by the juvenile court, the parent or person having legal custody has voluntarily surrendered physical custody.

6. The time frames for dependency hearings are very quick. If the social worker decides to detain a child. The social worker must file a petition with the court within 48 hours of the child's detention. *See* Welfare and Institutions Code sections 313. A hearing is scheduled on the next court day after the petition is filed with the court. *See* Welfare and Institutions Code section 315. The judge considers the grounds for detention. If there are no legal grounds for detention, the court shall order the release of the child from custody. *See* Welfare and Institutions Code section 319(b).

7. Were state child welfare agencies involved, the instant case would have presented issues involving the Interstate Compact on the placement of children as it involved a home study conducted in Florida. This may have delayed placement were this a California child dependency case as the local agency would be dependent on a Florida agency to complete the home study. Even so, the statute contemplates a state conducting a home study for another state pursuant to the Interstate Compact will complete the home study in 60 days. *See* Cal. Fam. Code section 7901.1. When another state requests Los Angeles County to perform a home study under the Interstate Compact, Los Angeles would take all steps to complete the home study within the time period contained in Family Code section 7901.1. When Los Angeles County receives a completed home study from another state approving placement with a parent, Los Angeles would

take all steps to effectuate an immediate placement with that parent. The Adoption and Safe Families Act requires all states receiving federal funds to have "orderly and timely interstate placement of children" 42 United Sates Code section 671(25). The federal law further requires that the receiving state conduct and complete the home assessment within 60 days. 42 United Sates Code section 671(26).

8. If the state placing a child is not requesting supervision by the receiving state, however, the Interstate Compact would not be applicable to a placement with a parent. In these circumstances, the child welfare agencies may handle such placements without the delays associated with coordinating interstate placement with the receiving state. In Los Angeles County, these placements are often effectuated before the 48-hour time for the filing of the petition expires.

9. I am advised that ORR may be continuing [redacted] in federal custody because no one in his mother's household is a licensed driver. In my experience, the lack of access to a motor vehicle would not justify the continued detention of a health teen age child. If transportation was necessary, the child welfare agency would typically provide public transportation vouchers to the family to provide transportation for the child.

10. The goal of child welfare is to place children is safe, nurturing environments in a timely fashion. The Adoption and Safe Act requires placements foster families, relatives and other nonparents to meet licensing standards required of foster placements. These include criminal history checks on prospective care providers. 42 United States Code sections 671(19) and 671(20).

11. Continued detention in a non-licensed placement is very problematic in circumstances where the child could be placed with a parent who has no history of abuse, neglect, or unfitness, nor any legal impediment to receiving custody. Childhood is short, and children should receive parenting in a nurturing, permanent relationship. Too frequently children are placed in institutional settings where their day to day care is provided by a series of adult caretakers who lack any permanent connection to the children they care for. In these

circumstances, the dependency system makes every attempt to promptly place the child in a permanent nurturing relationship, preferable with a parent or relative.

12. In my experience, all involved in the dependency system would take every effort to expedite placement with a child with a parent who could provide a safe and stable home.

I declare under penalty of perjury that the forgoing is true and correct.

Executed this 7th day of February 2018, in Long Beach, California.

James M. Owens

Exhibit 8

Interim Guidance on *Flores v. Sessions*

I. Background

Flores is a lawsuit brought by unaccompanied alien children to enforce Paragraph 24A of the *Flores* Settlement Agreement. Paragraph 24A states: "A minor in [removal proceedings] shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates . . . that he or she refuses such a hearing." On January 20, 2017, a district court in the Central District of California ruled that the Government was in breach of Paragraph 24A and ordered the Government to henceforth come into compliance. Order re Pls' Mot. to Enforce, *Flores v. Sessions*, 2:85-cv-04544 (C.D. Cal. Jan. 20, 2017). On July 5, 2017, a panel of the Ninth Circuit affirmed the District Court's order. *Flores v. Sessions*, No. 17-55208, 2017 WL 2855813 (9th Cir. July 5, 2017).

This document is intended to provide interim guidance to the immigration courts on implementing the District Court and Ninth Circuit orders as they relate to conducting bond hearings for unaccompanied children in the custody of the Health and Human Services' ("HHS"), Office of Refugee Resettlement ("ORR"); however, this guidance is subject to change due to on-going implementation discussions and potential litigation.

II. Scope of the Agreement and Orders

The *Flores* Agreement, including the District Court and Ninth Circuit's interpretation of it, applies nationwide. *See Flores v. Lynch*, 828 F.3d 898, 901 (9th Cir. 2016). Therefore, this guidance applies to all immigration courts that handle cases involving juvenile respondents.

The Government has reached a preliminary agreement with Plaintiffs' counsel concerning implementation of the orders. Plaintiffs have agreed that the Government complies with the orders so long as the Executive Office for Immigration Review ("EOIR"), in coordination with ORR and the Department of Homeland Security ("DHS"), makes bond hearings available to:

(1) Any child that ORR is holding in a staff-secure or secure facility; and

(2) Any other child in ORR custody who has affirmatively requested a hearing by making a request with the immigration court or to an ORR care provider.

III. Procedures for Scheduling *Flores* Bond Hearings

A. Unaccompanied Children in Secure and Staff-Secure Facilities

The following process applies to children in secure and staff-secure facilities. ORR will automatically provide a notice entitled, "Notice of Right to Request a Bond Hearing," to all unaccompanied children in its staff-secure and secure facilities of their ability request a bond hearing. The child, a legal representative of the child, or a parent/legal guardian of the child may submit a written request for a bond hearing to ORR using the ORR form. If one of these individuals requests a hearing, ORR will notify the immigration court by filing a motion for a bond hearing**. Note:** this motion is specific to unaccompanied children in secure or staff-secure facilities. **See Attachment A.** For a list of the ORR secure and staff-secure facilities and the nearest immigration courts, **see Attachment D**.

For children in secure and staff-secure facilities, upon receipt of the motion from ORR, court staff should schedule a bond hearing and mail notice to the following individuals: (1) the child, care of the custodian in charge of the ORR facility where the child is located; (2) the child's legal representative, if any; and (3) ORR's Director's Office at the following address:

Director Scott Lloyd
Office of Refugee Resettlement
330 C. Street, S.W.
Washington D.C. 20201

Additionally, court staff should mail to both parties a copy of: (1) the motion and (2) any EOIR-28 that has been filed along with the notice of the scheduled bond hearing.

For the time being, HHS and ORR attorneys located in Washington D.C. will represent ORR during such bond hearings.

B. Other Children in ORR Custody

Other children who are in ORR custody but who are not in secure or staff-secure facilities (e.g., shelters) are not automatically given a "Notice of Right to Request a Bond Hearing" but may still request a bond hearing by making an affirmative request with either ORR or with the immigration court.

If a child in non-secure care makes an affirmative request with ORR for a bond hearing, ORR will file a motion with the immigration court. That motion is different from the motion filed by ORR for children in secure facilities. **See Attachment B**. In these cases, ORR may submit a letter along with the motion stating that it has determined that the child is neither a danger nor a flight-risk and that ORR will release the child once a suitable sponsor is located. In such cases, court staff should provide the motion, and any accompanying documents filed by ORR, to the immigration judge for appropriate action. The immigration judge may enter an order

granting the child's release subject to placement with a suitable sponsor without conducting an in-person hearing. [1]

If a child appearing in immigration court makes an affirmative request for a bond hearing and no motion has been received from ORR, immigration court staff should send the notice contained in **Attachment C** to: (1) the child, c/o of the ORR custodian or care provider and the child's attorney, if any; and (2) ORR's Director's Office at the address above, informing ORR that an unaccompanied child in its custody has affirmatively requested a bond hearing and requesting that ORR respond within 10 days. Upon receiving a response from ORR, the child, or his or her attorney, court staff should provide the response to the immigration judge for appropriate action. ORR may respond that it has determined that the child is neither a danger nor a flight risk and that ORR will release the child once a suitable sponsor is located. If so, the immigration judge may enter an order granting the child's release subject to placement with a suitable sponsor without conducting an in-person hearing.

IV. Guidance and Information for Immigration Judges

Generally, the District Court's Order contemplates that Immigration Judges will conduct bond hearings for unaccompanied children using the same standards and factors that apply to custody redetermination hearings conducted pursuant to 8 C.F.R. § 1236.1(d)(1); however, there are some additional considerations and differences.

A. Representation

At this time, Department of Health and Human Services ("HHS") and ORR headquarters attorneys will represent ORR during these bond hearings; DHS attorneys will not be present. The HHS and ORR attorneys are located in Washington, D.C., and have very limited resources for appearing in-person at the immigration courts. As a result, they will likely request telephonic appearances. In order to ensure effective and efficient implementation of the Ninth Circuit's order, Immigration Judges should grant all requests from HHS/ORR, and any similar requests from the respondent or respondent's counsel, to appear telephonically unless there are specific and articulated reasons relating to due process concerns or another adverse impact on the efficient adjudication of the case. As outlined in Operating Policies and Procedures Memorandum (OPPM) 08-04, *Guidelines for Telephonic Appearances by Attorneys and Representatives at Master Calendar and Bond Redetermination Hearings* (July 30, 2008),

[1] In some cases involving children in staff-secure care, ORR has also found that the child will be released to a suitable custodian but has made no finding of danger to self or community. ORR will inform the immigration judge if this is the case.

Immigration Judges must adjudicate each request for a telephonic appearance on a case-by-case basis.

The child may be represented by an attorney or other representative at no expense to the government consistent with 8 C.F.R. § 1003.16(b).

B. Role of the Immigration Judge

During the hearing, an immigration judge decides whether the child poses a danger to the community or is a flight-risk. *See* Order re Pls' Mot. to Enforce 2, 2:85-cv-04544. The burden is on the child to demonstrate that he or she should be released because he or she does not pose a danger to the community or a flight risk. *Id*. In making this determination, immigration judges should apply the factors set forth in *Matter of Guerra*, 24 I&N Dec. 37, 38 (BIA 2006). *Id*. An immigration judge's decision that the unaccompanied child is not a danger to the community supersedes an ORR determination on that question, unless the Board of Immigration Appeals overturns the judge's decision. *Id*. If an immigration judge also finds that the child is not a flight risk, ORR will consider that finding when assessing the child's placement and conditions of placement, but the decision does not affect release because ORR does not make a determination of flight risk for purposes of deciding whether a child will be released.

Despite the Immigration Judge's decision on the question of danger to the community and flight risk, in all cases, release from ORR custody cannot occur until ORR has identified, evaluated and approved an appropriate sponsor. *See* 8 U.S.C. § 1232(c)(3); *Flores*, 2017 WL 2855813, at *3 ("determinations made at hearings held under Paragraph 24A will not compel a child's release. Regardless of the outcome of a bond hearing, a minor may not be released unless the agency charged with his or her care identifies a safe and appropriate placement.").

Additionally, although these hearings are known as "bond hearings," ORR does not require payment of any money in the event that bond is granted. Therefore, if release is appropriate, the Immigration Judge should not set a bond amount but should instead issue an order granting the child's release subject to ORR identifying, evaluating, and approving an appropriate sponsor.[2]

The District Court and Ninth Circuit orders provide no authority for an immigration judge to rule on the suitability of a sponsor or to release the child on his or her own recognizance. *Id*.

[2] To prevent confusion for the child, it is critical that the immigration judge include a statement in the bond hearing order that child's release is subject to the condition that ORR identifies, evaluates, and approves an appropriate sponsor.

C. Additional Information

Background information that may be useful concerning ORR's use of secure facilities is available on ORR's website at https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied (last visited July 20, 2017). Specifically, "ORR has two levels of care for unaccompanied alien children who are assessed to be a danger to themselves or others, or who have been charged with having committed a criminal offense." *Id.* at Section 1.3.4. ORR only places an unaccompanied alien child in a secure facility if ORR determines the child poses a danger to self or others or has been charged with having committed a criminal offense. *Id.* ORR places a child in a staff-secure facility if the child "has been disruptive to the normal functioning of a shelter care provider facility such that transfer is necessary to ensure the welfare of the UAC or others; is an escape risk; has non-violent criminal or delinquent history not warranting placement in a secure care provider facility, such as isolated or petty offenses as described above; or is ready for step-down from a secure facility." *Id.* An Immigration Judge's decision that a child can be released (meaning that the immigration judge determines that the child is not a danger to community and need not remain in an ORR facility for that reason) supersedes a previous ORR decision. *Flores*, 2017 WL 2855813, at *3.

D. Appeals and Requests for a Second Bond Hearing

Immigration Judges should inform the parties of their ability to file an appeal with the Board. Either party may appeal the immigration judge's decision to the Board of Immigration Appeals ("BIA"). **Note**: If a child reserves appeal, it is prudent for Immigration Judges to inform the child (or his or her attorney) that the opposing party is HHS/ORR contrary to the current language in the appeal form (EOIR-26) which states that "the opposing party is DHS." Additionally, the EOIR-27 ("Notice of Entry of Appearance of Attorney or Representative Before the Board") does not currently list HHS-ORR on the proof of service. The child (or his or her attorney) should ensure that a copy of any EOIR-26 and/or EOIR-27 that is filed at the Board has been served on ORR (rather than DHS) at the above address.

If an immigration judge (or BIA, when appealed) determines that an unaccompanied alien child is ineligible for release, such decision is final unless the child can demonstrate a material change in circumstance to support a second request for a bond hearing. *See* 8 C.F.R. § 1003.19(e).

Last Updated 7/18/17

ATTACHMENT A:

Motion Requesting Bond Hearing for Unaccompanied Child

Secure or Staff-Secure Custody

(ORR or ORR-funded care provider to complete and file with appropriate Immigration Court)

IN THE MATTER OF:)
)
Respondent: _____)
)
Alien Number: _____)
)
_____)

Date: _____

REQUEST TO SET BOND HEARING PURSUANT TO
***FLORES v. SESSIONS*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017)**

Pursuant to *Flores v. Sessions*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017), the above named respondent is an unaccompanied alien child who has requested a custody redetermination hearing.

The respondent is currently being held in a secure or staff-secure facility operated by the Department of Health and Human Services' Office of Refugee Resettlement. Accordingly, the respondent respectfully requests the court schedule a bond hearing pursuant to the federal district court order.

Please direct all correspondence regarding this bond hearing, including hearing notices and the bond order rendered by the Immigration Court, to the following individuals:

Office of Refugee Resettlement
330 C. Street, S.W.
Washington D.C. 20201
Attention: Director Scott Lloyd

The respondent, care of the ORR representative, at the following address:

Program Director of ORR-funded care provider: _____
Address of ORR-funded care provider: _____
_____

□ Check box if the respondent is represented by an attorney or accredited representative.

Name of Respondent's Attorney/Representative: _____
Address of Attorney/Representative: _____

ATTACHMENT B:

Motion Requesting Bond for Unaccompanied Child

(Non-Secure) Shelter Care

(ORR or ORR funded-care provider to complete and file with appropriate Immigration Court)

IN THE MATTER OF:)
)
Respondent: _____)
)
Alien Number: _____)
)
Date: _____)
_____)

REQUEST TO SET BOND HEARING PURUSANT TO

***FLORES v. SESSIONS*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017)**

Pursuant to *Flores v. Sessions*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017), the above named respondent is an unaccompanied alien child who has requested a bond hearing.

The respondent is currently being held in a non-secure shelter operated by the Department of Health and Human Services' Office of Refugee Resettlement (ORR). The respondent requests that the Immigration Judge schedule a bond hearing.

Please direct all correspondence regarding this bond-hearing request, including hearing notices (if appropriate) and the bond order rendered by the Immigration Court, to the following individuals:

Office of Refugee Resettlement
330 C. Street, S.W.
Washington D.C. 20201
Attention: Director Scott Lloyd

The respondent, care of the ORR representative, at the following address:
Program Director of ORR-funded care provider: _____
Address of ORR-funded care provider: _____
_____

□ Check box if the respondent is represented by an attorney or accredited representative.
Name of Respondent's Attorney/Representative: _____
Address of Attorney/Representative: _____

ATTACHMENT C:

Notice to HHS/ORR re Requested Bond Hearing

(To be completed by Immigration court staff and submitted to BOTH (1) minor respondent's custodian and (2) ORR address below, as well as (3) Respondent's attorney, if relevant).

(1) Respondent: _____
Alien Number: _____
C/o Custodian: _____
Shelter: _____
Shelter Address: _____
_____

(2) E. Scott Lloyd
Director
Office of Refugee Resettlement
330 C Street, S.W.
Washington, D.C. 20201

(3) Respondent's Attorney: _____
Office: _____
Address: _____
_____
(if relevant)

IN THE MATTER OF:)
)
Respondent: _____)
)
Alien Number: _____)
)
Date: _____)
_____)

NOTICE OF REQUEST FOR BOND HEARING PURUSANT TO *FLORES v. SESSIONS*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017)

The above named respondent is an unaccompanied alien child in your custody who has affirmatively requested a custody redetermination hearing before the immigration court pursuant to *Flores v. Sessions*, 2:85-CV-04544 (C.D. Cal. Jan. 20, 2017).

Please submit a response to the immigration court, in writing, within 15 days regarding whether or not:

□ HHS, ORR has determined that the respondent is a danger or a flight risk;
□ HHS, ORR has determined that the respondent is not a danger or a flight risk; or
□ HHS, ORR has not determined whether the respondent is a danger or a flight risk.

Additionally, please respond whether or not HHR/ORR plans to release the respondent to a suitable custodian.

CERTIFICATE OF SERVICE

This document was served by: □ Mail (M) | □ Personal Service (P)
To: □ Alien □ Alien c/o custodial officer □ Alien's Attorney □ HHS
Date: _____ By: Court Staff
_____

ATTACHMENT D:

Staff-Secure and Secure Facilities and Immigration Court List

State	Location	Facility/Shelter Name	Immigration Court and Address
CA	Fairfield	BCFS Fairfield	San Francisco Immigration Court 100 Montgomery St., Suite 800 San Francisco, CA 94104 (415) 705-4415
	Woodland	Yolo County	San Francisco Immigration Court 100 Montgomery St., Suite 800 San Francisco, CA 94104 (415) 705-4415
OR	Portland	Morrison Paso Staff-secure	Portland Immigration Court 1220 SW 3rd Ave., Suite 500 Portland, OR 97204 (503) 326-6341
WA	Renton	Friends of Youth	Seattle Immigration Court 1000 Second Ave., Suite 2500 Seattle, WA 98104 (206) 553-5953
	Seattle	Selma Carson	Seattle Immigration Court 1000 Second Ave., Suite 2500 Seattle, WA 98104 (206) 553-5953
IL	Chicago	Heartland IYC	Chicago Immigration Court 525 West Van Buren Street Suite 500 Chicago, IL 60607 (312) 697-5800
TX	San Antonio	BCFS San Antonio Staff-secure	San Antonio Immigration Court 800 Dolorosa St., Suite 300 San Antonio, TX 78207 (210) 472-6637
	Manvel	Shiloh Treatment Center	Houston Immigration Court 600 Jefferson Street, Suite 900 Houston, TX 77002 (713) 718-3870
	Houston	SWK Mesa Staff-secure	Houston Immigration Court 600 Jefferson Street, Suite 900

			Houston, TX 77002 (713) 718-3870
	Brownsville	SWK Nueva Esperanza Staff-secure	Harlingen Immigration Court 2009 West Jefferson Ave., Suite 300 Harlingen, TX 78550 (956) 427-8580
NY	Dobbs Ferry	Children's Village Staff-secure	New York Immigration Court 26 Federal Plaza 12th Floor, Room 1237 New York, NY 10278 (917) 454-1040
	Syosset	MercyFirst	New York Immigration Court 26 Federal Plaza 12th Floor, Room 1237 New York, NY 10278 (917) 454-1040
VA	Staunton	Shenandoah Secure	Arlington Immigration Court 1901 South Bell Street, Suite 200 Arlington, VA 22202 (703) 603-1300

Exhibit 9

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 15 years old. My brother and I came to the United States from Honduras in October 2017. My brother, who is 14 years old, was allowed to go and live with our dad in Miami. I was taken to a shelter called International Education Services (IES), and then I spent time at a hospital because I was told I had anxiety and depression. After leaving the hospital, I returned to IES. I was given medication at IES, but I didn't think it was helpful. I was told that I needed help, and that things would be better if I went to Shiloh Residential Treatment Center (RTC). I have been detained at Shiloh for approximately three months.

3. I want to live with my dad, who has lived in the United States for approximately 12-13 years. My dad has applied to be my sponsor. He completed all the reunification requirements a long time ago. He has gotten fingerprinted, and his home study went well. I have been told that the doctor has to say it is alright to release me to my dad. This week, I was told that I would be released to my dad in two weeks.

4. I take multiple medications three times a day: in the morning, at noon, and at night. I am told that these medications are supposed to help me with depression, anxiety, sleeping, and to make me feel better. The staff tell me I need to take the medications for my own good. No one has given me a diagnosis.

5. No one has told me that I am dangerous. No one has told me that they are worried that I will run away. I don't have any problems. I haven't gotten into any fights. No one has given me a document that explains why I am still detained at Shiloh. I don't think I would feel as sad or anxious if I were living with my dad.

6. I have never been to court. No one has given me the opportunity to go to court or speak with a judge.

7. I really want to be with my dad.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of February, 2018, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I, SAN JUANA CASTILLO, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on February 28, 2018.

San Juana Castillo

Exhibit 10

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I am from Honduras. I am currently being held in ORR custody detained at the Shiloh Residential Treatment Center. I have been here for about two months. Shiloh is a locked facility with 24-hour surveillance and monitoring. The children are detained here and no one is free to leave.

3. My mom lives in Houston and comes to see me when she can, but she has to complete a lot of requirements before I can live with her. I talk to my mom about two times a week. They have already checked my mom's house and she passed the home study. I was told that my case is finished and once the doctor says I'm ready, I can be released. The doctor has said I can't leave until I can control myself. He hasn't told me a time frame for how long it will be before I'm ready.

4. I was taken into immigration custody in Texas about six months ago in May 2017.

5. My dad was assassinated with 16 gunshots in front of me at age 5. I was also raped when I was 5. It was so traumatic that since that time I suffer from extreme anxiety. I also have epilepsy and asthma.

6. I still dream though. I one day I dream of being a pilot and flying. I don't want to fail my mom. I know that one day I will realize my dreams.

7. I was first detained in Southwest Key, a shelter facility. I suffered an anxiety attack there and was sent to this psychiatric facility called the "Shiloh." My heart beats very fast and hands sweat when I have an anxiety attack. I think the anxiety would be better if I was with my mother.

8. I don't remember ever being told or reading that I could appeal or challenge the government's decision to put me into this treatment facility, or that I could go to court about it.

9. I have never had a thirty-day review while I've been at Shiloh to review my custody classification since I have been here. No one has formally sat down with me and reviewed whether I should be stepped down to a lower level of security or told me how I'm doing here or what I have to do in order to step down.

10. I was supposed to have a court date on November 8th but it was cancelled.

11. A lawyer named "Juana" comes to our facility once a month, but not sure what the progress is on my immigration case or my release. I really want a lawyer who can help me.

12. At Shiloh, I am given seven pills every day. In the morning, I take 4 pills and then 3 in the evening. The medicine is supposed to help with epilepsy and anxiety. The doctor has changed my pills a couple of times. The medicine makes me feel dizzy and sometimes makes it hard to concentrate. I have no appetite.

13. I talk to a therapist two times a week.

14. I have seen another youth get an injection that he didn't want. A staff member had to grab him first and then give him the injection.

15. I don't like to be around other kids because of my anxiety. I smile with a fake smile so everyone thinks I'm ok.

16. Sometimes I have no desire to do anything. I try and keep a diary of my days.

17. I just want to be with my mother.

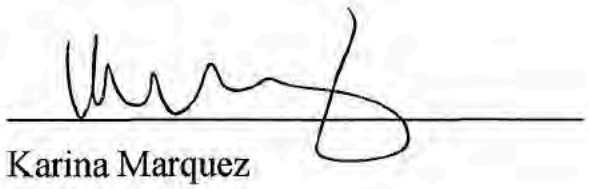
I declare under penalty of perjury that the foregoing is true and correct. Executed on this 1st day of December, 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Karina Marquez and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: December 1st 2017



Karina Marquez

Exhibit 11

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Hago la presente para actualizar la declaración que hice el 1 de diciembre del año pasado.

2. Todavía me encuentro detenida en Shiloh RTC. No tengo idea de cuando me van a liberar para que pueda vivir con mi mamá.

3. Pienso que me sentiría mejor vivir con mi mamá, y que la detención prolongada e sin fin me está causando más ansiedad y depresión. Ultimamente, el médico me informó que no tengo epilepsia, y de hecho no he sufido ningún ataque desde hace tres o cuatro meses.

4. Todavía no tengo abogado que de veras me ayude en cuanto mi caso de inmigración o regresame a mi mamá.

5. Nadie me ha avisado que tengo derecho a una audiencia ante un juez de inmigración para decidir si estoy peligrosa o un riesgo de fugarme, y hasta la fecha no he tenido tal audiencia.

6. El abogado Carlos Holguín me mostró un formulario que se titula "Notice of Placement in Restrictive Setting." Es la primera y única vez que he visto tal formulario.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 28 de febrero del año 2018, en Manville, Texas.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted] declare and say the following:

1. I do this to update the statement I made on December 1 of last year.
2. I am still detained in Shiloh RTC. I have no idea when they are going to free me so I can live with my mom.
3. I think I would feel better living with my mother, and that prolonged and endless detention is causing me more anxiety and depression. Lately, the doctor informed me that I do not have epilepsy, and in fact I have not suffered any attack for three or four months.
4. I still do not have a lawyer who will really help me with my immigration case or return me to my mother.
5. No one has advised me that I am entitled to a hearing before an immigration judge to decide if I am dangerous or at risk to flee, and to date I have not had such a hearing.
6. Attorney Carlos Holguin showed me a form entitled "Notice of Placement in Restrictive Setting." It is the first and only time I've seen such a form.

I declare under protest to tell the truth that all the information that I have provided here is correct and complete, aware of the legal consequences of declaring with falsehood before the authority.

Done on February 28 of the year 2018, in Manville, Texas.

[redacted]

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.

2. On this day I translated the declaration of [redacted] from Spanish to English.

The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of March 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 12

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Yo soy la madre de [redacted], que actualmente se encuentra detenida en Shiloh RTC. Hago la presente para apoyar a mi hijo salir de la detención y venir a vivir conmigo. Si me llaman de testigo, afirmo que pudiera jurar de conocimiento personal a lo siguiente.

2. Actualmente vivo en un apartamento en Kemah, Texas, que queda a unos 45 minutes en coche de Shiloh. Me permiten hablar con [redacted] dos veces por semana, por unos 20 cada llamada. Cada otra semana voy a Manvel para visitar a mi hija [redacted]. Me gustaría ir con más frecuencia, pero no hay servicio de autobus de Houston a Shiloh. La parada de autobus mas cercana a Shiloh es a 12 millas, y yo no puedo caminar tanto. Asi que, me cobra un Uber o un Taxi unos $80 para llevarme a Shiloh. Me dar pesar, pero no gano lo suficiente para ir a ver a mi hija más de una vez cada dos semanas.

3. Desde mayo del año pasado, cuando se cayo presa mi hija, he notado que se ve cada vez más y más deprimida, y llora demasiado ella. Me dice que ya quiere estar allí en el centro de detención. Cuando vivíamos juntas mi hija y yo en Honduras, nunca tuvimos problemas mentales. En 2015 se le pegó el primer ataque de epilepsia, peera aparte de esto, [redacted] siempre fue una hija normal, nunca tiró ni un plato ni nada. Se reía, jugaba, lloraba normal como una niña en su niñez, en fin, una niñez sana y normal.

Opino yo que la detención le está afectando mucho a [redacted], y que se mejoraría rapido si me la regresarían a su mamá.

4. Tengo entendido que la obligan a [redacted] tomar medicamentos muy fuertes para la ansiedad. He notado que [redacted] se pone más nerviosa, tiene miedo, y tiembla. [redacted] me dice que varias veces se ha caido, y se lastimó la cabeza y los brazos, hasta quedarse en silla de ruedas, porque los medicamentos eran demasiados fuertes y no podía caminar. Se ha quejado de lo medicamentos al staff, como le da miedo estar en medio de la gente. Nadie me pidieron perimso para dar medicamentos a mi hija, aunque el staff de Shiloh siempre ha tenido mi numero de telefono y dirreción.

5. En el verano del año pasado, el investigator de casas, Jorge Arango, llegó dos veces para evaluar mi casa. Paso como o 45 minutes cada vez. Me hizo muchas preguntas, y grabó él mis respuestas en su celular. Al terminar, me dijo que todo estaba aprobado, y que para el siguente semana iba llegar su reporte dando la aprobación que todo estaba bueno. Pasé mucho tiempo sin escuchar más de las posibilidades de tener a mi hija. Me pusé desesperada, y le llamé varias veces preguntando que cuando me iban a entregarme a [redacted] Siempre me contestaron que dependía del médico, que [redacted] tendría que pasar dos semanas sin ataque epileptica o de ansiedad. No entiendo porque sigue detenida porque ya tiene [redacted] más de tres meses sin ningún ataque.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 28 de febrero del año 2018, en Kemah, Texas.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say as follows:

1. I am the mother of [redacted] who is currently detained at Shiloh RTC. I execute the present declaration to support my daughter's release from detention so she can come live with me. If I am called to testify, I affirm that I could swear to the following from personal knowledge.

2. I am now living in an apartment in Kemah, Texas, which is located about 45 minutes by car from Shiloh. I am allowed to talk with [redacted] twice per week, for about 20 minutes each call. Every other week I go to Manvel to visit my daughter, [redacted] I would like to go more often, but there is no bus service from Houston to Shiloh. The closest bus stop to Shiloh is 12 miles away, and I cannot walk that much. So I have to pay an Uber or a taxi about $80 to take me to Shiloh. Regrettably, I do not earn enough to go see my daughter more than once every two weeks.

3. Since last year, when my daughter became a prisoner, I have noticed that she is more and more depressed, and she cries too often. She tells me that she doesn't want to be in the detention center. When my daughter and I lived together in Honduras, we never had mental problems. In 2015 she had her first epileptic seizure, but apart from that, [redacted] was always a normal daughter, never throwing a plate or anything. She laughed, played and cried like a normal young girl, in short, her childhood was healthy

and normal. In my opinion, detention is affecting [redacted] a lot, and she would quickly get better if they were to return her to her me.

4. I understand they are requiring [redacted] to take very powerful medications for anxiety. I have noted that [redacted] is becoming more nervous, fearful, and she trembles. [redacted] tells me that she has fallen several times and has injured her head and arms, to the point that she ended up in a wheelchair, because the medications were too powerful and she couldn't walk. She has complained about the medications to the staff, that they make her afraid of people. Nobody asked me for permission to give medications to my daughter, even though the staff at Shiloh has always had my telephone number and address.

5. During the summer of last year, a home investigator, Jorge Arango, came twice to evaluate my house. He spent about 45 minutes here each time. He asked me many questions and recorded my answers on his cell phone. When he finished, he told me that everything was approved, and that the following week they would receive his report saying that everything was fine. Much time went by without any further word about the possibility of getting my daughter back. I became desperate, and I called several times asking when they were going to give me [redacted] back. They always answered that it depended on the doctor, that [redacted] would have to go two weeks without an epileptic or anxiety attack. I don't understand why she is still being detained because [redacted] has now gone more than three months without an attack.

I declare that all the information I have provided here is correct and complete, being aware of under my duty to tell the truth and the legal consequences of perjury.

Done this 28th day of February, 2018, at Kemah, Texas.

/s/ [redacted]

///

*****

DECLARATION OF TRANSLATOR

I, Carlos Holguín, declare and say as follows:

1. I am fluent in English and Spanish.

2. On this day, I translated the foregoing declaration of [redacted] from Spanish into English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of March, 2018, at Santa Clarita, California.

Carlos Holguín

Exhibit 13

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 15 years old. My immigration file number is [redacted]. I came to the United States by myself in June 2017. I was taken to Southwest Key Casa Antigua, and I was there for about six months. Then I was sent to Shiloh, where I have been detained for approximately three months. They told me they sent me to Shiloh because I had anxiety and depression, and because Southwest Key was overcrowded. I did not want to go to Shiloh, but I was told that it was for my own well-being.

3. My dad lives in the United States but he does not want to be my sponsor because we don't speak very often. We have never met; I only know him from photographs. I want to live with my sister in Pennsylvania, and she wants me to live with her. She is 33 years old and applied to be my sponsor in June 2017. In late October 2017, the government denied my sister's application to be my sponsor, and I don't know why. I am confused because when I was at Southwest Key, I was told there might have been a problem with my sister's fingerprinting process. At Shiloh, I have been told she was denied because of the home study. I am not allowed to speak with my sister anymore because she was denied. After my sister was denied, my uncle applied to be my sponsor. He lives with multiple people in an apartment, and not everyone was willing to get fingerprinted. I don't believe he was allowed to continue with his sponsor application. Now, a family friend is applying to be my sponsor. I do not want to stay at Shiloh or a shelter. I will probably try to live in long-term foster care if my family friend is not approved to be my sponsor. One of the main reasons I am sad is because my sister was rejected, and I don't know when I'll be able to be released.

4. I take multiple medications: five to six medications in the morning, and five to six medications at night. I have been told that some of these medications are vitamins, and

some are supposed to help me with depression and anxiety. I have been told that I cannot be released until the doctor says it is alright for me to be released.

5. No one has told me that I am dangerous, and no one has told me that they are worried that I will run away. I have not gotten into any fights or said any bad words. I just want to live with my sister in Pennsylvania.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of February, 2018, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I, San Juana Castillo, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on February 28, 2018.

San Juana Castillo

San Juana Castillo

Exhibit 14

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 13 years old. I am from El Salvador. I am currently being held in ORR custody in the Shiloh Residential Treatment Facility.

3. I was taken into the Office of Refugee Resettlement ("ORR") custody in about August of 2017. I was held at a Southwest Key shelter in Texas for about two months.

4. I was verbally told about my transfer to Shiloh Residential Treatment Facility approximately one day before my transfer. I was also told that I was going to a place that was better for me, but no one explained why they thought it was better. I did not receive any papers that explained why I was transferred to Shiloh. I did not want to leave the Southwest Key shelter, but I was told that the government had already made a decision. I don't remember receiving any document that explained that I had the right to challenge the government's decision to send me to Shiloh. If I had, I would have challenged the decision.

5. I have spent approximately one month and half at the Shiloh Residential Treatment Center. During this time, I have not been told about, and I have not received a 30-day review.

6. In the three months I have been living in the U.S., I have not had a court hearing. No one has told me who my attorney is or when I will be going to court.

7. I take pills every morning and night. I take four pills in the morning and about four to six pills in the evening. I don't know what all the pills are for, but I think the ones I take at night are for depression and anxiety. When I have asked about the additional medication, I have been told that the pills are vitamins. I am also told that the pills are recommended by my doctor. As far as I know, ORR did not ask my mother for permission before they gave me the medication.

8. I do not want to take the pills because I don't think they help me and they make me sleepy. I have not refused taking the pills because I was told that the doctor will see that I refused the medication and that would make my stay at Shiloh longer because it would make it harder for the doctor to release me.

9. I don't feel safe here because the staff are mainly men and because sometimes the staff scream at me. I feel afraid all the time. My father was abusive and I was bullied a lot by other boys in the past, so it is hard for me to be around men all day long. I have asked to spend less time around men, but I have been told that it is not possible.

10. My worst experience at Shiloh Residential Treatment Center occurred at the end of October 2017. I gathered things inside a bag and I tried to escape from the center. The Shiloh staff stopped me before I could escape. They told me to not try to escape because if I did, I would be sent to jail. The Shiloh staff then told me to go to my room. They called a supervisor. The staff pulled my arms behind my back. Eventually I was taken to my room. Once inside my room I tried to open the window. The supervisor saw me do this, and in response, he violently threw me against the door. I felt faint. At some point the supervisor placed me against the wall, but the top of my head touched the wall, so from my head to my back, my body was in a backwards C-shape. The supervisor pushed me against the wall with all of his weight and this caused my neck to compress. This made me feel like I was choking and it was hard for me to breathe. I told the supervisor to stop because I couldn't breathe. All I could hear the supervisor say was "No stop." I don't remember for how long I was held in this painful position, but it was a long time. I briefly fainted. As I recovered consciousness a staff person violently threw me on my bed and this caused my head to bang against the wall. I did not receive medical attention to my head. The doctor checked for fractures in my arms but I did not have fractures. I had purple bruises on my arms.

11. After the doctor came, the supervisor told me I was going to get a medication injection to calm me down. Before they gave me the injection, I was feeling dizzy and was still having a hard time breathing. I was in a lot of pain with bruises all over, and I

did not want the injection. Two staff grabbed me, and the doctor gave me the injection despite my objection and left me there on the bed.

12. I miss my mother, and I really want to be reunited with her. My mother lives in Los Angeles, and is in the process of trying to reunify with me. My sister and my niece were reunited with my mother recently, and I want to be with them, too. I think my mother is doing a home study. I want to be sent to a shelter in California so that I can be closer to her. I hope to soon reunify with her, but I have not been told how long it will take. I haven't seen her in three months, and it is very hard for me not to know when I will be able to see her again.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 30th day of November, 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish from [redacted] before he signed the declaration.

Dated: November 30, 2017

Maria Martinez Campos

Maria Jose Martinez Campos

Exhibit 15

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted] declaro y digo lo siguiente:

1. Hago la presente para actualizar la declaración que hice el 21 de noviembre del año pasado.

2. Todavía me encuentro detenido en Shiloh RTC, pero me ha informado mi trabajadora social que el médico ya me dio de alta y que es posible que me van a liberar esta semana o la otra.

3. El abogado Carlos Holguín me mostró un formulario que se titula "Notice of Placement in Restrictive Setting." Es la primera y única vez que he visto tal formulario.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 28 de febrero del año 2018, en Manville, Texas.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. I make the present to update the statement I made on November 21 of last year.
2. I am still detained in Shiloh RTC, but my social worker has informed me that the doctor has already discharged me and that it is possible that they will release me this week or the next.
3. Attorney Carlos Holguin showed me a form entitled "Notice of Placement in Restrictive Setting." It's the first and only time I've seen such a form.

I declare under protest to tell the truth that all the information that I have provided here is correct and complete, aware of the legal consequences of declaring with falsehood before the authority.

Done on February 28 of the year 2018, in Manville, Texas.

_____

[redacted]

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.

2. On this day I translated the declaration of [redacted] from Spanish to English.

The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of March 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 16

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I came by myself to the United States from Honduras in January 2017. I have been detained at four different ORR facilities; I am currently detained at Southwest Key Mesa in Houston, Texas.

3. When I first arrived at the border, I was taken to a shelter in Miami, Florida, where I stayed for 10-11 days. While there, I spoke to a clinician and told her that I came to the United States to escape gangs. The clinician asked me if I was in gang, and I got really quiet and didn't say anything. She told me that if I told her information, such as that I was in a gang, then I might be able to be with my family more quickly. Once I heard her say that, I started saying all kinds of things, that I was in a gang, even though that wasn't true, because was she said made me think doing so would help me be with my family. Now, looking back, I feel like I made a mistake because after I told her all this, I was transferred to Shenandoah.

4. On the day I was transferred to Shenandoah, I was excited at first because I thought that I was going to be taken to live with my family in Houston. But then I realized that the flight I was on was taking longer than I expected, and then I was placed in shackles and taken to Shenandoah. The staff at Shenandoah never physically harmed me, but I saw them physically drag other kids to their bedrooms. If kids were suicidal, staff would take the kids' mattresses and all of their clothes, saying they did it for their protection. The staff told all the kids that if the kids were fighting, the staff had the authority to force them to the ground and put their knees on the back of the kids' necks.

5. At Shenandoah, I met with a psychiatrist, who concluded that I was not a danger to society. I was told that the psychiatrist's report would help me reunite with my uncle in Houston. Because the report was positive, I was transferred to staff secure at Children's Village.

6. When I was at Children's Village, my uncle—who lives with my grandpa and grandma in Houston—applied to be my sponsor. They all submitted their fingerprints and paperwork in February 2017 and had their home study in August 2017, which went well. I was told that there was a problem when my grandma submitted her fingerprints, but it looked like maybe there was a way to work around the problem. I have never met my uncle or grandparents, and I was told that instead of being released to live with them, I should transfer to Southwest Key Mesa (Mesa) so I could get to know them better. They didn't tell me how long I would have to wait at Mesa before I would be released to live with them. Initially, I was excited to come to Mesa because I thought that I would be able to live with my family soon. But when I arrived at Mesa in October 2017, I was told that my uncle's and grandparents' fingerprints had expired, and they had to start the process all over again. My uncle and grandparents completed the fingerprints again, but around the end of November or the beginning of December 2017 Mr. Dino, the Federal Field Specialist at Mesa, denied their application because of the problem related to my grandma's fingerprints. I asked what the problem was with my grandma, but no one would tell me. They told me Mr. Dino was the only person who could explain. I pleaded with my case worker to ask Mr. Dino to give my uncle and grandparents another chance so that I could get to know my grandparents, but Mr. Dino said no. Mr. Dino will not let me talk to my uncle or my grandparents, and I don't know why. I have asked to speak with Mr. Dino many times, but he always refuses to speak with me.

7. Now, I am trying to live with my dad, who lives in Atlanta, Georgia. On February 16, 2018, my dad confirmed that he had completed his fingerprints, but I was told that the staff hasn't received them yet because Mesa has problems connecting to the internet. My dad is still waiting for the government to complete the home study, but I have not been told when that will happen. The staff tell me that it may take three to four more months before I will know whether I can live with my dad.

8. Mr. Dino says that I cannot be in shelter at Mesa because I told the clinician at the shelter in Miami that I had been in a gang, even though that wasn't true. No one has told

me that they are worried that I will run away from the facility. Some of the kids here have threatened to hurt me, and I don't feel safe. I want to tell my Young Center advocate about these threats, but Mesa staff will not let me talk to her. She has tried to call me multiple times, but the staff don't let us talk. The last time I spoke to her was February 4, 2018. I don't want the other kids to hurt me, and I don't want to get in fights with them. I am religious and read the bible, and I prefer to keep to myself. I haven't gotten into trouble throughout my time in ORR custody.

9. I have been in ORR custody for one year and two months. I really want to live with my dad. I know I would feel safer if I were living with him.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this ____ day of _____, 2018, at _____, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I, San Juana Castillo, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on March 1, 2018.

San Juana Castillo

Exhibit 17

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I am from Mexico. I came to the United States when I was twelve or thirteen years old with my father. He was detained when we arrived and I was sent to BCFS. I am currently being held in ORR custody in the Shiloh Residential Treatment Facility.

3. I am not sure, but I think I came to Shiloh Residential Treatment Facility in June 2017. They told me I had to come here because I had tried to hurt myself.

4. I think I have spent approximately five months at the Shiloh Residential Treatment Center.

5. At Shiloh I have to take pills in the morning, afternoon, and night. I take 4 or 5 pills in the morning, 1 pill in afternoon, and 1 pill at night. In the morning, one of the pills is for anxiety. I don't know what the other pills are for. I don't like taking the medicine because it makes me sleepy and dizzy. But, if I don't take the pills, they will give me a report and I will have to stay at Shiloh longer. I do not know if they have talked to anyone in my family about the medications.

6. Sometimes they give me forced injections. The last time was a few weeks ago. I have been given injections many times. When I get upset, one or two staff hold my arms and the nurse gives me an injection. I think the injection has trazedone and Benadryl, but I am not sure. The injection makes me tired.

7. They told me that if I am good, I can have a phone call with my family. I haven't talked to my family in a long time. I really want to talk to them.

8. I miss my Dad and want to live with him. He lives in Arkansas. I think my grandmother is in Texas.

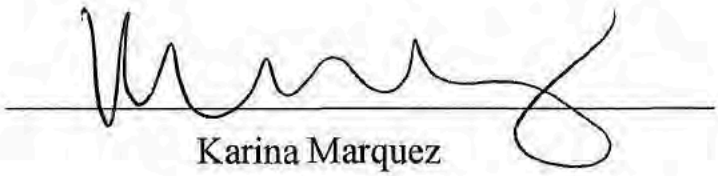
I declare under penalty of perjury that the foregoing is true and correct. Executed on this 1st day of December, 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish.

Dated: December 1, 2017



Karina Marquez

Exhibit 18

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. I execute this declaration to update the declaration made on December 1, 2017. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I am still detained at Shiloh Residential Treatment Center.

3. I have not been given the opportunity to tell a judge that I am not dangerous and that I have not tried to run away.

4. I have received a form from my case worker that explains why I am still detained at Shiloh. My case worker tells me I am here because the doctor says I have to be here.

5. My father is a U.S. citizen. I want to live with him. My grandma is my father's mother. She lives in Del Rio, Texas. I am sad because I have not been able to speak with my father or my grandmother for a long time. The staff won't let me talk to them because when I've talked to them in the past, I get sad that the government won't let me live with them. I think I would feel better if I lived with my father or grandma.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28th day of February, 2018, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I, San Juana Castillo, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on February 28, 2018.

San Juana Castillo

San Juana Castillo

Exhibit 19

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I came to the USA fleeing sexual violence and child abuse. In El Salvador, I suffered a lot and was in and out of shelters throughout my childhood. I experienced some very horrible violence at a young age, and I haven't really told my story until now. I was gang raped when I was 15 years old. The rapists told me not to tell anyone or they would kill me. My biological dad is deceased, and my mom was involved with a man who was abusive to me, and I did not feel safe at home. My older sister is paralyzed –she suffered horrible abuse and can no longer speak or walk. I also have two little brothers. I decided to leave my country for safety and opportunity in the United States.

3. I am 16 years old. I am currently being held in ORR custody detained at the Shiloh Residential Treatment Center. I arrived here on September 7, 2017. Shiloh is a locked facility with 24-hour surveillance and monitoring. The children are detained here and no one is free to leave.

4. I was taken into immigration custody in Texas about eleven months ago in January 2017. I was first detained at Southwest Key, a shelter, but then I became increasingly stressed, because I felt like I was going to be detained forever. I just want to live in Oakland, California with my grandpa—I don't want to be detained. My grandfather is in the beginning of process of sponsoring me.

5. One time a staff member began yelling at me at Southwest Keys and I broke a mirror. The staff accused me of trying to hurt myself and sent me to a psychiatric hospital. Then a psychologist recommended that I come here to Shiloh because there is more one-on-one attention here.

6. I don't remember ever being told or reading that I could appeal or challenge the government's decision to put me into this treatment facility, or that I could go to court about it.

7. I have never had a thirty-day review to review my custody classification since I have been here. No one has formally sat down with me and reviewed whether I should be stepped down to a lower level of security or told me how I'm doing here or what I have to do in order to step down.

8. I have had about three court hearings. My attorney is Paola, I think I met with her recently but I don't remember.

9. At Shiloh, I am given three pills every day. In the morning I take one pill, I don't know what it is. In the evening, I take Prozac and Melatonin. The staff checks our mouths to make sure that we have taken our medicine. I don't think that my family was asked before giving me medicine. My understanding is that the government makes those decisions.

10. I think I would get a "report" if I didn't take my medicine. Getting a report impacts your privileges and delays when you can get released.

11. The staff hold down and inject youth who aren't able to calm down.

12. I am only allowed two 15-minute calls per week. The calls have no privacy. Sometimes I talk to my mother and sometimes I talk to my grandfather.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this first day of December 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Karina Marquez and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: December 1, 2017

Karina Marquez

Exhibit 20

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted] declaro y digo lo siguiente:

1. Hago la presente para actualizar la declaración que hice el 21 de noviembre del año pasado.

2. Todavía me encuentro detenida en Shiloh RTC. No tengo idea de cuando me van a liberar para que pueda vivir con mi abuelo en Oakland, California.

3. Pienso que la detención prolongada me provoca más ansiedad y desesperación. Solo puedo hablar con mi mamá y con mi abuelo una vez por semana por 15 minutos con cada uno. No estar con la familia es muy dificil para mi, y creo para todo menor de edad detenido.

4. Nadie me ha avisado que tengo derecho a una audiencia ante un juez de inmigración para decidir si estoy peligrosa o un riesgo de fugarme, y hasta la fecha no he tenido tal audiencia.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 28 de febrero del año 2018, en Manville, Texas.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. I make the present to update the statement I made on November 21 of last year.
2. I am still detained in Shiloh RTC. I have no idea when they will release me so I can live with my grandfather in Oakland, California.
3. I think prolonged detention causes me more anxiety and despair. I can only talk to my mother and my grandfather once a week for 15 minutes with each one. Not being with family is very difficult for me, and I believe for all underage detainees.
4. No one has advised me that I have the right to a hearing before an immigration judge to decide if I am dangerous or at risk of fleeing, and to date I have not had such a hearing.

I declare under protest to tell the truth that all the information that I have provided here is correct and complete, aware of the legal consequences of declaring with falsehood before the authority.

Done on February 28 of the year 2018, in Manville, Texas.

_____

[redacted]

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.

2. On this day I translated the declaration of [redacted] from Spanish to English.

The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of March 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 21

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I came by myself to the United States from Mexico in 2017. I was taken to Southwest Key in San Diego, where I stayed for three months. I have been at Shiloh Residential Treatment Center for approximately nine months.

3. I want to live with my dad, who is in San Jose, California, and he wants me to live with him. He applied to be my sponsor and has been trying to reunify with me since I was at Southwest Key. When I was at Southwest Key, I was told that I would be released to my dad within three months. Things move much faster at Southwest Key. Things move very slowly at Shiloh. We have been waiting to reunify for about one year. My dad completed all the reunification requirements. He completed a home study, and it went well. I talk with him twice a week. I have been told that the doctor has to say it is alright to release me to my dad. I was supposed to be released at the end of this month, but I was told that I am a bit aggressive, so I am still here. My brother was murdered recently, so I have been more sad than normal.

4. I can't remember exactly when this happened, but a few months ago, an attorney met with me and explained that I had a right to seek a bond hearing. I signed a form requesting a bond hearing, but the attorney never came back, and I've never had a bond hearing.

5. I take two types of medications. I am told that both medications are for depression.

6. I have said bad words to other minors here. The staff here say I need to behave myself. No one has ever accused me of being in a gang.

7. I would rather be living with my dad rather than living at Shiloh right now.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this ____ day of _____, 2018, at _____, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I, SAN JUANA CASTILLO, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on February 28, 2018.

San Juana Castillo

San Juana Castillo

Exhibit 22

Notice of Placement in a Restrictive Setting

Office of Refugee Resettlement

You are in the custody of the Office of Refugee Resettlement (ORR), and have been placed in a restrictive setting - a secure or staff secure facility, or a Residential Treatment Center (RTC). The reason you have been placed in a restrictive setting is listed below.

If you have any questions about this placement, please discuss them with your case manager, your attorney, or an ORR-funded legal service provider.

UAC Name	Alien Number	Country of Birth	Date of Birth	Gender

Name of Care Provider Facility	Type of Facility

Secure Care: ORR has determined that you pose a danger to self or others; or have been charged with having committed a criminal offense. ORR considered that you:

- ☐ Are charged with, may be chargeable, or have been convicted of a crime; or are the subject of delinquency proceedings, have been adjudicated delinquent, or are chargeable with a delinquent act[1];
- ☐ Have committed, or have made credible threats to commit a violent or malicious act while in ORR custody;
- ☐ Have committed, threatened to commit, or engaged in serious, self-harming behavior that poses a danger to self while in ORR custody;
- ☐ Have engaged in conduct that has proven to be disruptive of the normal functioning of a staff secure facility in which you were placed such that transfer may be necessary to ensure your welfare or the welfare of others;
- ☐ Have reported gang involvement or display gang affiliation while in care;
- ☐ Have self-disclosed violent criminal history or gang involvement prior to placement in ORR custody that requires further assessment; and/or,
- ☐ Have a history of or display sexual predatory behavior, or have inappropriate sexual behavior.

Staff Secure Care: ORR has determined that you require close supervision, but do not require placement in a secure care provider facility. ORR considered that you:

- ☐ Have been disruptive to the normal functioning of a shelter care facility such that transfer is necessary to ensure the welfare of others;
- ☐ Are an escape risk;
- ☐ Have non-violent criminal or delinquent history not warranting placement in a secure care provider facility, such as isolated or petty offenses; or,
- ☐ Could be stepped down from a secure facility.

Residential Treatment Center: ORR has determined that you have a psychiatric or psychological issue that cannot be addressed in an outpatient setting. A licensed psychologist or psychiatrist has indicated that you:

- ☐ Have not shown reasonable progress in the alleviation of your mental health symptoms after a significant period of time in outpatient treatment;
- ☐ Demonstrate behavior that is a result of your underlying mental health symptoms and/or diagnosis and cannot be managed in an outpatient setting;
- ☐ Require therapeutic-based intensive supervision as a result of mental health symptoms and/or diagnosis that prevent you from independent participation in the daily schedule of activities; and/or,
- ☐ Present a continued and real risk of harm to self, others, or the community, despite the implementation of short-term clinical interventions.

[1] Excluding: isolated offenses that (1) were not within a pattern or practice of criminal activity and (2) did not involve violence against a person, or the use or carrying of a weapon (e.g., breaking and entering, vandalism, DUI, etc.); or petty offenses which are not considered grounds for a stricter means of detention in any case (e.g., shoplifting, joy riding, disturbing the peace, status offenses).

Summary of placement decision or case review:

ORR will review your placement, at a minimum, every 30 days to determine whether your placement in a restrictive level of care is still necessary. If you remain in a secure facility or RTC after 30 days, you may request that the ORR Director reconsider your placement. For more information on this process, please ask your case manager.

If you believe you have not been properly placed or that you have been treated improperly you may also ask a Federal District Court to review your case. You may call a lawyer to assist you.

UAC's acknowledgement of receipt:

_____ _____

UAC's Signature Date

Exhibit 23

ADMINISTRATION FOR CHILDREN & FAMILIES
Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

Division of Policy and Procedures
FAQ: July 2017 Bond Hearings for Unaccompanied Alien Children (UAC)

Q: What is a bond redetermination hearing?

A: Traditionally, bond redetermination hearings (bond hearings) are used by aliens in DHS custody who wish to have an immigration judge (EOIR) determine whether the alien should remain in DHS custody or be released from custody.

Q: Are bond hearings for aliens in DHS custody the same for UAC in HHS custody?

A: No. Bond hearings for aliens in DHS custody are covered by statute and regulations under the Immigration and Nationality Act. *Flores* bond hearings for UAC in HHS custody are judicially created by the Federal courts under a Ninth Circuit Court of Appeals decision in *Flores v. Sessions*. However, *Flores* bond hearings for UAC in HHS custody fall under the same strictures as bond hearings for aliens in DHS custody.

Q: According to section 2.9, UAC have a right to a bond hearing to determine if they are a danger to the community. What information will ORR provide at the bond hearing for the immigration judge to determine if the UAC is a danger?

A: ORR will provide all information that went into making a placement decision based on danger to the community, and information used to justify continued placement in a restrictive level of care or to deny release based upon a danger to the community. This information can include placement documents, police and court records, relevant SIRs, assessments, etc. ORR is required to provide any evidence it uses to support a finding that a child is a danger to the community to the immigration court and to the UAC's representative prior to the bond hearing.

Q: Would a determination in a Flores bond hearing that a UAC is a danger negatively affect the UAC's legal case?

A: The *Flores* bond hearings are separate and apart from UAC immigration proceedings under the Immigration and Nationality Act (UAC "removal" hearings and any DHS custody hearings). Findings from a *Flores* bond hearing may address similar factors that will be considered in removal or DHS custody hearings. However, ORR is not a party to DHS proceedings.

Q: If a judge determines that a UAC is not a danger to the community, but the UAC is a Category 4 with no option for legal relief and no sponsor, would the shelter have to release the UAC?

A: No. ORR will continue to base release decisions on existing policies. ORR is prohibited by law from releasing UAC on their own recognizance, even if an immigration judge finds that the child is not a danger to the community.

Q: Are there costs involved for the UAC if he or she requests a bond hearing?

A: Generally speaking, no.

Q: Does this policy affect UAC in Residential Treatment Centers (RTCs)?

A: RTCs will be treated as secure placements for purposes of this policy. RTC providers will provide notice of bond hearings to UAC placed in an RTC as if the child were placed into a secure care provider.

Q: Does the policy apply to UAC in shelters or long term foster care?

A: All UAC may request a *Flores* bond hearing. However, ORR places UAC in these types of care providers based on a determination that they are not a danger to the community. As a result, the *Flores* bond hearing would not affect the vast majority of UAC in shelters and foster care programs. If a UAC is stepped up to a secure facility or staff secure facility from a shelter or foster care program, the UAC is provided notice of the *Flores* bond hearings at the time of admission into the secure or staff secure facility.

Q: Will the notice of a bond hearing form be available in languages other than English?

A: Yes. ORR has distributed a Spanish language version of the flyer. Care provider should connect children who speak other languages to a translation line as used for other legal notifications. ORR is evaluating whether there is a need for additional translations of the notice.

Q: If a judge determines that a UAC in secure is not a danger to the community, will ORR step the UAC down to a less restrictive level of care?

A: Potentially, yes. ORR will work with programs directly to resolve these types of cases.

Exhibit 24

ADMINISTRATION FOR CHILDREN & FAMILIES
Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

Division of Policy and Procedures

FAQ: ORR Director's Release Decision

Q: What UAC release decisions require elevation to the ORR Director before a final release decision can be made?

Under ORR Policy Guide, section 2.7, the ORR/FFS elevates release decisions to the ORR Director, or the Director's designee, for any UAC in a secure or staff secure facility, or for any UAC who had previously been in a secure or staff secure facility. The ORR Director or designee makes release decisions for children in these types of facilities.

Q: Does a release decision for a UAC who was previously placed into a staff-secure facility because of concerns that the UAC was a flight risk (but not dangerous) require elevation to the ORR Director under the policy?

Yes. The ORR Director makes a release decision for any case in which a UAC was previously placed in a secure or staff-secure facility or is currently placed in a secure or staff-secure facility, regardless of the reasons for the child's placement,.

Q: Does a release decision for a UAC who was previously placed into a secure facility based solely on an erroneous report that the child was affiliated with a gang require elevation to the ORR Director under the policy?

Yes. These cases require elevation to the Director even if the restrictive placement decision was based on incomplete, inaccurate or erroneous information.

Q: Do UAC who are in or were previously placed in a secure or staff-secure facility AND have prevailed in a Flores bond hearing on a question of dangerousness require a release decision elevated to the ORR Director under the policy?

Yes. However, in these cases the ORR Director is precluded from denying the release based on the UAC's dangerousness (because an Immigration Judge has ruled that the child is not a danger). There are other factors for the ORR Director to consider when making a release decision.

Q: Do UAC who are in or were previously placed in a secure or staff-secure facility AND have prevailed in a Saravia hearing related to their apprehension by DHS/ICE require a release decision elevated to the ORR Director under the policy?

No. UACs who prevail in *Saravia* hearings must be released immediately to their previous sponsor. The ORR/FFS verifies with staff from the Division of Policy and Procedures that the child received a valid *Saravia* order prior to the child's release from custody.

Q: Does the ORR Director deny all release decisions for cases from a secure or staff-secure facility or UAC previously placed in a secure or staff-secure facility?

No. The ORR Director assesses each case individually under the same ORR release policies used to approve or deny a release to a sponsor found in the ORR Policy Guide, section 2.7.

Exhibit 25

CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW
256 S. OCCIDENTAL BOULEVARD
LOS ANGELES, CA 90057
Telephone: (213) 388-8693 Facsimile: (213) 386-9484
www.centerforhumanrights.org

December 19, 2017

Sarah B. Fabian
Vinita B. Andrapalliyal
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044

Michael Johnson (or successor in office)
Assistant United States Attorney
300 N. Los Angeles St., Rm. 7516
Los Angeles, CA 90012

Allen Hausman (or successor in office)
Office of Immigration Litigation
Civil Division
U.S. Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

Via email.

Re: *Flores*, et al., *v. Sessions,* et al., No. CV 85-4544 DMG (C.D. Cal.).

Dear Counsel:

Pursuant to ¶ 37 of the settlement[1] approved in the above referenced action on January 25, 1997 (Settlement), plaintiffs give notice of claims that Defendants are in breach of the Settlement in the following particulars:

[1] Paragraph 37 provides in pertinent part as follows: "This paragraph provides for the enforcement, in this District Court, of the provisions of this Agreement except for claims brought under Paragraph 24. The parties shall meet telephonically or in person to discuss a complete or partial repudiation of this Agreement or any alleged non-compliance with the terms of the Agreement, prior to bringing any individual or class action to enforce this Agreement."

1) Class-wide violations of ¶¶ 14 and 18: Denial of due process in declaring available custodians unfit.

Paragraph 14 of the Settlement provides: "Where the INS determines that the detention of the minor is not required either to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that of others, the INS shall release a minor from its custody without unnecessary delay, in the following order of preference, to: A. a parent; B. a legal guardian; C. an adult relative (brother, sister, aunt, uncle, or grandparent); D. an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being in (i) a declaration signed under penalty of perjury before an immigration or consular officer or (ii) such other document(s) that establish(es) to the satisfaction of the INS, in its discretion, the affiant's paternity or guardianship; E. a licensed program willing to accept legal custody; or F. an adult individual or entity seeking custody, in the discretion of the INS, when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility."

Paragraph 18 of the Settlement provides: "Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, shall make and record the prompt and continuous efforts on its part toward family reunification and the release of the minor pursuant to Paragraph 14 above. Such efforts at family reunification shall continue so long as the minor is in INS custody."

Plaintiffs are informed that Defendant ORR regularly refuses to release class members to custodians described in ¶ 14 on the ground that such proposed custodians are unfit.

Plaintiffs are advised that in deeming class members' proposed custodians unfit, ORR gives neither the class member nor the proposed custodian meaningful notice or an opportunity to be heard regarding the proposed custodian's fitness. Defendant ORR thereby ensures that class members are regularly continued in detention needlessly and in derogation of their rights under ¶¶ 14 and 18 of the Settlement, as well as their right to placement in the least restrictive setting consistent with a juvenile's best interests, in violation of § 235(c)(2)(A) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 110 Pub. L. 457, 122 Stat. 5044, *codified at* 8 U.S.C. § 1232(c)(2)(A) ("TVPRA").

2) Class-wide violations of ¶¶ 11, 19, 21, 23 and 24C: Peremptory placement of class members in unlicensed programs.

Paragraph 19 of the Settlement provides: "Except as provided in Paragraphs 12 or 21, such minor shall be placed temporarily in a licensed program until such time as release can be effected in accordance with Paragraph 14 above or until the minor's immigration proceedings are concluded, whichever occurs earlier. ..."[2]

[2] The Settlement defines a "licensed program" as a "program, agency or organization that is licensed by an appropriate State agency to provide residential, group, or foster care

Paragraph 23 provides: "The INS will not place a minor in a secure facility pursuant to Paragraph 21 if there are less restrictive alternatives that are available and appropriate in the circumstances, such as transfer to (a) a medium security facility which would provide intensive staff supervision and counseling services or (b) another licensed program."

Paragraph 24C provides: "... Defendants shall provide minors not placed in licensed programs with a notice of the reasons for housing the minor in a detention or medium security facility."

Plaintiffs are informed that ORR regularly places class members in staff-secure or secure facilities without providing them meaningful notice and an opportunity to be heard, either before or after placement, regarding the reasons for placing them in facilities that are not licensed to care for dependent juveniles. Rather, ORR regularly places class members ICE re-arrests in unlicensed programs on the basis of untested accusation, typically unsubstantiated allegations of gang-involvement.

As regards class members initially placed in licensed programs and subsequently "stepped up" to staff-secure or secure facilities, ORR's practice is to awaken class members in the middle of the night, order them to gather their belongings, and summarily transfer them to an unlicensed placement. ORR and its contractors tell such class members little or nothing about the reasons they are being sent to an unlicensed program, and ORR provides class members no meaningful opportunity to see, explain, or rebut the evidence that ostensibly justifies such transfers. Often, ORR steps up class members to secure or staff-secure placement on the basis of alleged minor infractions or misbehavior that could be effectively addressed via less drastic means.

Once ORR places class members in an unlicensed program, it affords them little or no notice or opportunity to be heard regarding the propriety of continuing them in staff-secure or secure settings. ORR's periodic reviews of class members' placement in staff-secure or secure facilities are wholly perfunctory, permitting detained youth little or no opportunity to be heard regarding the grounds for continuing them in secure or staff-secure placement.

ORR's placing class members in staff-secure and secure facilities, and continuing them in such placements, without providing a meaningful notice and opportunity to be heard regarding the cause for such placement, ensures that class members are regularly continued in unlicensed placements needlessly and in derogation of their rights under ¶¶ 11, 19, 21, 23 and 24C of the Settlement, as well as their right to placement in the least restrictive setting consistent with a juvenile's best interests, in violation of § 235(c)(2)(A)

---

services for dependent children, including a program operating group homes, foster homes, or facilities for special needs minors. A licensed program must also meet those standards for licensed programs set forth in Exhibit 1 attached hereto. All homes and facilities operated by licensed programs, including facilities for special needs minors, shall be non-secure as required under state law; ..."). Settlement Definition 6.

of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 110 Pub. L. 457, 122 Stat. 5044, *codified at* 8 U.S.C. § 1232(c)(2)(A) ("TVPRA"), and their right to have their interests properly considered in decisions and actions relating to their care and custody, in violation of 6 U.S.C. § 279(b)(1)(B).

3) Class-wide violations of ¶¶ 7 and 12 at Shiloh RTC: Involuntarily and inappropriately medicating class members and/or in derogation of parental prerogative.

Paragraph 7 of the Settlement provides in pertinent part: "The INS shall assess minors to determine if they have special needs …" A minor may have special needs "due to drug or alcohol abuse, serious emotional disturbance, mental illness or retardation, or a physical condition or chronic illness that requires special services or treatment. A minor who has suffered serious neglect or abuse may be considered a minor with special needs if the minor requires special services or treatment as a result of the neglect or abuse."

Paragraph 12 of the Settlement provides in pertinent part: "Following arrest, the INS shall hold minors in facilities that are safe and sanitary and that are consistent with the INS's concern for the particular vulnerability of minors. Facilities will provide access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services, adequate temperature control and ventilation, adequate supervision to protect minors from others, and contact with family members who were arrested with the minor."

Plaintiffs are informed that class members with special mental health needs housed at Shiloh Residential Treatment Center (RTC) are regularly medicated involuntarily and inappropriately. Plaintiffs are advised that class members are consistently placed on multiple psychotropic medications and are uninformed as to what medications they are being given. Class members report suffering negative side effects without any meaningful way of objecting to the propriety or efficacy of the medications they are prescribed.

Plaintiffs are further advised that class members are frequently medicated against their will at Shiloh RTC. Class members report being told that if they refuse to take a medication, their detention at Shiloh will be extended. Some class members report being forcibly tranquilized and left in the middle of common areas until they recover; others report witnessing their peers being forcibly tranquilized. Some class members report that the treatment they receive at Shiloh is far from therapeutic. They report being subjected to inappropriate and abusive practices, including being screamed at, cursed at, and bullied by staff.

In addition, Plaintiffs are advised that ORR condones a policy and practice at Shiloh RTC whereby Shiloh case workers usurp class members' parents' authority to consent to medicating their children, even when such parents are readily accessible to ORR and/or Shiloh staff.

Pursuant to Texas law, parents have the right to control their minor child's medical and dental care, as well as psychiatric, psychological and surgical treatment. Tex. Fam. Code Ann. § 151.001(a)(6). There are limited categories of non-parents that may consent to the health care treatment of a minor when the person having power to consent (parent or conservator) cannot be contacted and that person has not given express notice to the contrary. Tex. Fam. Code Ann. § 32.001. Within these categories, adults with "the actual care, control, and possession of the child" must still obtain "written authorization to consent from a person having the right to consent" in order to consent lawfully to a minor's receiving medical treatment. *Id*.

Plaintiffs are informed that Shiloh RTC staff, as a matter of policy and practice, do not obtain, nor even attempt to obtain, parental consent for the medical treatment of class members. Plaintiffs are advised that class members' parents have not given Shiloh RTC or ORR written permission to consent to class members' medical treatment, notwithstanding that class members' parents may be readily accessible to ORR and/or Shiloh RTC staff.

Plaintiffs are advised that Shiloh RTC staff have not been authorized by any court to consent to medical care on behalf of the class members. Instead, Shiloh RTC staff usurp parental prerogative to consent to medical treatment on behalf of class members as evidenced by the attached form.

Defendants are thereby in class-wide breach of ¶¶ 7 and 12 of the Settlement, as well as applicable Texas law.

4) Class-wide violations of ¶ 12 and Exhibit 1: Denying class members contact with family members.

We are informed that Defendants are regularly separating class members from their parents shortly after arresting them as a family unit and thereafter denying such class members contact with their family members, even to the point of concealing the whereabouts of children from their parents and vice versa, as well as obstructing class members' ability to communicate with their parents telephonically.

As a result, Defendants are regularly detaining class members under conditions inconsistent with ¶ 12 of the Settlement, as well as with ¶¶ A.11 and A.12 of Exhibit 1 to the Settlement.

5) Class-wide violations of ¶¶ 11 and 14: Blocking fair and open access to long-term foster care benefits.

Paragraph 11 of the Settlement provides: "The INS shall place each detained minor in the least restrictive setting appropriate to the minor's age and special needs, ..."

Plaintiffs are informed that Defendant ORR peremptorily—that is, without providing meaningful notice or an opportunity to be heard regarding eligibility for long-term foster

care—denies class members services established pursuant to § 412(d) of the Immigration and Nationality Act, *codified at* 8 U.S.C. § 1522(d), and thereby needlessly continues class members in detention, in violation of ¶¶ 11 and 14 of the Settlement, 6 U.S.C. § 279(b)(3) and TVPRA § 235(c)(2)(A).

6) Class-wide violations of ¶ 24: Denying class members legal assistance in matters relating to placement, detention and release.

Paragraph 24A of the Settlement provides: "A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates on the Notice of Custody Determination form that he or she refuses such a hearing."

Paragraph 24B provides: "Any minor who disagrees with the INS's determination to place that minor in a particular type of facility, or who asserts that the licensed program in which he or she has been placed does not comply with the standards set forth in Exhibit 1 attached hereto, may seek judicial review in any United States District Court with jurisdiction and venue over the matter to challenge that placement determination or to allege noncompliance with the standards set forth in Exhibit 1."

Paragraph A.14 of Exhibit 1 to the Settlement requires licensed programs to provide class members with "[l]egal services information regarding the availability of free legal assistance, ..."

Plaintiffs are informed that ORR regularly precludes legal services providers funded through the Vera Institute of Justice, pursuant to appropriation implementing TVPRA § 235(c)(5), from representing class members in legal proceedings or matters relating to their placement, detention, or release.

As a practical matter, class members' rights to meaningful bond redetermination and judicial review of their placement are dependent on their having legal assistance. In many places, Vera Institute-funded providers are the only legal services class members have available. ORR's blocking Vera Institute-funded legal services providers from representing class members in legal proceedings or matters relating to their placement, detention, or release violate ¶ 24 of the Settlement, as well as TVPRA § 235(c)(5).

* * * * *

In accordance with ¶ 37 and Rule 7-3 of the Rules of the United States District Court for the Central District of California, plaintiffs request that Defendants Attorney General, Department of Homeland Security (DHS), and Office of Refugee Resettlement of the U.S. Department of Health and Human Services ("Defendants") meet with plaintiffs telephonically within the next seven days, or in person in the Central District of California within the next fourteen days, in a good faith effort to resolve the matters discussed herein and avoid the need for litigation. Please advise regarding proposed dates and times you are available to confer.

Thank you,

Carlos Holguín
One of the attorneys for Plaintiffs

ccs: Peter A. Schey, CHRCL
William C. Silvis, OIL

Exhibit 26

Subject: Flores Meet and Confer Discussion
From: "Fabian, Sarah B (CIV)" <Sarah.B.Fabian@usdoj.gov>
Date: Fri, 12 Jan 2018 21:00:08 +0000
To: Leecia Welch <lwelch@youthlaw.org>, Cooper Holly <hscooper@ucdavis.edu>, Poonam Juneja <pjuneja@youthlaw.org>, Neha Desai <ndesai@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>
CC: "Alsterberg, Cara E. (CIV)" <Cara.E.Alsterberg@usdoj.gov>, "Murley, Nicole (CIV)" <Nicole.Murley@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Counsel:

During our meet and confer discussion on January 2, 2018, Defendants agreed to get back to you today regarding a few items from your meet and confer letter.

With regard to ORR's step-up process, ORR is willing to review the process to see if they believe that changes should be made, but do not commit to making any changes at this time. ORR also remains willing to review any examples you may provide regarding the issues you identified at Shiloh Treatment Center, which you had committed to providing to us by today.

With regard to the issue of facilitating communications, Defendants believe that a solution can be found to facilitate communications that is consistent with the Flores Settlement Agreement. Defendants are currently discussing a plan that would leverage existing technologies and address known issues. However, the details of the plan remain under discussion. Defendants agree to provide counsel with an update on the progress of this plan in thirty (30) days, or by Monday February 12.

In the meantime, to the extent counsel has known communications issues where minors have been unable to reach their parents or family members with whom the minor was arrested Defendants are willing to review these issues and facilitate communication if possible on an individualized basis. In these cases, inquiries should be provided to me, including names, citizenship, A numbers, and dates of birth, to assist the agencies in facilitating the communications more quickly.

Please let me know if you have any questions regarding the above, or would like to talk further regarding these issues.
Best regards,

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section
Department of Justice
PO Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824

Exhibit 27

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL



National Center for Youth Law

Tuesday, January 16, 2018

BOARD OF DIRECTORS

President
Peter B. Edelman
Georgetown University Law Center

Vice President
Christopher Wu
Casey Family Programs

Secretary
Brian Rocca
Morgan, Lewis & Bockius LLP

Treasurer
James D. Weill
Food Research & Action Center (FRAC)

Mary Bissell
ChildFocus

Alexander L. Brainerd
Judicial Arbitration and Mediation Services, Inc. (JAMS)

David E. Brown
The Annie E Casey Foundation

Thomas Ehrlich
Stanford University School of Education

Laura K. Lin
Munger Tolles & Olson LLP

Jack Londen
Morrison & Foerster LLP

Walter Patrick Loughlin
K&L Gates LLP

Mary E. McCutcheon
Farella, Braun + Martel LLP

Ryan J. Smith
The Education Trust-West

Jory C. Steele
Stanford Law School

Executive Director
Jesse Hahnel

Sarah B. Fabian
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044

Judith Haron
Department of Health and Human Services
Office of the General Counsel
330 Independence Ave., S.W., Room 4280-Cohen Bldg.
Washington, DC 20201

Via email.

Re: *Flores*, et al., *v. Sessions,* et al., No. CV 85-4544 DMG (C.D. Cal.).

Dear Counsel:

Thank you for considering measures to address the inappropriate administration of psychotropic medications to children in the custody of the Office of Refugee Resettlement ("ORR").

Psychotropic medications have profound and long-lasting impacts on children. As federal District Court Judge Laughrey recently explained,

> Psychotropic drugs are powerful medications that directly affect the central nervous system. They are particularly potent when administered to children. Children administered psychotropic medications are at particularly serious risk of long-lasting adverse effects. They are more vulnerable to psychosis, seizures, irreversible movement disorders, suicidal thoughts, aggression, weight gain, organ damage, and other life-threatening conditions.

M.B. v. Corsi, No. 2:17-cv-04102-NKL, 2018 U.S. Dist. LEXIS 3232, at * 4 (W. D. Mo. Jan. 8, 2018)

Many psychotropic medications have limited or no approved uses by the Food & Drug Administration ("FDA") for children and adolescents. For example, while a few antipsychotic medications have some FDA-approved uses with older children or adolescents, some, including several of those administered to the youth described below (e.g., Lurasidone and Ziprasidone), have no FDA-approved uses for persons below age 18. In addition, many antidepressants have a "black box" warning for children and youth. A black box warning is the strictest warning put in the labeling of prescription drug by the FDA when there is reasonable evidence of an association of a

serious hazard with the drug. The black box warning for antidepressants advises that they may increase the risk of suicidal thinking and behavior in some children and adolescents.

As described in Plaintiffs' letter of December 19, 2017, class members with special mental health needs, particularly those housed at the Shiloh Residential Treatment Center ("Shiloh RTC"), are regularly placed on multiple psychotropic medications, told little or nothing about these medications, and often suffer negative side effects from such medications without recourse. The evidence also shows that children are often medicated at Shiloh RTC without the consent of parents who are present in the United States and accessible to facility and ORR staff.

During the parties' meet-and-confer of January 2, 2018, Defendants requested that Plaintiffs supply specific examples of these allegations; we do so below.

[redacted] came into federal immigration custody on February 21, 2016. Attachment 1. He was transferred to Shiloh RTC on March 14, 2016, Attachment 2, where he remained until April 12, 2016. Attachment 3.

While at Shiloh RTC, [redacted] was prescribed multiple psychotropic medications: Prazosin, Quetiapine, Sertraline, and Olanzapine. Attachment 4. This combination of drugs includes two antipsychotics, an antidepressant, and an antihypertensive (sometimes prescribed for adults for anxiety or posttraumatic stress disorder ("PTSD")). The concurrent administration of more than one antipsychotic medication and/or multiple classes of psychotropic medications conflicts with professional association guidelines. Children administered multiple psychotropic medications at the same time suffer from an increasing number and severity of adverse effects. Published research also confirms that the administration of an antipsychotic and antidepressant concurrently to children or youth substantially increases the likelihood they will develop Type II diabetes and other cardiovascular problems.

Parents of youth prescribed these drugs are cautioned to weigh carefully the risks and benefits of taking them. For example, the National Institute of Health cautions parents of youth prescribed Quetiapine as follows: "[Y]our parent, or your caregiver should talk to your doctor about the risks and benefits of treating your condition with an antidepressant or with other treatments. You should also talk about the risks and benefits of not treating your condition. You should know that having depression or another mental illness greatly increases the risk that you will become suicidal." National Institute of Health, U.S. National Library of Medicine, available at Medline Plus, available at https://medlineplus.gov/druginfo/meds/a698019.html.

Plaintiffs' review of [redacted] ORR file, produced December 27, 2017, uncovered nothing to indicate this his mother had consented to [redacted] being given psychotropic medications. Nothing prevented Shiloh RTC from seeking [redacted] mother's consent to medicating him. Shiloh RTC knew that Lutheran Social Services had already begun evaluating [redacted] mother as a potential custodian for him, Attachment 5, and that his mother resided in Nebraska. Attachment 6. Shiloh RTC also logged [redacted] numerous phone calls to his mother, Attachment 7, foreclosing the possibility that Shiloh RTC staff could not have reached her via telephone.

405 14th Street, 15th Floor, Oakland, CA 94612-2701 | 510.835.8098 tel | 510.835.8099 fax
info@youthlaw.org • www.youthlaw.org

Plaintiffs' review of [redacted] ORR file uncovered nothing to indicate that at Shiloh RTC [redacted] himself had consented to taking psychotropic medications. When he was later transferred to Yolo County Juvenile Detention Facility, his ORR file notes that "he does not want to continue taking the medication as he feels it is pointless." Attachment 8. The Yolo County case management notes report the following response to [redacted] objection: "I informed youth that we continue to work towards his goal of reunification but has to do his part in ... being medication compliant." *Id*.

[redacted] came into federal immigration custody in January 2016. He was transferred to Shiloh RTC in June of 2016 where he remained until December 2016.

During his time at Shiloh RTC, [redacted] was placed on numerous psychotropic medications including Duloxetrine, Clonazepam, Olanzapine, Geodon, Latuda, Divalproex, and Haloperidol. Attachment 9. This combination of drugs includes four different classes of medication, the majority of which, four of the six, are antipsychotics with very limited FDA-approved uses in children and adolescents. The use of multiple antipsychotic medications at the same time is inconsistent with medical guidelines. Moreover, the use of Clonezepam (trade name Klonipin) indicates that the other drug combination may have caused significant adverse effects – such as akathisia, a severe movement disorder.

ORR Records indicate that, at times, [redacted] was simultaneously placed on six psychotropic drugs, plus two additional drugs "as needed." Attachment 9. In addition to the regular psychotropic medications he was placed on, [redacted] was forcibly medicated on several occasions at Shiloh RTC, as well. Plaintiffs' review of [redacted] file revealed nothing to indicate that either [redacted] or any family members provided consent for any of these medications.

An independent psychologist who evaluated [redacted] concluded that the multiple diagnoses [redacted] was assigned while at Shiloh RTC were not justified based on his behavior and clinical presentation. For example, [redacted] was diagnosed with Psychotic Disorder when he displayed none of the typical features of a psychotic disorder, but instead presented with autoimmune encephalitis and pneumonia. During his time at Shiloh RTC, the Shiloh psychologist identified multiple diagnoses, including Psychotic Disorder, Obsessive Compulsive Disorder and Bipolar Disorder assigned to [redacted] that were inconsistent with his behavior. These diagnoses resulted in the prescription of inappropriate medications that had adverse side effects, including weight gain of almost 100 pounds. After [redacted] arrived at Yolo County Juvenile Detention Facility, the Yolo psychologist recommended that he taper off of his medications. Attachment 10. Records indicate that [redacted] health and behavior improved after his medications were reduced. Attachment 11.

The foregoing examples are no aberration, rather they are representative of medication practices prevailing at facilities in which ORR regularly places class members. Detaining class members at Shiloh RTC—as regards the administration of psychotropic medications and in numerous other respects—is peculiarly at odds with Defendants' obligation to house children in facilities that are "safe and sanitary and that are consistent with [a]

405 14th Street, 15th Floor, Oakland, CA 94612-2701 | 510.835.8098 tel | 510.835.8099 fax
info@youthlaw.org • www.youthlaw.org

concern for the particular vulnerability of minors." Flores Settlement ¶ 12. We accordingly urge ORR to stop placing class members at Shiloh RTC entirely.[1] Should it decline to do so, ORR should at a very minimum

---

[1] The Shiloh RTC is owned and operated by the same entity that formerly operated Daystar Treatment Center, also in Manvel, Texas.

In December 2015, the U.S. District Court for the Southern District of Texas had this to say about the Daystar facility:

> [Texas Child Care Licensing] has closed one facility in the past five years, but it is a story of horror rather than optimism regarding enforcement. The Daystar facility in Manvel, Texas had a capacity of 141 children. Between 1993 and 2002, three teenagers died at Daystar from asphyxiation due to physical restraints. In most cases, the children were hog-tied. Beyond these deaths, there were reports of sexual abuse and staff making developmentally disabled girls fight for snacks. Numerous stakeholders, including the district attorney, spoke out against Daystar, but the facility kept its license. In November 2010, a fourth child died in what was ruled a homicide by asphyxiation due to physical restraints. Daystar's license was still not revoked until January 2011. [Texas Department of Family and Protective Services] allowed this facility—that was responsible for four deaths, numerous allegations of sexual abuse, and unthinkable treatment of developmentally disabled children—to operate for 17 years. ... The Court understands DFPS's concern that enforcement might affect placement availability. The Court does not understand, nor tolerate, the systemic willingness to put children in mortal harm's way. The Court finds that [Texas Department of Family and Protective Services'] inadequate licensing and inspecting causes an unreasonable risk of harm to [Licensed Foster Care] children.

M.D. v. Abbott, 152 F. Supp. 3d 684, 803-04 (S.D. Tex. 2015).

In December 2014, the Houston Chronicle published an expose about the Shiloh RTC itself. Carroll, *Federal agency's shelter oversight raises questions*, Houston Chronicle (US & World), Dec. 19, 2014, *available at* www.houstonchronicle.com/news/article/Federal-agency-s-shelter-oversight-raises-5969617.php (last visited December 28, 2017).

Shortly thereafter, Congresswoman Sheila Jackson Lee, a senior member of the House Homeland Security and Judiciary Committees and Founder and Co-Chair of the Congressional Children's Caucus released the following statement:

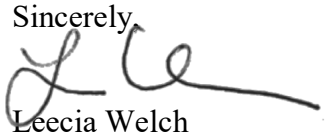
> I am appalled by record of abuse and mistreatment of children at the Shiloh Treatment Center in Manvel documented by the Houston Chronicle in an expose published December 19, 2014. The abuses documented in that report – ranging from physical violence, unreasonable and excessive use of physical restraints, administering emergency medications without notice to governmental authorities, and several deaths of minor children while in custody – is not reflective of the quality of care and support that should be provided to the at-risk children, including the dozens of unaccompanied immigrant children, committed to its care.

405 14th Street, 15th Floor, Oakland, CA 94612-2701 | 510.835.8098 tel | 510.835.8099 fax
info@youthlaw.org • www.youthlaw.org

dramatically increase its scrutiny of the treatment and conditions children experience during ORR custody at Shiloh RTC.

We look forward to Defendants' response to the foregoing.

Sincerely,



Leecia Welch
One of the attorneys for Plaintiffs

---

jacksonlee.house.gov/media-center/press-releases/shiloh-treatment-center-in-manvel-should-be-closed-by-hhs-for (last visited December 28, 2017).

405 14th Street, 15th Floor, Oakland, CA 94612-2701 | 510.835.8098 tel | 510.835.8099 fax
info@youthlaw.org • www.youthlaw.org

Attachment 1

U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. [redacted]
Event No:MCS1602000568
FINS #:1200597984 Date: February 22, 2016

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:

[redacted]
(Full name of alien)

an alien who entered the United States at or near HIDALGO, TEXAS (Port) on February 21, 2016 (Date) is within the country in violation of the immigration laws and is therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

(Signature of Designated Immigration Officer)
WILLIAM A. RAMSEY
(Print name of Designated Immigration Officer)
ACTING PATROL AGENT IN CHARGE
(Title)

Certificate of Service

Served by me at McAllen, Texas on February 22, 2016 at 04:42 AM.
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

FELIX GARCIA
(Signature of officer serving warrant)
Border Patrol Agent
(Title of officer serving warrant)

Form I-200 (Rev. 08/01/07) N

Attachment 2

Treatment History

Have you ever been taken to the hospital or emergency room because you were hurt?
Denied

Have you ever talked to a psychiatrist or counselor about an emotional problem?
@ previous placement for SI

Have you ever been seen in a psychiatric emergency room or been hospitalized for psychiatric reasons?
@ prev. placement for SI

Have you ever been advised to take medication for anxiety, depression, hearing voices for any other emotional problems?
Rx for depressive symptoms. Given @ prev. placement.

List the shelters, foster homes and facilities you have resided in since being detained in the United States.

Facility or Organization	Dates of Placement	Type of Care	Outcome
Lutheran Social Servics NY	2/23/16 - 3/14/16	shelter	transfer to RTC
Bellevue Hospital	2/20/16 - 3/	Hospital	discharged
Shiloh RTC	3/14/16 - present	RTC	—

Substance Abuse History

☐Denies Any History of Substance Abuse

Substance	Date of First Use	Frequency	Date of Last Use
Alcohol			
Marijuana			
Cocaine			
Other Stimulants (Meth, Ritalin, etc.)			
Other Opiates (Oxycodone, Morphine)			
Nicotine	≈ 13/14 years old	10 cigarettes / day	≈ 2/22/16

Triggers for Substance Abuse: N/A

Consequences of Substance Abuse: —

Attachment 3

identified?

Specify:

Mental Health

Provide a short summary of the UAC's current functioning:

05/12/2016 - [redacted] was transferred to NOVA from Shiloh RTC on 4/12/2016, but he came into ORR care on 02/23/2016. During this time, he moved from a shelter, to a psychiatric hospital, to a residential treatment center, ultimately being placed in NOVA secure. Upon arrival, [redacted] initially presented with severe depression and complications associated with a traumatic head injury, resulting in psychiatric hospitalization for crisis stabilization and a recommendation for on-going inpatient treatment. He was also prescribed seroquel and zoloft to manage his mood and sleep. However, while at Shiloh, [redacted] began exhibiting aggressive behaviors towards staff and peers, which resulted in the move to NOVA.
Upon his arrival, [redacted] exhibited symptoms of depression and he reported symptoms of PTSD. He also refused to leave his room and made threats against staff and peers. However, it seemed that, as a result of his traumatic experiences, [redacted] was afraid to leave his room and would use threats to avoid having to leave. He was assessed by the psychiatrist, who added Minipress to his medication regimen to treat his PTSD. Clinician also recommended a slow integration into the community to ease his anxiety about being in a secure environment. In the past two weeks, [redacted] has reported an improvement in depression, anxiety and sleep and a decrease in threatening and destructive behavior. He also reported a decrease in intrusive thoughts. He has been able to attend school every day for almost all of the school day. Finally, he participates appropriately in therapy and is committed to continuing his medication regimen. If he is able to maintain this behavior, clinician will discuss whether to refer the UC back to a residential treatment center for intensive treatment or to a staff secure program.

Psychological Evaluation

Date of Evaluation:

Evaluator:

Axis I:

Axis II:

Axis III:

Axis IV:

Axis V:

Summary of Recommendations:

Trafficking

Who planned/organized your journey?

What were you told about the arrangements before the journey?

Did the arrangements change during the journey? ○ Yes ○ No

If yes, how?

Does your family owe money to anyone for the journey? ○ Yes ○ No

If yes, how much?

Whom is the money owed?

Who is expected to pay?

What do you expect to happen if payment is not made?

Coercion Indicators

Did anyone threaten your or your family? ○ Yes ○ No

If yes, who made the threats?

Were you ever physically harmed? ○ Yes ○ No

If yes, how?

Was anyone around you ever physically harmed? ○ Yes ○ No

If yes, who?

Were you ever held against your will? ○ Yes ○ No

If yes, where?

Did anything bad happen to anyone else in this situation or anyone else who tried to leave? ○ Yes ○ No

What happened and to whom?

Did anyone ever keep/destroy your documents? ○ Yes ○ No

If yes, who and what?

Did anyone ever threaten to report you to the police/immigration? ○ Yes ○ No

If yes, who?

Are you worried anyone might be trying to find you? ○ Yes ○ No

If yes, who?

Debt Bondage/ Labor Trafficking

Did you perform any work or provide any services? ○ Yes ○ No

Attachment 4

04/04/2016

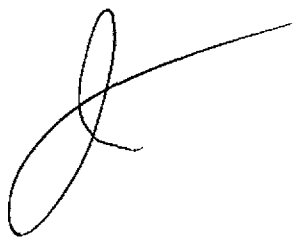
Patient Profile - Active Medications

Client: [redacted] **Teaching Home:** 58-B

Physician: JAVIER RUIZ-NAZARIO, MD

Allergies: No Known Drug Allergy

Rx #	Medication		Instructions	Start Date
			*** Psychotropic Medications ***	
53227	PRAZOSIN HCL	CAP 2MG	TAKE 1 CAPSULE BY MOUTH DAILY at 9:00 PM	03/16/2016
53285	QUETIAPINE	TAB 200MG	TAKE 1 TABLET BY MOUTH DAILY at 9:00 PM	03/29/2016
53249	SERTRALINE	TAB 50MG	TAKE 1 & 1/2 TABLETS BY MOUTH DAILY at 7:45 AM	03/22/2016
			*** PRN Psychotropic Medications ***	
53294	OLANZAPINE	TAB 10MG	TAKE 1 TABLET BY MOUTH EVERY 6 HOURS AS NEEDED FOR MILD AGITATION	03/30/2016
53300	OLANZAPINE	TAB 10MG ODT	DISSOLVE 1 TABLET BY MOUTH EVERY 6 HOURS AS NEEDED FOR MODERATE AGITATION	03/31/2016
			*** Non-Psychotropic Medications ***	
53230	BAC/NEO/POLY	OIN	APPLY TO AFFECTED AREA ON FEET TWICE A DAY at 7:45 AM and 9:00 PM	03/16/2016
53229	DEEP SEA	SPR 0.65%	INHALE 2 SPRAYS INTO NOSTRIL TWICE A DAY AS NEEDED at 7:45 AM and 9:00 PM	03/16/2016
53295	OLANZAPINE	INJ 10MG	INJECT 10MG INTRAMUSCULARLY EVERY 6 HOURS AS NEEDED FOR SEVERE AGITATION	03/30/2016



Attachment 5

Honduras. He tried again on 1-31-16, leaving alone and on foot, and paying his own way. He stopped in Mexico a few times to work in construction and to save up more money for the remainder of his trip. He asked other travelers along the way for directions, and traveled with other groups of travelers when he could. He crossed the border near Hidalgo by swimming across the river and then walking through the desert. He was apprehended by border guards on 2-21-16 and sent to shelter at Lutheran Social Services while his case could be evaluated.

He was placed at Lutheran Social Services in New York on 2-23-16, where he made runaway threats and suicidal threats with a plan and he was sent to Bellevue Hospital for psychiatric inpatient services on 2-26-16. During his treatment at previous facilities, he has also shared that he has suffered from many traumatic events. He reported that he has intruding flashbacks from witnessing his uncle getting shot in the leg by gang members, and eventually having to have that leg amputated. He also reported witnessing several other gang related incidences which included his grandmother getting injured, and being robbed by gang members while riding the train through Mexico. LSS has referred him to Shiloh Treatment Center for subacute care and a 30-day psychiatric evaluation while his mother is attempting to be approved as his sponsor so that they can reunite.

Aliases:	None reported
Marital Status:	Single
Abuse, Neglect, Persecution, or Exploitation:	Abandonment by father. History of severe traumatic events instigated by gang members in home country, and while traveling to the US.
Typical Day in Home Country:	[redacted] reports that he would wake up at 5am, eat breakfast, and go to work in the fields. He quit school in 2012 so that he could work and save money to come to the US. Work ended at 2pm, when he would return home, relax, listen to music, and clean up and get ready for dinner at 6:30. Depending on how tired he was, he would go to bed between 8 and 11.

Physical Characteristics: He is of average weight and height, and appears his stated age.

Size:	5'-7"" 170 lbs.
Characteristics:	He has a medium complexion with brown eyes and black hair that he wears short and spiked up. He has some scars on his head from injuries sustained in home country.

Attachment 6

Recreation and Leisure, Extracurricular Activities or Vocational Interests: Listen to music, watch TV

Sexually Active: ☑ Yes ☐ No

Sexually Orientation: ☑ Heterosexual ☐ Homosexual ☐ Bi-sexual

History of Sexual Activity: began sexual activity at age 12

Legal History

☐ Denies Any Involvement With Legal System

Arrests: Was detained in ORR (00. Client states it was mistaken identity. 2nd time because client was detained

Pending Charges (None)

Pending Court Case: None

Probation: None Probation Officer: N/A

Relationship Between Presenting Conditions and Legal Involvement: N/A

Family History

Birthplace (City, State, Country): Olancho, Honduras

Current place of residence (City, State): Manvel, TX

List Family Members and Persons Living in ***Home Country.***

Name	Relationship to Client	Age	Country
[redacted]	M. Grandmother, but SC reports her as Bio mother	?	Honduras
[redacted]	Uncle	≈40	Honduras

List Family Members and Persons Living in the ***United States.***

Name	Relationship to Client	Age	City, State
[redacted]	Bio. Mother	?	Nebraska
	Step father	?	Nebraska

Attachment 7

Shiloh Treatment Center, Inc.

Monthly Phone Log

Client: [redacted]

Month: April Year: 2016

Record all calls made or received by the client, as well as all calls Shiloh staff makes or receives on behalf of the client.

Source of Call	Date	Time	Call From / To	Individual(s) Called or Calling *List All*	Duration	Reason For / Details of Call	Client Initials
☑ Initiated ☐ Received	04/05/16	11:35 AM	☑ Client ☐ Service Director	Shiloh	15 min	Weekly call	[redacted]
☑ Initiated ☐ Received	04/05/16	11:~~50~~	☐ Client ☐ Service Director	Sponsor	15 min	weekly call	[redacted]
☑ Initiated ☐ Received	04/08/16	1:00 PM	☑ Client ☐ Service Director	Sponsor	15 min	weekly call	[redacted]
☐ Initiated ☐ Received			☐ Client ☐ Service Director				
☐ Initiated ☐ Received			☐ Client ☐ Service Director				
☐ Initiated ☐ Received			☐ Client ☐ Service Director				
☐ Initiated ☐ Received			☐ Client ☐ Service Director				
☐ Initiated ☐ Received			☐ Client ☐ Service Director				

Revised 01/22/15

Attachment 8

Yolo County Juvenile Detention Facility

Office of Refugee Resettlement Program: Yolo Secure Facility

Case Management Notes

Youth Name: [redacted]

DOB: [redacted]/2000

Date: 11/18/2016 Case Manager: Jose C.	Met with youth to discuss recent behavioral issues. Youth reported he has been frustrated with the actions of other youth in his housing unit and his current case status. Youth was reminded of what has been requested in his case and the completion of an Interpol check. Youth reported he does not want to continue taking medication as he feels it is pointless. We discussed his concerns and how he should follow up with the Dr. for clarification on medication and possible adjustment. Youth stated he is not interested in speaking with the Dr. I informed youth that we continue to work towards his goal of reunification but has to do his part in correcting his behavior and being medication compliant. Youth was provided a phone call to his mother for an update and to discuss his recent behavioral issues. Was reminded that his Clinician will be facilitating family session as well.
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to enter a date. Case Manager: Choose an item.	
Date: Click here to	

Attachment 9

12/12/2016

Patient Profile - Active Medications

Client: [redacted] **Teaching Home:** 58-A

Physician: JAVIER RUIZ-NAZARIO, MD

Allergies:

Rx #	Medication		Instructions	Start Date
			*** Psychotropic Medications ***	
53713	BENZTROPINE	TAB 1MG	TAKE 1 TABLET BY MOUTH DAILY at 9:00 PM	07/05/2016
54435	CLONAZEPAM	TAB 2MG	TAKE 1 TABLET BY MOUTH TWICE A DAY at 7:45 AM and 9:00 PM	12/12/2016
54434	DIVALPROEX	TAB 500MG ER	TAKE 1 TABLET BY MOUTH TWICE A DAY at 7:45 AM and 9:00 PM	12/12/2016
53974	DULOXETINE	CAP 60MG	TAKE 1 CAPSULE BY MOUTH DAILY at 7:45 AM	09/14/2016
54427	GUANFACINE	TAB 2MG ER	TAKE 1 TABLET BY MOUTH DAILY at 7:45 AM	12/06/2016
54384	LATUDA	TAB 120MG	TAKE 1 TABLET BY MOUTH DAILY FOR 4 DAYS THEN INC at 9:00 PM	11/29/2016
54385	LATUDA	TAB 40MG	TAKE 1 TABLET BY MOUTH DAILY (TAKE ALONG WITH 160MG AFTER BEING ON 120MG 4 DAYS) at 9:00 PM	11/29/2016
			*** PRN Psychotropic Medications ***	
53580	GEODON	INJ 20MG	INJECT 20MG INTRAMUSCULARLY EVERY 8 HOURS AS NEEDED FOR AGGRESSIVE BEHAVIOR	06/02/2016
53997	OLANZAPINE	INJ 10MG	INJECT 10MG INTRAMUSCULARLY EVERY 6 HOURS AS NEEDED SEVERE AGITATION, PHSICAL AGRESSION	09/20/2016
53998	OLANZAPINE	TAB 10MG ODT	DISSOLVE 1 TABLET BY MOUTH EVERY 6 HOURS AS NEEDED FOR AGITATION AND AGGRESSION	09/20/2016
			*** Non-Psychotropic Medications ***	
54399	MEAL REPLACEMENT SHAKE		GIVE 1 SHAKE 3 TIMES DAILY (OFFER TO REPLACE A MEAL) at 7:45 AM, 12:00 PM and 6:00 PM	11/30/2016

12/13/16

06/13/2016

Patient Profile - Active Medications

Client: [redacted]
Teaching Home: 58-A
Physician: JAVIER RUIZ-NAZARIO, MD
Allergies:

Rx #	Medication		Instructions	Start Date
			*** Psychotropic Medications ***	
53577	BENZTROPINE	TAB 0.5MG	TAKE 1 TABLET BY MOUTH DAILY at 9:00 PM	06/02/2016
53578	HALOPERIDOL	TAB 1MG	TAKE 3 TABLETS BY MOUTH DAILY at 9:00 PM	06/02/2016
53579	LORAZEPAM	TAB 1MG	TAKE 3 TABLETS BY MOUTH 3 TIMES DAILY at 7:45 AM, 3:30 PM and 9:00 PM	06/02/2016
53606	LORAZEPAM	TAB 2MG	TAKE 1 & 1/2 TABLETS BY MOUTH 3 TIMES DAILY at 7:45 AM, 4:00 PM and 9:00 PM	06/08/2016
			*** ~~Non~~ PRN Psychotropic Medications ***	
53580	GEODON	INJ 20MG	INJECT 20MG INTRAMUSCULARLY EVERY 8 HOURS AS NEEDED FOR AGGRESSIVE BEHAVIOR	06/02/2016

Attachment 10

S - SUBJECTIVE
O - OBJECTIVE
A - ASSESSMENT
P - PLAN

CFMG
California Forensic Medical Group
INCORPORATED

NAME [redacted] (M.I.) DOB: [redacted]00 BOOKING NO.:

PROBLEM(S) TREATED	DATE	PROGRESS NOTES
	29 Dec 16 1137	Lomasa ; Federal -
	CAT. 27 Feb 17	Drug Use - denies
		Mental health - outlock esp.
		DK - "don't know
Spanish Speaking		see list
		Needs - "No" problems.
YSH. 14 Dec 16 Locked up 4 mos.		
		Disoriented to date ; knows YH.
b. Guatemala family - Mother. Father Sis. Bro.		Thoughts - extremely clean.
		Mood - Neutral
		A/Fact - a bit blunted
		Speech - Spanish.
		Eye contact ok.
		Cooperative.
		WNL EKG
		Imp ① Overmedicated
		Plan Taper off meds + recheck.

PROGRESS NOTES

CFMG SOAP1

S - SUBJECTIVE
O - OBJECTIVE
A - ASSESSMENT
P - PLAN

CFMG
California Forensic Medical Group
INCORPORATED

[redacted]

[redacted] DOB: [redacted]00

NAME: _____ (Last) _____ (First) _____ (M.I.) DOB: _____ BOOKING NO.: _____

PROBLEM(S) TREATED	DATE	PROGRESS NOTES
A16	~~12.18.16~~ ~~0932~~ 0940	**New Intake** – Writer met with Youth on B-Pod for new intake. Youth reports that he was transferred to this facility due to maladaptive bhx in his previous placement. Youth denies any current or past MH Rx, though his chart reveals that this incorrect. Youth is currently Rx'd Cymbalta, Atarax, Depakote, Klonopin, Latuda, and Cogentin. Youth denies any family hx of mental illness or suicide. Youth denies any current thoughts of SI/HI or SIB. He clearly contracted for safety. He denies any past SA. Youth denies any current sxs of depression or anxiety though this appears incongruent as it was reported to this writer by medical staff that Youth was very tearful upon intake. Youth denies any past substance abuse. Youth will be placed on MHMD s/c. MH F/U x4 weeks or PRN. He is aware of s/c process. MSE: Youth presented with good eye contact, but a flat and guarded affect/mood. Insight and judgment are poor. Thoughts were clear and linear, goal oriented. No psychosis sxs observed or expressed. Speech was clear. No acute distress. B. Halsted, LCSW

PROGRESS NOTES

Attachment 11

01/05/2017 12:05 16612557 JOHN BAKER PAGE 01/13

S - SUBJECTIVE
O - OBJECTIVE
A - ASSESSMENT
P - PLAN

CFMG
California Forensic Medical Group
INCORPORATED

NAME: [redacted] DOB [redacted]00 BOOKING NO.:

PROBLEM(S) TREATED	DATE	PROGRESS NOTES
5	Jan 17 1/05	Rm Room. On loss meds. Feels better on loss meds. More relaxed Gets along with Staff. Cooperative, calm. Sleep - Good. Imp ① Improved off so many meds. Plan Continue to taper off meds & observe for any problems. JM Baker

PROGRESS NOTES

CFMG SOAP1

Exhibit 28

CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW
256 S. OCCIDENTAL BOULEVARD
LOS ANGELES, CA 90057
Telephone: (213) 388-8693 Facsimile: (213) 386-9484
www.centerforhumanrights.org

February 16, 2018

Sarah B. Fabian
Cara E. Alsterberg
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044

Via email.

Re: *Flores*, et al., *v. Sessions,* et al., No. CV 85-4544 DMG (C.D. Cal.).

Dear Counsel:

Plaintiffs' counsel are in receipt of your email dated January 12, 2018, elaborating upon Defendants' positions with respect to certain of the matters discussed during the parties' meet-and-confer of January 2, 2018.

You therein stated that ORR is prepared to review its procedures for "stepping up" class members to staff-secure and secure facilities.

You further invited Plaintiffs to provide examples of class members' being obliged to take psychotropic medications without their parents' consent. On January 16, 2018, Plaintiffs forwarded a letter detailing two such cases and providing Defendants with full documentation corroborating the salient facts of both examples.

We have heard nothing from Defendants since regarding these matters.

You also agreed to provide Plaintiffs with an update on a plan to facilitate communication between class members and their parents and other adult relatives separated following arrest. Yesterday you advised that Defendants have "preliminarily discussed a framework" for such a plan and that Defendants "anticipate [they] ... will further discuss the plan," but provide no time frame within which Defendants expect to have mechanisms for such communication in place.

Plaintiffs remain hopeful that Defendants will remedy the foregoing violations of the *Flores* settlement, but we are unwilling to postpone formal enforcement indefinitely.

We accordingly ask that Defendants advise if they intend to afford class members greater process before they are denied licensed placements, and if so, what form such process will take and when and how it will be provided.

We also ask that Defendants respond to our correspondence of January 16, 2018, detailing what changes, if any, ORR is prepared to make with respect to administering psychotropic drugs to class members and when such changes, if any, will be put into effect.

Finally, we ask that Defendants explain how they intend to facilitate communication between class members and their parents and other relatives and provide an approximate date by which a plan for doing so will be put into effect.

Thank you,

Carlos Holguín
One of the attorneys for Plaintiffs

ccs: Leecia Welch, NCYL
Neha Desai, NCYL
Poonam Juneja, NCYL
Holly Cooper, U.C. Davis Legal Clinic
Peter A. Schey, CHRCL
William C. Silvis, OIL

Exhibit 29

Subject: RE: Flores Meet and Confer Discussion
From: "Fabian, Sarah B (CIV)" <Sarah.B.Fabian@usdoj.gov>
Date: Sat, 3 Mar 2018 00:52:47 +0000
To: "crholguin@centerforhumanrights.org" <crholguin@centerforhumanrights.org>
CC: "'Leecia Welch'" <lwelch@youthlaw.org>, "'Cooper Holly'" <hscooper@ucdavis.edu>, "'Poonam Juneja'" <pjuneja@youthlaw.org>, "'Neha Desai'" <ndesai@youthlaw.org>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Schey Peter" <pschey@centerforhumanrights.org>, "Murley, Nicole (CIV)" <Nicole.Murley@usdoj.gov>, "Alsterberg, Cara E. (CIV)" <Cara.E.Alsterberg@usdoj.gov>

Carlos:

As Defendants previously explained by email and by phone, Defendants believe that existing processes in place comply fully with the *Flores* Settlement Agreement. Accordingly, with regard to the issues raised in your letter, while Defendants continue to review these processes to determine if any changes should be made, Defendants do not commit to making any changes to these existing processes at this time.

That said, although Defendants believe that their efforts towards facilitating communication between parents and their children who are separated while in Government custody go beyond the requirements of the *Flores* Agreement, Defendants continue to move forward with those efforts. Specifically, HHS, CBP, and ICE all have identified their existing policies and processes related to facilitating such communication, have discussed how those existing policies and processes can be used to coordinate between the agencies to facilitate such communication, and are taking steps to ensure compliance with those policies and processes. In so doing, HHS also considers the fact that its efforts to facilitate communication also must be consistent with its mandate under the TVPRA to provide for the care and custody of UAC. To further ensure that existing policies and processes are consistently applied, CBP and ICE are working together to develop automation in applicable technology systems to efficiently identify and prioritize communication at the earliest possible time Defendants do not have a final date for implementation of this fix, but intend to develop a timeline shortly.

Please let me know if you have any further questions regarding the above information. Please be aware that I will be out of the country, with limited access to email, from March 5-19. Therefore, during that time please ensure that my colleague Nicole Murley, who is cc'ed above, is included on any communications regarding this case.

Best regards,
Sarah

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section
(202) 532-4824

From: Carlos Holguin [mailto:crholguin@centerforhumanrights.org]
Sent: Friday, February 16, 2018 2:45 PM
To: Fabian, Sarah B (CIV) <sfabian@CIV.USDOJ.GOV>; Alsterberg, Cara E. (CIV) <caalster@CIV.USDOJ.GOV>
Cc: 'Leecia Welch' <lwelch@youthlaw.org>; 'Cooper Holly' <hscooper@ucdavis.edu>; 'Poonam Juneja' <pjuneja@youthlaw.org>; 'Neha Desai' <ndesai@youthlaw.org>; Silvis, William (CIV) <WSilvis@civ.usdoj.gov>; Schey Peter <pschey@centerforhumanrights.org>
Subject: Re: Flores Meet and Confer Discussion

Please see attached correspondence.

Thank you.

--
Carlos Holguín
General Counsel
Center for Human Rights & Constitutional Law
256 S. Occidental Blvd.
Los Angeles, California 90057
213.388-8693 x.309 (v)
213.386.9484 (fax)
http://www.centerforhumanrights.org
--

Fabian, Sarah B (CIV) wrote:

> Counsel:
>
> I write with an update regarding the agencies' work towards facilitating communication. I was traveling this week, so I apologize that this is a couple of days later than stated below.
>
> CBP, ICE and HHS have preliminarily discussed the framework for a plan that would allow minors to have communications with family members with whom they were arrested. This framework is intended to encompass the ranges of facilities in which individuals can be processed and held, both as minors and adults. Additional internal operational discussions are occurring this week to discuss available resources. In the next month, we anticipate the three agencies will further discuss the plan, with the goal of partial or full implementation in facilities where communication can be readily facilitated, and a plan to address the remaining areas so that communication between minors and family members across the range of facilities can be accomplished.
>
> Please let me know if you have any follow up questions at this time.
>
> Best regards,
> Sarah
>
> Sarah B. Fabian
> Senior Litigation Counsel
> Office of Immigration Litigation – District Court Section
> (202) 532-4824
>
> ---
>
> **From:** Fabian, Sarah B (CIV)
> **Sent:** Friday, January 12, 2018 4:00 PM
> **To:** Leecia Welch <lwelch@youthlaw.org>; Cooper Holly <hscooper@ucdavis.edu>; Poonam Juneja <pjuneja@youthlaw.org>; Neha Desai <ndesai@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>
> **Cc:** Alsterberg, Cara E. (CIV) <caalster@CIV.USDOJ.GOV>; Murley, Nicole (CIV) <NMurley@civ.usdoj.gov>; Silvis, William (CIV) <WSilvis@civ.usdoj.gov>
> **Subject:** Flores Meet and Confer Discussion
>
> Counsel:
>
> During our meet and confer discussion on January 2, 2018, Defendants agreed to get back to you

today regarding a few items from your meet and confer letter.

With regard to ORR's step-up process, ORR is willing to review the process to see if they believe that changes should be made, but do not commit to making any changes at this time. ORR also remains willing to review any examples you may provide regarding the issues you identified at Shiloh Treatment Center, which you had committed to providing to us by today.

With regard to the issue of facilitating communications, Defendants believe that a solution can be found to facilitate communications that is consistent with the Flores Settlement Agreement. Defendants are currently discussing a plan that would leverage existing technologies and address known issues. However, the details of the plan remain under discussion. Defendants agree to provide counsel with an update on the progress of this plan in thirty (30) days, or by Monday February 12.

In the meantime, to the extent counsel has known communications issues where minors have been unable to reach their parents or family members with whom the minor was arrested Defendants are willing to review these issues and facilitate communication if possible on an individualized basis. In these cases, inquiries should be provided to me, including names, citizenship, A numbers, and dates of birth, to assist the agencies in facilitating the communications more quickly.

Please let me know if you have any questions regarding the above, or would like to talk further regarding these issues.

Best regards,

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section
Department of Justice
PO Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824

Exhibit 30

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I arrived in the United States at the end of 2014. I have been in six shelters and one hospital. I am currently in the shelter at MercyFirst in Syosset, New York.

3. After I arrived in the U.S., I was in a shelter in Texas and then they transferred me to a hospital for crazy people. Being there made me feel desperate; I felt like I would go crazy. The walls were all white and they made you sit in a special seat if you misbehaved. I stayed for 14 days.

4. After the hospital, I went to a shelter in El Paso, Texas called Southwest Key and then to one in Houston. They moved me to Houston because the staff there could give me more medicine. I don't remember if I got anything in writing about their decision but I don't think I had an opportunity to challenge it.

5. From Houston, I was moved to Shiloh. In Shiloh they gave me even more medicine. I took nine pills in the morning and seven in the evening. I don't know what medications I was taking; no one ever told me that. I don't know what my diagnosis or illness is. The medicine made me fat. I used to be really skinny. It made me very hungry; I used to eat three plates at a time.

6. Some of the staff at Shiloh would provoke the children there and make us angry intentionally. They made us act violently so then we had to be given shots. The staff would insult us and call us names like "son of a whore." They often did it in English but I understood some English so I would know what they were saying and get really angry.

7. Two of the staff members were violent with me. One was a teacher whose name was "Hors." He called the medical staff to the classroom to give me shots many times. One time, I got angry in class and wanted to leave the classroom. I was sitting down but he came and touched me so I got angrier. Then he grabbed me and twisted my arm behind my back then lifted up so I felt like my shoulder was braking. I screamed. The teacher had done the same thing to one of my friends.

8. When he would call the medical staff, they would come and give me a shot to tranquilize me. It happened many times. They would give me the shot and then I would start to feel sleepy and heavy, and like I didn't have any strength. I would sleep for three or four hours and then wake up and slowly start to feel my strength return. When the staff did that, they left me in the classroom near the wall to sleep. I also saw them do that to one of my friends, [redacted].

9. Another staff member at Shiloh was also violent with me twice. I don't know his name; he was older and he retired while I was there. When he grabbed me, he would bend my hand all the way back so it almost touched my wrist. It really hurt. I almost cried, but he just laughed.

10. I wanted to stop taking all the medication they were giving me at Shiloh but when I told the doctors that they told me that I had to continue because it calmed me. I met with two different doctors there; both were men. I said the problem is this place, it makes me angry. I was so scared there, I tried to behave well to get transferred.

11. Finally, I was transferred to Sky in Chicago in November, 2016. There, the doctor let me begin to stop taking the medications I didn't like. I was right. From the day I got to Chicago, I never got angry again. I felt better every day, as I stopped taking so much medication.

12. In May, 2017, I was moved to the Residential Treatment Center at MercyFirst. I don't know why exactly. The staff said I would be treated better here. I didn't want to go because I had gotten accustomed to the program there but I agreed and I went voluntarily. I don't remember if I was given anything in writing.

13. I was taken to the hospital three or four times while I was at RTC but I never stayed overnight. I did not have any discipline problems that I remember.

14. In October, 2017, I was stepped down from the RTC to the shelter at MercyFirst. Now, my case worker says she is about to submit the paperwork for me to go to long-term foster care and live with a family. My only relative in the U.S. is my grandmother's

brother and he does not want to sponsor me. I miss my family in Mexico, especially my mom, but I am scared to go back there because of the people who threatened to kill me.

15. I have not gotten a notice about a bond hearing or a list of legal services.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 15th day of November, 2017, at MercyFirst, Syosset, New York.

[redacted]

CERTIFICATE OF TRANSLATION

I, Andrea Barrientos, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on November 15, 2017.

Andrea Barrientos

Exhibit 31

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I am from El Salvador. I have been in the United States since March 2016. I am currently in immigration detention in the custody of ORR at Children's Village Staff Secure Facility in Dobbs Ferry, New York.

3. When I first came to the United States, I was taken into immigration custody and held in a shelter in ORR custody in Texas. I was there for about 27 days. ORR determined that my mother was a suitable sponsor for me and I was released to her custody at that time.

4. After I was released from ORR custody, I lived with my mother on Long Island. On July 28, 2017, I was on my way to work when I was taken into custody by immigration officials, who told me that they were detaining me for being in the United States illegally. They took me to an ICE facility in Central Islip and then they moved me to the Shenandoah Juvenile Detention Center the next day.

5. When I arrived at Shenandoah, the detention center officials told me that I was taken back into custody because the government thought that I was in a gang. I don't remember anyone ever telling me why I was taken to Shenandoah instead of being placed in another facility that was less like a jail. I don't remember them ever telling me that I could ask for the decision to put me there to be reviewed or that I could challenge it before a judge.

6. I did not like being at Shenandoah. Some of the staff members would discriminate against the immigrant children, and they acted like we were bothering them when we wanted to talk to them.

7. They told me at Shenandoah that if I behaved well there for at least a month, then they would move me to a lower level of security. I never got any write ups in the time that I was there.

8. They moved me to the Children's Village Staff Secure Facility on August 23, 2017. At Children's Village, I am on the green level for my behavior, which is the best level that you can be on.

9. I had a bond hearing on October 31 and November 14. At the bond hearing, I found out for the first time why the government was accusing me of being in a gang. They said that my school had gotten a tip that I was in a gang. They also said that they thought that I had put gang related pictures on my Facebook page, but what they showed was just a picture of a clown and it wasn't gang related at all. After the immigration judge listened to the evidence, the judge determined that I am not a flight risk and that I am not a danger, and he said that I should be released. At the hearing on November 14, the immigration judge also administratively closed my immigration case.

10. My mother has been approved again to be my sponsor. My case manager said that the only reason that I haven't been released is that the government is now reviewing my case. They have not told me how long it would take for the government to finish that review; they just said that the government would take their time to review the case carefully.

11. While they are reviewing my case, I am still detained. I do not like being at Children's Village Staff Secure. They don't let me see a doctor when I ask to see one; instead, when I have asked to see one, the staff tells me that I am fine and that it isn't necessary to see the doctor.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 16th day of November, 2017, at Dobbs Ferry, New York.

[redacted]

CERTIFICATE OF TRANSLATION

I, Paige Austin, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on November 16, 2017.

Paige Austin

Exhibit 32

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I came to the U.S. in 2016. When I got here, imigration detained for about 25 days at a shelter in Texas and then I was released me to my mother, who lives in Central Islip, New York. I lived with her for about eight months. I did not have any problems with the police: I was never arrested. I went to school. Once I suspended for a week after another student hit me. My mouth was bleeding. I didn't touch him but we both got suspended.

3. One day about five months ago, shortly before the end of the school year, I was walking home from school. I bent to pick something up in the street and then two men in regular clothes stopped me and handcuffed me. They took me somewhere for about two hours. They asked me questions but they spoke a lot in English and I didn't understand very well. The only information I gave them was basic things like my address. Then they brought me to Children's Village. I don't know if the men who stopped me were police or immigration.

4. When I first got to Children's Village, I was in staff secure for around a month. They quickly stepped me down to the shelter. I have not had any discipline or reports for bad behavior since I got here.

5. My mom began trying to get me back again as soon as they detained me. I know she has done a lot of paperwork and she gave her fingerprints. Someone came to inspect her house and everything came out well. Neither of us understands why I am still here. No one has explained what is wrong or why the process is so slow. Immigration released me to my mother before and nothing has changed.

6. I had a lawyer in my family court case before I was detained; she was helping me apply for Special Immigrant Juvenile Status. When I was detained, she spoke to the agents. They told her I said when they questioned me that I was in a gang. But I never said that. Most of their questioning was in English; the only information I gave them

were basic things like my address. I would never have said that because I am not in a gang. I have never been arrested in any country or involved with a gang.

7. My social worker at Children's Village also told my mother that I was here because someone accused me of being in a gang. But I have never been in a gang.

8. I am not happy here. I miss my mother. I want to be with her.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 16 day of NOV, 2017, at Dobbs Ferry, New York.

[redacted]

CERTIFICATE OF TRANSLATION

I, Paige Austin, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on November 16, 2017.

Paige Austin

Exhibit 33

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Tengo 17 años de edad. Faltan seis meses para cumplir los 18 años. Soy de Honduras. Actualmente me encuentro detenido en MercyFirst RTC, en Nueva York. Tengo once meses detenido aquí. No me han dicho cuánto tiempo más voy a estar detenido.

2. Vine a los EE.UU. para escaspar de las pandillas en Honduras, que asesinaron a mi mejor amigo. Lo mataron para mandarme a mi un mensaje, que me iban a hacer lo mismo si no me uniera con la pandilla. También a mi me golpearon con un bate en la cabeza. Me quedé sin consiencia en la casa de mi abuela. La herida que sufrí me ha causado problemas con mi capacidad mental. Vino solo a los EE.UU. con la idea de reunirme con mi mamá, que actualmente vive en Nebraska. En mi país nunca tuve problemas con la policía. La mara me obligó dejar mis estudios porque me andaban buscando a la salida del colegio. Solo logré llegar al qinto grado cuando tuve que abandonar a mis estudios.

3. Pasando por México me asaltaron tres veces. Presencié la violación de una mujer y la matanza por machete de un compañero de camino. Por suerte, logré llegar a los EE.UU., y por el febrero de 2015, entré por la frontera con Texas, México. Caminé dos noches, y llegué hasta Houston, yo creo, cuando me caí preso por la Inmigración. Me llevaron a la hielera, pasé un día allá, y luego un día en la perrera, y luego a un

shelter en Manhattan que se llamaba Luther King, o algo así. Me quedé dos noches allí, y luego me mandaron a un hospital. Yo quería suicidarme allí por las muchas cosas que me habían pasado. No es que intenté suicidarme, sino que les conté al staff que tenía ganas de hacerlo.

4. Me quedé 15 días en el hospital. Y cuando me sentí algo mejor, me mandaron al "staff-secure" en Shiloh, Texas. Me quedé en Shiloh entre 2-3 meses. Pienso que Shiloh, aunque no sea de máxima seguridad, es el peor lugar que he conocido desde que me caí preso por la Inmigración. La trabajadora del caso allá no hacía nada, nunca me proporcionó información sobre el progreso de mi caso, ni cuanto tiempo iba a quedarme detenido, ni cuando me dejarían salir con mi mamá. Me permitían hablar con mi mamá por teléfono solamente una vez por semana, con límite de diez minutos la llamada. Me sentí desesperado y deprimido por mi situación.

5. Un día en la escuela, un staff me empujó la silla con el pie, y yo me caí al suelo. Me levanté y sin pensarlo le pegé a él. Luego tres del estaff me agarraron, y me tumbaron al suelo. A poco rato logré calmarme, y me dejaron quedarme en la aula con el profesor el resto del día. Esta noche, regresé al mi cuarto para dormir. Por las cuatro de la madrugada, me despertaron el estaff y me dijeron que me iban a trasladar para otro lugar. No me dieron ninguna explicacíon del porque me iban a trasladar, ni me dieron la menor oportunidad de explicarles porque le había pegado al estaff.

6. Me llevaron a NOVA, una instalación de máxima seguridad en Virginia. Me quedé en NOVA por tres o cuatro meses. Ahí me encerraron en un cuarto de seguridad, donde no había nada más que un banco de concreto con colchón delgadito para acostarse, un inodoro de metal, y un lavamanos de metal. La puerta tenía un crystal pequeño, pero el cuarto ningúna ventana más. Me quedé encerredo con llave todas las noches, y a veces todo el día. No había televisor ni libros ni nada mas que hacer más que quedarme dormido. Usabamos ropa de preso. A veces me platicaban que si me porté bien me iban a dar más privilegios. Hice todo lo posible para portarme bien, y logré hacerlo para que me trasladaran a un lugar de menos seguridad.

7. Luego me mandaron a MercyFirst por primera vez, donde me quedé por cuatro o seis meses. Como a un mes y medio, mi trabajdora del caso me informó que el estudio de la casa de mi mamá había salido positivo. Me sentí alegre porque creía que me iban a dejar salir con mi mamá, pero no fue así. No me dieron ninguna explicación de porque no me dejaron salir con mi mamá, pero me quedé detenido.

8. Un día estaba platicando con mi clinician, y le platiqué de un accidente que había sucedido en Honduras. Un amigo y yo andaba en moto, y el chofer de un carro iba al sentido contrario. Para evitar un choque con nostotros, el chofer dió una vuelta para un barranco, y se voltió el carro y el chofer murío. Me imagino que el clinician sacara la conclusión de que nosotros habíamos provocado el accidente para matar al chofer, pero no fué así. Ni modo, como a una semana me llegaron el estaff y me

obligaron acompañar a dos hombres para otro lugar, y solo me dijeron que me iban a explicar porque en el camino. En el camino ellos me dijeron que iba yo para California, pero no me avisaran que iba para máxima seguridad, ni porque me habían sacado de MercyFirst.

9. Llegue a Yolo Juvenile el mismo día. Me encerraron ahí dos meses y medio. Yolo es un juvenile de máxima seguridad. Allí nosotros los detenidos por la inmigración vivíamos con los norteamericanos encerrados por delinquencia. Un día hubo un pleito entre uno de ellos y uno detenido por la inmigración. Como yo apenas había llegado, no sabía nada de la regla. Empezó el estaff a gritar "code blue," y como yo no entendí que hacer, que es tirarse al suelo, me echaron espray de pimiento en los ojos. Y como me quema.

10. Como a los dos meses me informó me trabajador de caso que la investigación del accidente en Honduras había salido positiva, y que me iban a regresar a MercyFirst. En Yolo, nunca me dijeron nada sobre las posibilidades de ir con mi mamá, aparte de avisarme que necesitaba yo más tratamiento. Tardó otras dos semanas hasta que me mandaron de vuelta a MercyFirst.

11. En MercyFirst existe un systema de comportamiento. Nos dicen que si llegamos al nivel más alto, que es el nivel de anaranjado, nos bajan al shelter, y de allí podemos salir a la familia. Yo tenía el anaranjado por dos meses, pero no me bajaron al shelter. Por tanto tiempo encerrado sin resultados, me frustré, y quebré una silla y una

ventana. Ya llevo cuatro meses tratando de recuperme el anranjado, y precisamente ayer me dijeron que me van a bajar al shelter. Espero que después de un mes más en el shelter me van a dejar salir con mi mamá.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 15 de noviembre del año 2017, en Syosset, Virginia.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted] declare and say the following:

1. I am 17 years old. I have six months left to turn 18. I'm from Honduras. I am currently detained at MercyFirst RTC, in New York. I have been detained here for eleven months. They have not told me how much longer I will be detained.

2. I came to the United States to escape from the gangs in Honduras, who murdered my best friend. They killed him to send me a message, that they would do the same to me if I did not join the gang. They also beat me with a bat on the head. I ran lost consciousness in my grandmother's house. The wound I suffered has caused problems with my mental capacity. I came alone to the United States with the idea of meeting with my mom, who currently lives in Nebraska. In my country I never had problems with the police. The gang forced me to leave my studies because they were looking for me after school. I only managed to reach the fifth grade when I had to abandon my studies.

3. Passing through Mexico, I was assaulted three times. I witnessed the rape of a woman and the machete slaughter of a road companion. Luckily, I made it to the United States, and by February 2015, I came through the border between Texas and Mexico. I walked two nights, and I got to Houston, I think, when I was detained by Immigration. They took me to "la hielera," I spent a day there, and then one day in "la perrera," and then to a shelter in Manhattan called Luther King, or something like that. I stayed two nights there, and then they sent me to a hospital. I wanted to commit suicide there because of the many things that had happened to me. It is not that I tried to kill myself, but that I told the staff that I wanted to do it.

4. I stayed 15 days in the hospital. And when I felt somewhat better, they sent me to "staff-secure"

in Shiloh, Texas. I stayed in Shiloh between 2-3 months. I think that Shiloh, although it is not maximum security, is the worst place I have known since I was detained by Immigration. The case worker there did nothing, never gave me information about the progress of my case, or how long I was going to be detained, or when they would release me to my mother. I was allowed to speak with my mother by phone only once a week, with a limit of ten minutes per call. I felt desperate and depressed about my situation.

5. One day at school, a staff pushed my chair with their foot, and I fell to the ground. I got up and without thinking I hit him. Then three of the staff grabbed me, and they knocked me to the ground. After a while I managed to calm down, and they let me stay in the classroom with the teacher for the rest of the day. That night, I return to my room to sleep. At four o'clock in the morning, I was awakened by the staff and they told me that they were going to move me to another place. They did not give me any explanation of why they were going to move me, nor did they give me any opportunity to explain why I had hit the staff.

6. I was taken to NOVA, a maximum-security facility in Virginia. I stayed at NOVA for three or four months. There they locked me in a secure room, where there was nothing but a concrete bench with a thin mattress to lie down on, a metal toilet, and a metal sink. The door had a small window, but the room had no other windows. I was locked up every night, and sometimes all day. There was no television or books or anything else to do but to fall asleep. We used prisoner clothes. Sometimes they told me that if I behave well they would give me more privileges. I did everything possible to be good, and I managed to do it so that I could move to a place with less security.

7. Then they sent me to MercyFirst for the first time, where I stayed for four or six months. About a month and a half in, my caseworker informed me that the study of my mother's house had turned out positive. I felt happy because I thought they were going to let me go with my mom, but it was

not like that. They did not give me any explanation of why they did not let me leave with my mother, but I remained detained.

8. One day I was talking with my clinician, and I told him about an accident that had happened in Honduras. A friend and I were on a motorcycle, and the driver of a car was driving in the wrong direction. To avoid a collision with us, the driver took a turn towards a ravine, and the car turned and the driver died. I imagine that the clinician drew the conclusion that we had caused the accident to kill the driver, but it was not so. Either way, about a week after staff came to me and they forced me to accompany two men to another place, and they only told me that they were going to explain why on the way. On the way they told me that I was going to California, but they did not tell me I was going to a maximum security, or why they had taken me out of MercyFirst.

9. I arrived at Yolo Juvenile the same day. They locked me there for two and a half months. Yolo is a maximum-security juvenile facility. There immigration detainees lived with Americans locked up for delinquency. One day there was fight between one of the Americans and an immigration detainee. Since I had barely arrived, I did not know about the rules. Staff began to yell "code blue," and since I did not understand what to do, which is to throw myself to the ground, they put pepper spray in my eyes. And how it burns me.

10. About two months later, my caseworker informed me that the accident investigation in Honduras had turned out positive, and that they were going to return me to MercyFirst. In Yolo, they never told me anything about the possibilities of going with my mother, apart from telling me that I needed more treatment. It took another two weeks until they sent me back to MercyFirst.

11. In MercyFirst there is a behavioral system. They tell us that if we reach the highest level, which is the level orange, they lower us to a shelter, and from there we can be released to our family. I had

the orange level for two months, but they did not take me down to a shelter. Being locked up without results for so long, I got frustrated, and broke a chair and a window. I've been trying to recover the orange level for four months, and just yesterday they told me they're going to take me down to a shelter. I hope that after a month more in the shelter they will let me go out with my mother.

I declare under protest to tell the truth that all the information I have provided here is correct and complete, aware of the legal consequences to declare with falsehood before the authority.

Done on November 15, 2017, in Syosset, Virginia.

_____

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I am fluent in English and Spanish.

2. On this day, I translated the foregoing declaration of [redacted] from Spanish into English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of April, 2018, at Los Angeles, California.

Jorge Medina

Exhibit 34

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Declaration of [redacted]

I, [redacted]**, declare and state the following:**

1. I am 15 years old. I first arrived in the United States in December 2016.
2. I was initially placed in New Hope, a shelter located in Brownsville, Texas, where I stayed for approximately one month.
3. In early January 2017, I was transferred to Nueva Esperanza, a staff secure facility, also in Brownsville. My understanding was that I was transferred because of serious incident reports, one of which included an incident during which I had made a fist while looking in the general direction of a staff member. The staff member had interpreted this gesture as a threat. One of the other incidents included an occasion in which I had said that I wanted to escape from the facility.
4. I was transferred to the Shenandoah Valley Juvenile Center in March 2017.
5. At Shenandoah, we are locked up all the time. We are locked in our rooms for approximately 14 hours per day. At mealtimes, we are locked in our rooms until the food is ready to eat, and then sent to our rooms again right after we eat.
6. While I am locked in my room, there is nothing to do except read a book.
7. While we are in the common areas in our pods, there is nothing to do except play cards. Some of the game sets are incomplete, and we are not allowed to use them without permission from the staff.
8. We are allowed outside of our pods for recreation for just one hour per day. Aside from recreation and classes, we spend the majority of our time

locked in our pods.

9. The classes that we attend here are not very stimulating or interesting. I can finish my work very quickly, because I have already learned most of what they were teaching us, so I would read my book instead.

10. The teachers were unhappy about this because they thought I was a bad influence on the other kids. They told me they were going to take my books away. This made me very upset, because books are the only thing that I have, and I asked them not to. But teachers made a complaint to the facility and a new rule was instituted that we were no longer allowed to bring books with us to class.

11. After this rule had been instituted, I was stopped by a staff member when I left for classes in the morning and told that I could not bring my book with me to class. I got upset and refused to leave the book.

12. I was told that if I did not leave my book, I would be locked in my room for 15 minutes. I resisted this as well and I began raising my voice, because I did not want to be locked in my room for any longer.

13. I was then restrained by three staff members and shoved into my room, and handcuffs were placed on my wrists. They were very tight and left marks on my wrists. They removed the mattress from my bed and shoved my face into the concrete where the mattress had been. While I was still in the handcuffs, they pushed against my back and legs to hold me there. When they picked me back up, my face was flushed and red.

14. The staff members then took the handcuffs off of my wrists and locked me in my room. They took everything away, including my mattress, hairbrush, and my book. I was locked in my room for 8 hours before I was allowed to leave.
15. There is so little to do here that I often feel sad and angry, and I cry a lot.
16. I once ate shampoo because I was sad. We are no longer allowed to have shampoo in our rooms anymore.
17. I have been prescribed medications to help me sleep and to control my impulses. I had no need for medications before I came to Shenandoah.
18. Since arriving at Shenandoah, I have felt very sad, listless, and frustrated by the extreme limitations placed on me here. Out of a deep sense of desperation, I have engaged in self-harm. I have scratched and cut my arms and wrists with whatever items I can find, including my fingernails, hairbrush, toothpaste, and pieces of plastic. I had never engaged in this behavior before I came to Shenandoah.
19. This statement has been prepared in English but it has been read to me in Spanish by a bilingual interpreter.

Executed this 11th day of July, 2017, in Staunton, Virginia

[redacted]

DECLARATION OF TRANSLATOR

I, Evelyn Nunez, declare and say as follows:

1. I am fluent in English and Spanish.

2. On July 11, 2017, I translated the foregoing to the declarant, who affirmed that he understood the contents thereof prior to signing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of April, 2018, at Washington, D.C.



Exhibit 35

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Tengo 16 años de edad. Actualmente me encuentro detenido en Shenandoah Valley Juvenile Hall, in Staunton, Virginia. Tengo más de ocho meses detenido en Shenandoah, y no tengo idea de cuánto tiempo más vaya a pasar aquí.

2. Mis padres me mandaron a los EE.UU. para protegerme contra los criminales que dominan a todo el mundo en mi país, El Salvador. En septiembre de 2016, entré a los EE.UU. por la frontera de México con Texas. Poco después, me entregué a la Patrulla Fronteriza. Me llevaron a lo que se llama "la hielera," porque allí meten a los detenidos en celdas donde hace muchísimo frío. Pasé una noche allí, y luego me trasladaron para otra hielera a unos 15 minutos de la primera. Pasé dos noches en la segunda hielera.

3. Luego me trasladaron a una casa hogar que se llama Jóvenes Para Mañana, o algo así, traduciéndolo de inglés, en el estado de Virginia, como a una hora de donde me encuentro detenido actualmente. Pasé aproximadamente un mes en la casa hogar. Nunca tuve problemas con el personal, ni con los demás jóvenes detenidos, y el lugar fue bastante cómodo y agradable. Hasta el día me llamaron para hablar con una psicóloga.

4. La psicóloga no habló bien el español, y no había interprete. Me preguntó ella de mi vida en El Salvador y de mi familia. Le conté que habia muchas presiones para unirme con pandilla en El Salvador, y que mi hermano ya andaba con ellos, y que la

policía lo andaba buscando por asesinato. La psicóloga me entendió mal, y se equivocó que yo había matado a alguien, pero no fue así. De hecho en El Salvador fui estudiante, y nunca me metí con pandilla. Mi mamá trabajaba en un banco de las 5:00 de la madrugada hasta las 5:30 de la tarde, y no pudo controlar la mala influencia de mi hermano. Ella y mi papá tomaron la decisión de que yo viniera a los EE.UU., para alejarme de la pandilla.

5. Inmediatamente después de esa platica con la psicóloga, en el mismo día, me mandaron para Shenandoah. No me dieron ninguna explicación de por qué me trasladaron. No más me dijeron que yo ya no podía quedarme en un lugar de baja seguridad. Me metieron en un carro con un señor que me aseguró que Shenandoah iba a ser mejor lugar que la casa hogar, pero no salió así.

6. En Shenandoah nos tratan como criminales. Las instalaciones son de tipo cárcel. Dormimos encerrados con llave todas la noches. No nos llevan al parque, al cine, ni a ningún lugar normal. El los dormitorios solo hay una plataforma de concreto, en que dormimos con colchón pequeño, y un inodoro de metal. En cambio, en la casa hogar estábamos como en casa. Nos llevaba al parque, y al cine, y otros lugares todos los viernes. Todo fue mucho más saludable y agradable ahí. Si me hubieron dado una oportunidad de explicar lo que le conté a la psicóloga, de que todo eso de las pandillas trata de mi hermano, y no de mí, a lo mejor estaría todavía en la casa hogar en vez de Shenandoah.

7. Tampoco tengo idea de cuantos meses más vaya a estar yo encerrado. Durante más de ocho meses en Shenandoah, no he tenido ninguna audiencia para decidir si merezco regresar a la casa hogar u otro lugar donde te dan más libertad. Solo me vienen a decir de vez en cuando que si mi porto bien la casa hogar tal vez me acepte de nuevo, que ellos de la casa hogar tienen la palabra.

8. Los primeros cuatro meses en Shenandoah me porté bien, igual como me porté en la casa hogar. Más luego, después de pasar tanto tiempo encerrado como criminal, empecé a tener problemas con el staff y los demás jóvenes detenidos. Ahora por primera vez tomo medicamento para los nervios y para dormir. Es imposible no sentirse uno desesperado, después de pasar tanto tiempo en un lugar como Shenandoah. Normalmente yo soy tranquilo. No me gustan los conflictos ni la violencia. Pero la cárcel cambia a uno, si quieres sobrevivir.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 11 de julio del año 2017, en Staunton, Virginia.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. I am 16 years old. I am currently being held at Shenandoah Valley Juvenile Hall in Staunton, Virginia. I have been detained for more than eight months in Shenandoah, and I have no idea how much longer I will be here.

2. My parents sent me to the United States to protect me against the criminals who dominate every person in my country, El Salvador. In September 2016, I entered the United States at the border of Mexico and Texas. Shortly afterward, I turned myself over to the Border Patrol. They took me to what is called "la hielera," (the freezer) because there they put the detainees in cells where it is very cold. I spent one night there, and then they moved me to another "hielera" about 15 minutes from the first. I spent two nights in the second "hielera."

3. I was then transferred to a shelter that was called "Jovenes Para Manana," or something like that, translating it in English, in the state of Virginia, about an hour from where I am currently detained. I spent about a month in the shelter. I never had problems with the staff, nor with the other young people being detained, and the place was quite comfortable and pleasant. Until the day I was called to speak with a psychologist.

4. The psychologist did not speak Spanish well, and there was no interpreter. She asked about my life in El Salvador and my family. I told her that there was a lot of pressure to join the gang in El Salvador, and that my brother was already with them, and that the police

were looking for him due to a murder. The psychologist misunderstood me, and wrongly thought that I had killed someone, but it was not so. In fact, I was a student in El Salvador, and I never involved with gangs. My mom worked in a bank from 5:00 in the morning until 5:30 in the afternoon, and could not control the bad influences over my brother. She and my dad made the decision that I should come to the United States to get away from the gang.

5. Immediately after that talk with the psychologist, on the same day, I was sent to Shenandoah. I was not given any explanation as to why I was moved. I was only told that I could no longer stay in a place of low security. I was put in a car with a gentleman that assured me that Shenandoah was going to be a better place than the shelter, but it did not go that way.

6. At Shenandoah they treat us like criminals. The facilities are jail-type. We slept locked up every night. They do not take us to the park, to the movies, or to any normal place. In the bedrooms there is only one concrete platform, in which we sleep on a small mattress, and a metal toilet. However, in the shelter we were at home. They took us to the park, and to the movies, and other places every Friday. Everything was much healthier and more pleasant there. If I had been given the opportunity to explain what I told the psychologist, that all this gang discussion was about my brother and not me, maybe I would still be in the shelter instead of Shenandoah.

7. I also have no idea how many more months I will be locked up. For more than eight months at Shenandoah, I have not had a hearing to decide if I deserve to return to the shelter

or another place where they give you more freedom. They only come to me to say from time to time that if I behave well the shelter may perhaps accept me again, that the people at the shelter can make that call.

8. The first four months in Shenandoah I behaved well, just as I did in the shelter. But then, after spending so much time locked up like a criminal, I began to have problems with the staff and the other young people detained. Now, for the first time, I take prescription medication for anxiety and to be able to sleep. It's impossible not to feel hopeless, after spending so much time in a place like Shenandoah. Usually I'm quiet. I do not like conflict or violence. But the jail changes you if you want to survive.

I declare under protest to tell the truth that all the information I have provided here is correct and complete, and I am aware of the legal consequences of falsely declaring before the authority.

July 11, 2017 in Staunton, Virginia.

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I am fluent in English and Spanish.

2. On this day, I translated the foregoing declaration of [redacted] from Spanish into English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of July, 2017, at Los Angeles, California.

Jorge Medina

Exhibit 36

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

Declaration of [redacted]

I, [redacted]**, declare and state the following:**

1. I am 16 years old. I first arrived in the United States in June 2016.
2. After I was detained near the Mexican border, I was initially placed in Homestead, a shelter in Miami. I stayed there for approximately three weeks.
3. About a month later, I was transferred to a staff secure facility in Texas. My understanding was that I was transferred for drawing gang symbols in a bathroom at the shelter. Although I had not drawn the gang symbols, I had provided the pencils that the youths who drew them had used. I took responsibility for drawing the symbols because I did not want to have trouble with those kids later, as they were all bigger than me.
4. I stayed at the staff secure facility for almost two months. I was then transferred to NOVA, a facility in Alexandria, Virginia that I believed was a jail. I understood that I had been transferred there primarily because staff had seen a video in which I was making gang symbols while I was talking to another staff from El Salvador. I am not a member of a gang, but we had been discussing how the gangs had treated us in El Salvador. I was never given an opportunity to explain this before I was transferred.
5. When NOVA closed, I was transferred to Shenandoah Valley Juvenile Center. I was not told that I was being transferred to a secure facility for any reason other than the fact that NOVA was closing. I had not had any behavioral problems at NOVA during the three weeks prior to the transfer.
6. I have been detained at Shenandoah since December 2016.

7. I had been told by my case manager that if I was good for 30 days, I could be transferred to another, less-secure facility.
8. I had good behavior for the first two months that I was at Shenandoah. I did not get involved in any fights with other kids or staff.
9. After 30 days had passed with no behavioral issues and no mention of a transfer, I was surprised. After 60 days had passed with still no word on a possible transfer, I became extremely frustrated.
10. Since I had arrived at Shenandoah, I had spent most of my time in Charlie and Delta Pods, but some of the kids in those pods had tried to pick fights with me. I asked to be transferred to Alpha Pod because it seemed to me that the kids in that pod had gotten involved in fewer fights. I did not realize at the time that Alpha Pod was where kids with behavioral problems were usually placed.
11. Shortly after I was placed in Alpha Pod, I was pressured by another youth to become involved in a fight with staff. He told me that if I did not participate, he would have me beat up. Because of his threats, I became involved in a fight in the gym with several of the kids from Alpha Pod and several staff members. After this incident, I was locked in my room for two days and placed in handcuffs for 10 days.
12. A few weeks after this incident, I was approached by another group of youths and urged to initiate a fight with a staff member, and I agreed.

13. I became involved in these fights out of both fear for what would happen to me if I did not do so and disappointment that my good behavior had not resulted in a transfer.
14. I have not had any other incidents with staff since those two incidents, but I have been involved in a few fights with other residents.
15. I have had good behavior for the past 39 days, but I have not received any information about a possible transfer or review of my case.
16. This statement has been prepared in English but it has been read to me in Spanish by a bilingual interpreter.

Executed this 11th day of July, 2017, in Staunton, Virginia

[redacted]

DECLARATION OF TRANSLATOR

I, Evelyn Nunez, declare and say as follows:

1. I am fluent in English and Spanish.

2. On July 11, 2017, I translated the foregoing to the declarant, who affirmed that he understood the contents thereof prior to signing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of April, 2018, at Washington, D.C.



Exhibit 37

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Tengo 17 años de edad. Faltan cuatro meses para cumplir los 18 años. Soy de Honduras. Actualmente me encuentro detenido en Shenandoah Valley Juvenile Hall, en Virginia. Tengo más o menos seis semanas detenido aquí. No me han dicho cuánto tiempo más voy a estar detenido.

2. Vine a los EE.UU. para salvarme la vida de los maras y sicarios en Honduras. También porque una mujer mayor me estaba acosando allí, y para estar con mi mamá, que actualmente vive en Texas. En mi país nunca tuve problemas con la policía. La mara me obligaron dejar mis estudios porque me andaban buscando en el colegio para meterme con ellos. Así que no me quedo ninguna opción más que abandonar a mi país.

3. El 22 de agosto de 2016, entré a los EE.UU. por la frontera con Reynosa, México. Había caminado solito como 16 horas por campo seco, enfermo de sed y de hambre, cuando me arrestó la Patrulla Fronteriza. Me metieron bien feo en una troca grandota y larga, y me llevaron a la instalación de la inmigración, donde me quedé unos dos días. Luego me trasladaron a lo que llamamos "la hielera." Éramos como 20 personas metidos en un solo cuarto, estábamos bien apretados. Me quedé allá como tres días. No había ni campo suficiente para acostarnos, ni colchón ni nada. Los niños chiquitos, padecía del frio, hasta que me quité mi camisa para prestársela a un niño

aguantando el frío. Luego me mandaron a la perrera. Pasé como dos días allí, y luego me llevaron para IES Casa Norma Linda, en Brownsville, Texas.

4. Nos trataban bien en Norma Linda. Solamente tuve un problema allí, con otro joven detenido. Él era homosexual, y empezó a sentirme incómodo. Le reporté con mi consejera. Le dije que no quería problemas con él ni con nadie. Creo que ella lo tomó a mal, que yo quería pegarle al joven o algo. Como una semana después, me trasladaron a Southwest Key, staff secure, en Brownsville, Texas. Estaba en escuela en Norma Linda un día, cuando de repente me llegaron y me dijeron, "[redacted], ya te vas. Alista tus cosas." Yo pensaba que iba a ir con mi mamá, pero me informaron en el carro que iba a otro albergue. Yo les estaba preguntando porque. Me contestaron que yo no podía estar en esa programa porque yo tenía muchos reportes. Yo les pregunté, ¿Que reportes? porque nunca me avisaron que hubo reportes en mi contra. No me dieron más explicación, ni oportunidad to defenderme. Me puse a llorar frustrado, porque no lo pensé justo que me trasladaran así de repente.

5. En Southwest Key la vida estaba más complicada. El personal nos gritaba con groserías, nos insultaban, llamándonos "putos," o "apúrense culeros." Un estaf de allá le regaló una pluma a unos de los compañeros para que se le pusiera tatuaje. Allí también presencié como agarraban a los menores con brutalidad, tumbándolos al suelo. Yo logré evitar ese maltrato por cuidarme mucho.

6. Pasé aproximadamente cuatro meses en Southwest Key. Como al segundo mes, mi mamá se mudó de Kansas a Texas para estar más cerca de mí. Encontró una casa, que se dice que es muy bonita, para recibirme. Siguieron tardando en tomar la decisión de dejarme salir a vivir con ella. Según ella, el gobierno le hizo un estudio de casa, y todo marchó bien.

7. Como en febrero de año presente, me trasladaron a BCFS, otra staff secure en California, donde me quedé hasta octubre, más o menos. En California me regañaban de vez en cuando por usar malas palabras, y por otras cosas pequeñas, pero nunca me avisaron que iban a trasladar por mal comportamiento. Un día tuve un desacuerdo en la cancha de fútbol. Un personal de estaf me acercó de repente. Me sorprendió y sin pensar me reaccioné, pero me acusaron de pegarle. A unos dos días, de repente a las cuatro de la mañana vino el supervisor para decirme que me iban a trasladar a otro programa. Y así llegue a Shenandoah. No me dieron ninguna audiencia ni oportunidad de explicar mi lado de los hechos. No me dieron otra alternativa más de aceptar el traslado a alta seguridad.

8. Shenandoah es cárcel, aunque el personal nos hablan mejor que en Southwest Key. Sin embargo, la vida aquí es muy difícil. Usamos uniformes de preso que huelen mal y que me causan una picazón de alergia. A veces se dificulta un poco no meterse en problemas con los compañeros. No hay mucho que hacer, y uno pasa mucho tiempo aburrido. Normalmente, pasamos casi 13 horas y 45 minutos encerrados con llave en

nuestros cuartos, y aún más si hay problemas con el comportamiento. Estamos divididos en como cinco o seis pods, con límite de 10 jóvenes por pod. Nos castigan por lo que hacen los jóvenes de otro pod, y eso no considero justo. Hay cuatro estaf por pod que nos cuidan: dos en la mañana y dos en la tarde. De los cuatro que nos cuidan a nosotros, casi siempre solamente uno, el que trabaja las mañanas, habla español. Así que es muy fácil que hay mal entendimientos entre los jóvenes detenidos y el estaf.

9. Hasta la fecha he tenido no más una audiencia ante un juez de inmigración, en Texas. Me explicó el juez mis derechos y que me iban a dar otra corte, y que si no llegaba con un abogado la orden de deportación sería más probable. Como a los dos o tres semanas después de llegar en Shenandoah, platiqué con abogada por primera vez desde que estoy encerrado. Ni en Texas ni en California me dieron abogado. Llegaban abogados para charlas de nuestros de derechos, pero ninguno para representarme.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 11 de julio del año 2017, en Staunton, Virginia.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. I am 17 years old. It's four months until I turn 18. I'm from Honduras. I am currently being held at Shenandoah Valley Juvenile Hall in Virginia. I have been detained here for six weeks or so. I have not been told how much longer I will be detained.

2. I came to the United States to save my life from the "maras" and assassins in Honduras. Also because an older woman was harassing me there, and to be with my mom, who currently lives in Texas. In my country I never had problems with the police. The "mara" forced me to leave my studies because they were looking for me at school to get me to join them. So I have no choice but to leave my country.

3. On August 22, 2016, I entered the United States by the border with Reynosa, Mexico. I had walked alone for 16 hours on a dry field, thirsty and hungry, when I was arrested by the Border Patrol. They put me very roughly inside in a big and long truck, and they took me to the immigration facility, where I stayed for about two days. Then they moved me to what we call "la hielera" (the freezer). We were like 20 people in one room, we were packed tight. I stayed there for about three days. There was not enough room for us to lie down, no mattresses or anything. There were small children were enduring in the cold, until I took off my shirt to lend it to a young boy. Then they sent me to "la perrera" (the dog kennel). I spent two days there, and then they took me to IES House Norma Linda in Brownsville, Texas.

4. They treated us well in Norma Linda. I only had one problem there, with another young man being detained. He was homosexual, and I began to feel uncomfortable. I reported him to my counselor. I told the counselor I did not want problems with him or anyone. I think she took it the wrong way, that I wanted to hit the young man or something. About a week later, I was transferred to Southwest Key, staff secure, in Brownsville, Texas. I was at school in Norma Linda one day, when they suddenly came to me and said, "[redacted] you're leaving. Pack your things." I thought I was going to go with my mom, but I was informed in the car that I was going to another shelter. I was asking them why. They answered that I could not be in that program because I had too many reports. I asked them, "what reports?" because I was never warned that there were reports against me. They gave me no more explanation or opportunity to defend myself. I started to cry because I was frustrated and also because I did not think it was right that I was suddenly moved.

5. Life in Southwest Key was more complicated. The staff shouted at us with insults, insulting us, calling us "putos," or "apurense culeros." A staff there gave a pen to one of my partners to get a tattoo. There, too, I watched as they grabbed the minors brutally, throwing them to the ground. I managed to avoid that abuse by taking great care of myself.

6. I spent approximately four months at Southwest Key. Around the second month, my mom moved from Kansas to Texas to be closer to me. She found a house, which is said to be very nice, to receive me. They continued to take long making the decision to let me live with her. According to her, the government did a study of the home, and everything went well.

7. Around February of this year, I was transferred to BCFS, another secure staff in California, where I stayed until October, more or less. In California I was scolded from time to time for using bad words, and for other small things, but I never was I warned that they were going to move me because of bad behavior. One day I had a disagreement on the soccer field. A staff member approached me suddenly. I was surprised and without thinking I reacted, but I was accused of beating him. About two days later, suddenly at four in the morning the supervisor came to tell me that they were going to move me to another program. And that is how I arrived at Shenandoah. They gave me no hearing or opportunity to explain my side of the facts. I was given no alternative but to accept the transfer to high security.

8. Shenandoah is a jail, though the staff speak to us better than in Southwest Key. However, life here is very difficult. We wear prison uniforms that smell bad and cause me an allergic itch. Sometimes it becomes a little difficult not to get in trouble with our cellmates. There is not much to do, and one spends a lot of time bored. Normally, we spend almost 13 hours and 45 minutes locked in our rooms, and even longer if there are problems with the behavior. We are divided into five or six pods, with a limit of 10 young people per pod. They punish us for what young people do in another pod, and that's not fair. There are four staff that can take care of us: two in the morning and two in the afternoon. Of the four who take care of us, almost always only one, who works the morning, speaks Spanish. So it is very easy that there are misunderstandings among the young people and the staff.

9. To date, I have had only one hearing before an immigration judge, in Texas. The judge

explained to me my rights and that they were going to give me another court date, and that if I did not arrive with a lawyer the deportation order would be more likely. After two or three weeks from arriving in Shenandoah, I spoke to a lawyer for the first time since I've been locked up. Neither Texas nor California gave me a lawyer. Lawyers came to talk about our rights, but none to represent me.

I declare under protest to tell the truth that all the information I have provided here is correct and complete, I am aware of the legal consequences of declaring falsehoods before the authority.

July 11, 2017, Staunton, Virginia.

Translator Declaration

I, Jorge Medina, hereby declare that I am fluent in English and Spanish.

I hereby certify that I have translated the attached document and to the best of my knowledge, the attached document is a true, accurate and complete translation of [redacted] declaration.

Date: July 14, 2017

Signature of translator



Printed Name of translator

Jorge Medina

Exhibit 38

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I was born in Honduras in 2001. My alien # is [redacted]. I arrived to the United States with my 31 year old sister. We were both detained by customs and I was placed in Casa Norma Linda in Brownsville, Texas. I asked to stay with my sister, but they did not let me. They separated me from her and I have not been able to see her since I have been in custody. From Casa Norma Linda, I was transferred to the Shiloh Regional Treatment Center in Manvel, Texas ("Shiloh"). I was transferred to Shiloh in September 2017.

Witnessed Force Medication

3. Here in Shiloh, I saw girl receive an injection by force. Her name is [redacted]. One time I saw the staff members pin her down and give her an injection in her arm. After receiving the injection, she appeared sedated.

Medication Compliance

4. I take medication here in the facility. I take 2 [redacted] pill in the morning and 3 [redacted] pills at night. I was told by staff members that if I take my medication, Dr. Ruiz would release me and I would be placed on a foster care list. I am not eligible for foster care unless I take my medication and Dr. Ruiz releases me. Dr. Ruiz is the psychiatrist who works here.

PREA Phone

5. I do not know what a Prison Rape Elimination Act (PREA) phone is or where it is located. The staff have never informed about how to access this phone or how to file a complaint. They did not give me this information upon arrival.

Shared Living Space with non-~~ROR~~ ORR Detainees

6. I am currently sharing a room with an "American girl" named [redacted]. She is not one of the girls in ORR custody. We share a room together. She has been in the room with me

for about a week. There is another American girl here as well. Her name is [redacted]. She also lives in the home with me, but in a separate room. She has been in Shiloh for about a year.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21 day of November, 2017, at Manvel, Texas.

[redacted]

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish for [redacted] before she signed the declaration.

Dated: November 21, 2017

Mayra Sandoval

Exhibit 39

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

Declaration of [redacted]

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I was born in Guatemala in 2000. My alien # is [redacted] I speak a Guatemalan dialect called Ixil and Spanish. I have been in the custody of the United States Office of Refugee Resettlement (ORR) since August 15, 2016. I was detained at Southwest Key in El Paso, Texas before being transferred to Shiloh. I have been detained at the Shiloh Regional Treatment Center in Manvel, Texas, since July 5, 2017. Shiloh is a locked facility, and none of the people who live here are free to leave. Before being transferred to Shiloh, I was not told that I was being sent to a treatment facility. The case manager at El Paso told me that I was being sent to a foster home.

Vision Issues

3. Before August 2015 I lived in Guatemala. I cannot see things that are far away. When I lived in Guatemala I wore glasses that helped me see long distances. Since I have been detained by ORR, I have not had any glasses. The eye doctors have told me I do not need glasses and that I have allergies. The doctors prescribed me eye drops. When I used the eye drops, they caused me pain, burning, and kept me from being able to sleep.

PREA and Telephone Access

4. I do not know where the Prison Rape Elimination Act (PREA) telephone is located in this facility. I have never heard of a PREA phone or where I can go to file a complaint against anyone in this facility. Also, I am not allowed to talk to my family in private. My conversations are supervised by staff members.

False Report by Staff

5. When I was at Southwest Key in El Paso, a case worker made a false report about me to my father in Guatemala. She told my father that I had painted gang graffiti on a wall, and that I had been fighting with other detainees. Both of these reports were false.

//

Breach of Confidentiality by My Lawyer

6. When I was in El Paso I told my lawyer something in confidence about what had happened to me in Guatemala. The lawyer told this information to both my case worker and counselor without my consent or approval.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21 day of November, 2017, at Manvel, Texas.

[redacted]

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish for [redacted] before he signed the declaration.

Dated: November 21, 2017

Mayra Sandoval

Exhibit 40

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I am from Honduras. I came to the United States because my father was abusive for many years and there were fights at school that made me afraid. I am currently being held in ORR custody in the Shiloh Residential Treatment Facility, in Texas.

3. I was taken into the custody of the Office of Refugee Resettlement ("ORR") in the summer of 2017. I was held at a shelter that was somewhere near Washington, D.C.

4. My potential sponsor is my mother. While I was at the shelter I received news that my mother received a negative recommendation because she did not have a job and did not understand my mental health. I felt frustrated and sad because I felt like I would never leave the immigration center and like I would never reunite with my mother. I wanted to cry by myself so I stood near a window. The staff panicked and claimed that I was trying to jump out the window. The staff then grabbed and four people held me down. Each person held me down by one of my extremities, one on each thigh and one on each arm. As the staff held me down I struggled against the staff. I tried bite a woman that was holding my arm, but it was only to try to get the staff off of me.

5. I was transferred to Shiloh Residential Treatment Center ("Shiloh") in September 2017. The staff at the shelter told me that I was being transferred because the reunification process with my mother would be faster and easier at the next center. This was not true. The process to reunify with my mother has still been taking a long time. I was not told why I was transferred and I did not have an opportunity to object to the transfer.

6. Since I came to Shiloh, I have not had a 30-day review.

7. I have been to court one time since I came to the United States. I think there was an attorney there representing all the kids, but I do not remember speaking to an attorney about my case.

8. At Shiloh, I take six pills in the morning and four pills in the night. One pill in the morning is Prozac, and I am told the other five are vitamins. I am told the four pills I take at night are vitamins. I do not know if my mother gave her permission for me to take the pills.

9. I have told staff that I do not want to take the medication, but they have told me that I need it and that I will get a report if I do not take it. A report means I would have to stay at Shiloh for thirty more days. I have seen other kids getting reports and having to stay at Shiloh longer because of the reports.

10. I have been seeing Dr. Ruiz one time a week about my medications. Dr. Ruiz has told me that I am now in a lower level. I do not know what this means. On Tuesday, he said that he "released me." He said that I have gotten better and that there is no reason for me to stay here. He said that I have not got any reports, but that if I was to get a report I would need to stay.

11. While at Shiloh, I have seen other kids get forced injections. I am not sure how many times. I have seen a girl named [redacted] get a forced injection because she was not controlling herself. Two people had to hold her down while she got the injection. She then sat in a chair and fell asleep for about an hour and a half.

12. Kids at Shiloh are also forced to take a strong medication during the day that makes them fall asleep. I have seen this happen probably three times to a girl named [redacted] who came here recently. One time around 11 a.m., we were outside playing and two girls got into a fight and called each other names. I tried to help stop the fight by grabbing one of the girls to take her away. The staff told me not to touch her or I would get a report, which means I would have to stay at Shiloh for 30 more days. The staff then came and got behind the other girl to keep them from fighting. Then, they took [redacted] away and gave her a strong pill. I saw her later and she looked weird and dizzy, like she

was about to fall asleep. She then came inside and put her head on the desk and fell asleep for about three hours. When she woke up, she told me she had a headache.

13. At Shiloh, there is a lack of privacy. The doors to our rooms always have to stay open, including at night when we go to sleep. A staff person sits all night in the hallway and monitors us through our open doors. In addition, whenever I speak over the telephone a case manager is always present and the telephone is always on speaker.

14. I am also under constant surveillance. My room has a camera. There are cameras in the hallway of the house where I sleep and in the cafeteria.

15. I do not know where the Prison Rape Elimination Act (PREA) telephone is located in this facility.

16. I was recently told that my case was submitted to the government and that we are waiting on a response. My mother now has a job and understands my mental health. I miss my mother and younger brother so much, and I just want to be with them. It's been five years since I have been without them. I do not want to be locked up in here. I would be much happier if I could be with them.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 1st day of December, 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish before she signed the declaration.

Dated: December 1, 2017

Karina Marquez

Exhibit 41

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 13 years old. I am from Mexico. I am currently being held in ORR custody in the Shiloh Residential Treatment Facility, in Texas. Shiloh is a locked facility with 24-hour surveillance and monitoring. The children are detained here and no one is free to leave.

3. Approximately seven months ago, I was taken into the custody of the Office of Refugee Resettlement ("ORR"). I was held at a shelter in El Paso, Texas. I was then transferred to Shiloh Residential Treatment Center ("Shiloh"). In regard to my transfer, the staff at the shelter told me that I was being transferred to another shelter. However, I was sent to Shiloh. I don't remember receiving any document that explained that I had the right to challenge the government's decision to send me to Shiloh. If I had, I would have challenged the decision.

4. I arrived at Shiloh in about August of 2017. Since then, I have not been told about, and I have not received, a 30-day review to review my custody classification. No one has sat down with me and reviewed whether I should be stepped down to a lower level of security or told me how I'm doing here or what I have to do in order to step down.

5. I thought my aunt would be my sponsor, but according to my case manager, my aunt went to Mexico.

6. At Shiloh, I take pills in the morning, afternoon, and night. In the morning, there are a lot of pills in a cup. I have never counted them so I don't know how many. I have asked the name of the pills, but I don't remember. During the afternoon and the night, there are about the same number of pills in a cup. Sometimes the pills make me feel tired and it is hard to concentrate at school. One pill used to make me throw up, but I don't have to take that one anymore. The staff told me that some of the pills are vitamins because they think I need to gain weight. The vitamins changed about two times, and

each time I feel different. The doctor told me that my level is now lowered. I do not know what this means. I take the pills because I think it will help me leave here more quickly. I don't know if they have talked to my mother about giving me these pills.

7. I want to return to the shelter where I was first held in ORR custody. At that shelter, there was a teacher who cared about me and I didn't get to say goodbye to her. I don't like living at Shiloh because the staff scream at me and I am not learning anything at school here.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 7 day of December, 2017, at Manvel, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish.

Dated: December 7, 2017

SAIRA SALAZAR

Exhibit 42

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted] declaro y digo lo siguiente:

1. Soy de Guatemala. Tengo 17 años de edad. Actualmente me encuentro detenido en Southwest Key Mesa Staff-secure en Houston, Texas. Los siguientes hechos los sé personalmente, y los afirmo por conocimiento personal.

2. En total, tengo seis meses de detención. Pasé como un mes en un albergue en Arizona, pero ahora tengo entendido que como mostré mucha ansiedad y no podía dormir, y que empezé a lastimarme, me mandaron para staff-secure. Todo esto me dijeron aquí en staff-secure. En Arizona, no me dieron ninguna hoja ni nada avisándome porque me iban a mandar a staff-secure. Al contrario, como dos días antes de trasladarme a staff-secure, me llegó la consejera y me informó que me iban a mandar a un lugar mejor, donde tendría yo más libertad, más apoyo, y que mi caso de salir de la detención y vivir con mi hermano avanzaría más. Todo lo que me dijo ella era mentira.

3. De hecho, en staff-secure hay mucho menos libertad que en Arizona. Siempre nos están vigilando el staff. Aquí el ritmo de la vida es más controlado y rígido. Hacemos menos actividades. Nos permiten llamadas telefónicas solo por diez minutes, dos veces por semana, solo con personas aprobadas. No nos permiten nuestros propios teléfonos celulares. En mi cuarto solo tengo un cuaderno, ropa, y unas hojas con letra de canciones. Los días escolares nos permiten una hora de recreo en la mañana, y otra en la tarde. Los fines de semana, nos permiten una hora y media. Está muy seguro el área del

centro para que nadie pueda fugarse. El staff controla los movimientos de los menores y hay una reja alta por toda el area.

4. Poco despues de caerme preso, informé al gobierno que tengo a un hermano mayor que vive en Oklahoma con quien puedo vivir, y mi hermano empezó a pedir mi custodio cuando yo aún estaba en Arizona. Hace como dos o tres meses, me informó mi trabajadora social que el estudio de casa de mi hermano había salido positivo. Mi hermano me dijo hace como tres semanas que ha complido con todos los requisitos para recibirme, y mi trabajadora social me dijo que todo estaba bien y que iban a presentar mi caso en dos días. No era cierto. Ya pasaron dos semanas y no me han dicho nada más. No sé que vaya a pasar al fin, si van a pedirle más documentos a mi hermano, o ponerle otros requisitos para que pueda salir yo con él.

///

5. La semana pasada me informaron mi trabajadora social y su jefa, Laura Zambrano, que yo tenía derecho a una audiencia para decidir si soy un peligro para la comunidad. También me dijo la jefa que no importaba si yo tuviera abogado, que ellos me llevarían a la audiencia y yo mismo me representaría. Yo decidí no pedir la audiencia porque asistir yo solo me desanimó y porque me habían dicho que pronto me iban a dejar salir para vivir con mi hermano. Si no me dejan salir de la detención, yo sí pediría una audiencia, pero solo con abogado.

Declaro bajo protesta de decir la verdad que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el dia 1 de marzo del año 2018, en Houston, Texas.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say the following:

1. I am from Guatemala. I am 17 years old. I am currently detained at Southwest Key Mesa Staff-secure in Houston, Texas. The following facts I know personally, and I affirm them by personal knowledge.

2. In total, I have six months of detention. I spent about a month in a shelter in Arizona, but now I have been told that since I showed a lot of anxiety and could not sleep, and that I started to hurt myself, they sent me to staff-secure. All this was told to me here in staff-secure. In Arizona, they did not give me any papers or anything warning me because they were going to send me to staff-secure. On the contrary, about two days before moving me to staff-secure, the counselor arrived and informed me that they were going to send me to a better place, where I would have more freedom, more support, and that my case to be released from detention and live with my brother would advance further. Everything she told me was a lie.

3. In fact, in staff-secure there is much less freedom than in Arizona. We are always being watched by the staff. Here the rhythm of life is more controlled and rigid. We do fewer activities. They allow us telephone calls only for ten minutes, twice a week, only with approved people. We are not allowed our own cell phones. In my room I only have a notebook, clothes, and some sheet music. In school days we are allowed one hour of recess in the morning, and another in the afternoon. On weekends, they allow us an hour and a half. The area of the center is very secure so that nobody can flee. The staff controls the movements of minors and there is a high fence around the area.

4. Shortly after I was imprisoned, I informed the government that I have an older brother who lives in Oklahoma with whom I can live, and my brother started asking for my custody

when I was still in Arizona. About two or three months ago, my social worker informed me that the review of my brother's house had turned out positive. My brother told me about three weeks ago that he had complied with all the requirements to receive me, and my social worker told me that everything was fine and they were going to hear my case in two days. It was not true. Two weeks have passed and they have not told me anything else. I do not know what will happen at the end, if they are going to ask for more documents from my brother, or to put other requirements so that I can go out with him.

5. Last week I was informed by my social worker and her boss, Laura Zambrano, that I had the right to a hearing to decide if I am a danger to the community. The boss also told me that it did not matter if I had a lawyer, that they would take me to the hearing and I would represent myself. I decided not to ask for a hearing because I got discouraged going alone and because they had told me that soon they would let me leave to live with my brother. If they do not let me leave from detention, I would ask for a hearing, but only with a lawyer.

I declare under protest to tell the truth that all the information that I have provided here is correct and complete, aware of the legal consequences of declaring with falsehood before the authority.

Done on March 1 of the year 2018, in Houston, Texas.

[redacted]

///

DECLARATION OF TRANSLATOR

I, Jorge Medina, declare and say as follows:

1. I speak, read and write English and Spanish.

2. On this day I translated the declaration of [redacted] from Spanish to English.

The annexed is a true and accurate translation of said declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of March 2018, at Los Angeles, California.

Jorge Medina

///

Exhibit 43

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW
256 S. OCCIDENTAL BOULEVARD
LOS ANGELES, CA 90057
Telephone: (213) 388-8693 Facsimile: (213) 386-9484
www.centerforhumanrights.org

March 12, 2018

Cynthia Nunes Colbert
Chief Operating Officer/President
Catholic Charities of the Archdiocese of Galveston-Houston
2900 Louisiana Street
Houston, Texas 77006

Paola Midence, Esq.
Katherine Chapman, Esq.
St. Frances Cabrini Center for Immigrant Legal Assistance
2707 North Loop West, Suite 300
Houston, TX 77008
Via email

Anne Marie Mulcahy
Program Director, Legal Services for Unaccompanied Children
Vera Institute of Justice
233 Broadway, 12th Floor
New York, NY 10279

E. Scott Lloyd, Director
Office of Refugee Resettlement
U.S. Department of Health & Human Services
Mary E. Switzer Building, 330 C ST SW
Washington DC 20201

Sarah B. Fabian, Esq.
Cara E. Alsterberg, Esq.
William C. Silvis
Office of Immigration Litigation – District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Via email

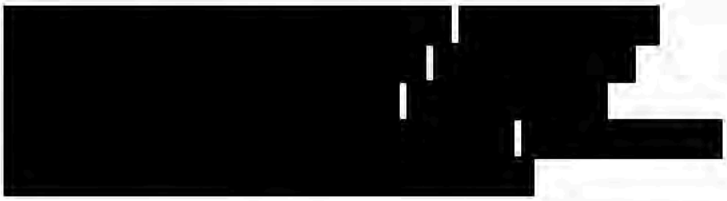
Re: *Flores*, et al., *v. Sessions,* et al., No. CV 85-4544 DMG (C.D. Cal.).

Dear Madams and Sir:

This office serves as counsel for minors in ORR custody with respect to their rights under the class-wide settlement in the above referenced action.

On February 28 through March 1, 2018, counsel interviewed class members detained at the Shiloh Residential Treatment Center in Manvel, Texas, and the Southwest Key Mesa staff-secure facility in Houston, Texas.

We wish to notify you that the following class members have a *prima facie* need for legal representation in (1) bond hearings pursuant to ¶ 24A of the *Flores* settlement; (2) with respect to ORR's housing them in staff-secure or treatment facilities that are not licensed to house dependent minors; and/or (3) with respect to ORR's administering psychotropic drugs to juveniles without parental consent:



Paragraph 24A of the *Flores* settlement provides: "A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates on the Notice of Custody Determination form that he or she refuses such a hearing."

Paragraph 24B provides: "Any minor who disagrees with the INS's determination to place that minor in a particular type of facility, or who asserts that the licensed program in which he or she has been placed does not comply with the standards set forth in Exhibit 1 attached hereto, may seek judicial review in any United States District Court with jurisdiction and venue over the matter to challenge that placement determination or to allege noncompliance with the standards set forth in Exhibit 1."

Paragraph A.14 of Exhibit 1 to the *Flores* settlement requires licensed programs to provide class members with "[l]egal services information regarding the availability of free legal assistance, ..."

Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 110 Pub. L. 457, 122 Stat. 5044, *codified at* 8 U.S.C. § 1232(c)(5), directs the Secretary of the Department of Health & Human Services to "ensure, to the greatest extent practicable ... that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not [from contiguous countries], have counsel to represent them in legal proceedings or matters and protect them from mistreatment ..."

The aforementioned class members accordingly request that HHS, through its contractor, the Vera Institute of Justice, and its subcontractor, the St. Frances Cabrini Center for Immigrant Legal Assistance, provide them legal representation in the legal matters enumerated above.

Please advise at your earliest convenience whether you intend to honor this request, and if not, the reasons for denying class members legal representation as herein requested.

Thank you,

Carlos Holguín
One of the attorneys for Plaintiffs

ccs: Leecia Welch, NCYL
Neha Desai, NCYL
Poonam Juneja, NCYL
Crystal Adams, NCYL
Holly Cooper, U.C. Davis Legal Clinic
Peter A. Schey, CHRCL

Exhibit 44

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I am from Honduras. I speak Spanish and only a few words of English. I have been in the United States for about two months. I am currently in immigration detention in the custody of ORR at Yolo Juvenile Detention Center.

3. After I was taken into immigration custody, I was held by ICE and then sent into shelter care at Southwest Key in San Diego, California.

4. I was in shelter care at Southwest Key for about a month. While I was there, I tried to run away from the facility, because I was desperate for freedom.

5. I never had any other rule violations while I was at Southwest Key. I was never in any fights.

6. On that same day that I tried to run away, the government said that because I had tried to run away that one time, they were sending me to a secure detention center, the Yolo Juvenile Detention Center. They first took me to a holding cell and then they moved me to the juvenile detention center on about September 29, 2017.

7. When the government sent me to Yolo Juvenile Detention Center, they never gave me a written notice about why they were transferring me there. I don't remember them ever giving me any explanation of my rights in Spanish in writing or verbally. They never told me that I could challenge or appeal the decision to put in the detention center to anyone, including to a judge.

8. I am suffering a lot being in the Yolo Juvenile Detention Center. It is a jail and I sleep in a locked, small jail cell. I can't leave here and have no freedom at all. We only get one hour of time outside each day. I have to live in a small cell with concrete walls. We have to sleep on hard beds with very thin mattresses.

9. If they had told me that I could appeal, I would have done that, so that I could show that I should not be here and that I can be in a better place.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26 day of October, 2017, at Woodland, California.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Gladys Hernandez and I swear that I am competent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: October 26, 2017

Gladys Hernandez

Exhibit 45

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I came to the United States in 2013 from Guatemala and crossed the border in Arizona.

3. I stayed in a shelter in Arizona for about one month and fifteen days. Then I was sent to live with my mother in Florida.

4. I lived with my mother in Florida from 2013 until September 18, 2017.

5. One day I saw that my sister had a black eye. I knew that her husband hit her and gave her the black eye but she was too scared of him to admit what happened.

6. I wanted my brother-in-law to know that it was not ok for him to hit my sister and that I would protect her. I got into a fight about this with my brother-in-law and he called the police.

7. A few days later, I was sent to juvenile detention in West Palm Beach, Florida.

8. I went to court and the juvenile court judge sent me home on probation.

9. One day my Probation Officer came to visit me at home but I was not there so I was sent back to Juvenile Hall. I was then released from Juvenile Hall with an ankle monitor and went back to my mother's home.

10. I had several more violations of probation. After one of my visits to Probation, I was told that I would be released again on an ankle monitor and that I should call my mother to pick me up. The juvenile court judge mentioned a 6-month program I could go to for school.

11. Before my mother arrived to pick me up, ICE came and took me. No one explained why they were taking me or where I was going. I did not get to speak with a probation officer or judge.

12. ICE drove me for about two hours to a hotel in Miami. I kept asking where I was going but no one answered my questions.

13. When we got to the hotel, different ICE agents took turns standing outside of my room.

14. Then, in the middle of the night they took me to the airport. Again, I asked where we were going but no one told me. I thought I was being deported.

15. Even when I arrived at the San Francisco Airport, no one told me why I was there or where I was going next.

16. When I got to Yolo County Detention Center, they told me the reason I was there was that the program that the judge in Florida wanted to send me to, was not ready.

17. I have been at Yolo County Detention Center for about a month. I think I have an immigration court hearing in about two or three months but I am not sure.

18. I have not spoken to an attorney yet about my immigration case.

19. I still do not understand why I am here in Yolo County Detention Center. I am confused. This is a juvenile jail with cells and a locked perimeter. We were prison uniforms and sleep in locked cells.

20. I just want to go back to Florida and be with my family again.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26 day of October, 2017, at Woodland, California.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Gladys Hernandez and I swear that I am competent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: October 26, 2017

Gladys Hernandez

Exhibit 46

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I am currently being held in ORR custody placed at the Yolo County Juvenile Detention Center.

3. I was taken into immigration custody in Texas about a month ago on about September 21, 2017, and I was brought here to Yolo on that same day by plane. The government did not tell me or my family where I was going before they took me to the plane.

4. I don't remember ever being told or reading that I could appeal or challenge the government's decision to put me into Yolo County Juvenile Detention Center, or that I could go to court about it.

5. I have never had a thirty-day review to review my custody classification since I have been here. No one has formally sat down with me and reviewed whether I should be stepped down to a lower level of security or told me how I'm doing here or what I have to do in order to step down.

6. I wish that I could be stepped down from Yolo County Juvenile Detention Center to a less secure facility. It's really bad here. It's a jail and I sleep in a small, locked cell with a small opening to see outside of the cell. We are locked up inside a lot. We almost never go outside. We are stuck inside concrete walls all the time. I want to be able to see the sky more.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26th day of Oct., 2017, at Woodland, California.

[redacted]

Exhibit 47

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I am from El Salvador. I am currently being held in ORR custody in the Yolo County Juvenile Detention Center. I am held in a locked jail cell and only permitted one hour a day of outdoor time. I read and speak Spanish. I only understand a small amount of English.

3. I was first taken into ORR custody in about June of 2015, and held at a shelter in El Paso, Texas for about three weeks. After those three weeks, I was released to my mother as my sponsor, and I went to go live with her in New York.

4. About a month ago, I was arrested by a police department in New York and accused of a delinquency offense as a juvenile. I contested the charge, and was released from custody. I was supposed to go home. But instead one of the detectives called ICE, and ICE came to the police station to arrest me. I don't know why I was taken into immigration custody instead of being allowed to go home.

5. After I was in ICE custody for about three days, the government transferred me to ORR and moved me across the country to Woodland, California to the Yolo County Juvenile Detention Center. My mother didn't know where I was during that time. I wasn't allowed to call her and tell her where I was until I arrived at the jail across the country.

6. I haven't been told why the government decided to hold me in Yolo. I don't remember ever being given any papers that explained why I was put here instead of in a different type of facility. I also don't remember receiving any papers at Yolo that explained what my rights are, including if I have a right to challenge the government's decision to keep me here.

7. My mother is again going through the procedure to be approved as a sponsor so that I can be released to her. I don't know why I haven't been released back to her yet.

No one, including ORR, has ever given me any explanation about why ORR has to re-approve her as my sponsor when they have already approved her before. I don't understand why I have to sit in a jail for a long time while ORR goes through a lengthy process to decide again that she is a qualified sponsor, when they have already decided that she is before.

8. I wish I weren't being held in immigration custody and that I was not in the Yolo County Juvenile Detention Center. It is a jail. We don't get to go outside very much, and we are locked inside for a lot of the time. I hate the food here. I've developed health problems since they have put me here.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26 day of October, 2017, at Woodland, California.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Gladys Hernandez and I swear that I am competent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: October 26, 2017

Gladys Hernandez

Exhibit 48

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Declaration of [redacted]

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I was born in Honduras in 2006. I am 11 years old. I have been in the United States since I was 8 years old. My alien # is [redacted]. I speak Spanish and some English. I have been detained at the Shiloh Regional Treatment Center in Manvel, Texas ("Shiloh"), since October 24, 2017. Shiloh is a locked facility, and none of the people who live here are free to leave. I have not been told how long I will be here or why I am being detained here. I do not want to be in this shelter. I was here once before and I don't want to be here again. I also once stayed at a foster home which was much better than here. The staff at Shiloh scream and get mad easily, they say bad words, they go crazy. I do not feel safe here.

3. Before I was detained at Shiloh, I was at Saint PJ's Children's Home in San Antonio, Texas. While at Saint PJ's, the doctor there had me on only three medications. I took all three of these medications at night.

4. At Shiloh, Dr. Ruiz has me on many more medications, and I have to take them during the day and at night. I take 4 pills in the morning, I do not know what they are for. I take another pill at 4pm and then I have to take 5 more pills at night. I have not been told why I am required to take all this medication.

5. When I was in Honduras, I did not take any pills and I was good. I was a normal kid. When I take medicine, I do not have any mood. It is disgusting. I do not like being on this many medications and I have suffered side effects including headaches, loss of appetite and nausea. I have complained about receiving too many medications and Dr. Ruiz says it is not within his control but because of another doctor that I am receiving all these medications. The doctor is another female doctor who works in the facility.

6. When other girls refuse to take the medication, they get threatened by staff members. They threaten to "give then a report." The report is similar to a write up and every time I receive one, my time in this facility gets extended by 30 days.

7. To the best of my knowledge I have never signed any informed consent or other form granting permission to the doctors to give me medication. I don't think anyone in my family was asked if it was okay for me to take medicine.

8. Also, I witnessed staff members forcefully give medication four times. Today, one of the girls was upset and someone was trying to calm her down but then the teacher said don't talk to her, just give her a shot. Once I saw staff give an injection by force, two staff members pinned down the girl while she was sitting down and a doctor gave her one or two injections in the arm. The injections were given against their will.

9. One time I was in the bathroom crying and I didn't want to come out, and then one of the staff members pulled me out forcefully and it really hurt.

10. I always feel really sad here. I feel so sad that I want to hurt myself; I want to kill myself; and I want to cut myself, but I haven't learned how to cut myself.

11. Staff members say bad words here. When the girls are crying, the staff says things like, "I'm going to fuck her up" or "I'm going to kick your little ass." And then if we say bad words, we get in trouble.

12. On at least two occasions staff members have tried to hurt me. One time a staff member put her two thumbs up to my throat and her hands around my neck. It hurt and I was gasping for breath. The staff member said she was just "playing" but I felt scared.

Education Issues

13. At Shiloh, we attend school on week days. My teacher is a man we call "Mister George." Mr. George does not treat me well and he has been verbally abusive to me the entire time he has been my teacher. He repeatedly tells me "shut up." On at least ten occasions he has called me a "dumb ass" and "you're stupid." He also tells me, "no one likes you here."

14. When I have complained to other staff at Shiloh about the way Mr. George treats me, they tell me that he treats everyone that way. I know that this is not true; that he treats me worse than the others because I have not heard him call anyone else a "dumb ass."

Communication with family

15. When I was at Saint PJ's, I was allowed regular telephone calls to my family. Since I have been at Shiloh, the staff has repeatedly told me that my family is not answering the phone and I have only had one call with them. I have only seen them call my family members three times, and I have not been allowed to call them myself.

16. I have no idea why I'm here or why I've been here for so long when other kids get to go with their families. I would rather go back to Honduras and live on the streets than be at Shiloh.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 30th day of November, 2017, at Manvel, Texas.

[redacted]

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish for [redacted] before she signed the declaration.

Dated: November 30th, 2017

Saira Salazar

Exhibit 49

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 16 years old. I am from Mexico. I am currently being held in ORR custody in the Shiloh Residential Treatment Facility, in Texas.

3. I first entered the United States when I was approximately 7 years old.

4. Until I was approximately 12 years old, I lived with my aunt and my sister in San Jacinto, California. I ran away from home because my aunt hit me with a belt and she tied me to the gate for about one to two hours. I explained to a friend my reasons for running away. My friend then told the school's principal about my aunt and the police came to my aunt's house.

5. I do not remember how I came to be under the custody of the Office of Refugee Resettlement ("ORR"). It was a very confusing time.

6. In total, I have been in ORR custody for almost 4 years. I spent approximately two years at a shelter in Santa Fe, New Mexico. I then went to live at Crittenton in Los Angeles. I was then transferred to the Shiloh Residential Treatment Center. I was told that they were sending me to live with my mom. I was not told that they were sending me to a treatment center. I was also not told that they were sending me outside California.

7. I arrived at the Shiloh in about June of 2016. During this time, I was not told about, and I did not receive a 30-day review.

8. At Shiloh, I take medication every morning and night. In the morning, I take seven pills. I think there are four vitamins, a trazedone, and two other pills. At night, I take 7 pills: one to sleep and I'm told that the other six are vitamins. The evening medications make me feel sleepy. I don't like taking the medicine because it makes me feel angry. It makes me feel like hitting a wall or ripping up paper. I was told that I cannot refuse to take the medication because an incident report would be written up. I'm told that each

time I refuse, it would mean I have to spend a couple more days at Shiloh. So, I take the pills every time.

9. During my time in ORR custody, my aunt was identified as a potential sponsor. However, I told ORR that I did not want my aunt to sponsor me because this was the same aunt who used to abuse me. I do not have any potential sponsors.

10. I have been in ORR custody for four years. That is far too long, and I want to be free again. My dream is to live with my mom.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 30th day of November, 2017, at Manvel, Texas.



CERTIFICATE OF TRANSLATION

I certify that I am fluent in the Spanish and English languages and that I truthfully and accurately translated the above declaration from English to Spanish for [redacted] before she signed the declaration.

Dated: November 30, 2017

Maria Jose Martinez Campos

Exhibit 50

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 15 years old. I am from Mexico. I speak Spanish and some English. I have been in the United States for about one year and nine months. I am currently in immigration detention in the custody of ORR at Mercy First Residential Treatment Center.

3. When I came to the United States, I was taken into immigration custody and then transferred to BCFS in San Antonio. I was just there for four days. One morning, they woke me up at 4 am and put me on a plane. They did not tell me where I was going; they just said that I was being taken to a better place, which turned out to be a lie. When I arrived in Virginia, they finally told me where I was and that they were taking me to Shenandoah Juvenile Detention Center.

4. I don't remember ORR telling me why they were moving me to Shenandoah. I don't remember ever getting anything in writing that told me the reason that they moved me to Shenandoah. I don't remember being told that I could challenge or appeal the decision to put me in Shenandoah.

5. I was in Shenandoah for seven months. I did not like being in Shenandoah or the way that the staff treated us there. The staff members would say ugly things about my mother and my family members. I think they did that to try to make me mad and to act out. I saw them do similar things to the other kids who were there. I think the worst thing about being in Shenandoah was the fights and seeing the staff members hit other kids in the facility.

6. At Shenandoah, they punished us by putting us in solitary confinement for long periods of time. If we got into a fight, refused to go into our rooms or to follow the program, or broke the rules in another minor way, they would put us into our rooms for weeks at a time. Three times, they put me into my room in solitary confinement for two

weeks, and one time, they put me in my room for three and a half weeks. When we were on solitary confinement, they did not let us out for any reason, including to eat, take showers or use the bathroom. Each room had a bathroom which we used to do our necessities so we would not go out. We had to do all of that in our rooms. I didn't know of any way to try to appeal or challenge the staff's decision to put me into solitary confinement; no one seemed to pay attention to how they were treating us.

7. They also tied us to restraint chairs as punishment. One time, when I was at Shenandoah, I didn't want to go into my room. The staff members reacted by pushing me to the floor, and one of the staff members grabbed my head and forced my head down to the ground. Then they handcuffed me and put a white bag of some kind onto my head. They took off all of my clothes and put me into a restraint chair, where they attached my hands and feet to the chair. They also put a strap across my chest. They left me naked attached to that chair for two and a half days, including at night. They took the bag off my head when they sat me down on the restraint chair. There were staff members in the room at times but they would leave me alone for a few hours. I do not remember very well. I never saw a doctor while I was in the chair or after they took me out.

8. I saw three other children tied to the restraint chair at different times. Each time, they were left there for about a day.

9. Early one morning at about 3 am when I was at Shenandoah, the staff woke me up and told me that I was leaving. I was moved to Yolo Juvenile Detention Center that day. I don't remember ever getting anything in writing about the transfer telling me why I was being moved or that I could appeal or challenge the decision to put me in Yolo.

10. Yolo was also a horrible place. They used pepper spray on the kids there, and I was sprayed seven times in my eyes. It burned and hurt a lot.

11. After I was at Yolo for five months, they moved me to Mercy First in the RTC program. I have been here for nine months now.

12. I receive a number of medications here, to help me sleep and for my emotions, including depression and anxiety. They told me here that I have to take the medications,

and that it is mandatory. When I have refused to take my medications, they put me on the red level of our program, which means that I cannot leave the unit.

13. During the time that I have been in immigration detention, I do not remember being told that I could have a bond hearing if I requested one.

14. I considered taking voluntary departure because of the way that I have been treated at the different centers that I have been held at. Because of the things that have happened to me, I do not have any trust in them that they will treat me properly or that the government will try to release me to a sponsor or to be held in a less restrictive environment. I have been in immigration detention for a long time, and I have never had any good news in the time that I have been here. I just want to have freedom and to not have to live in these types of places.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 16 day of January, 2018, at New York, New York.

[redacted]

CERTIFICATE OF TRANSLATION

I, Denise Guerrero, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on [DATE] 1/8/18.

[NAME]

Exhibit 51

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I came with my half brother to the United States from Mexico in November 2017. I am currently detained at Northern Virginia Juvenile Detention Center (NoVA) in Alexandria, Virginia.

3. When I first arrived at the border, I was detained at a shelter in Conroe, Texas, where I stayed for approximately two weeks. While at the shelter, I confided in a clinician, who told me that our conversation was confidential and that he would not share anything I told him. I told the clinician that when I was younger, my friends and I used to pretend we were in a gang. We wore all black and experimented with graffiti. We used the graffiti to write love notes to impress girls. We also drew pictures of faces, buildings, and our names. We just fooled around and did it to look cool. When I was fourteen, I stopped pretending to be in a gang because I realized what real gangs actually did. I was never in a real gang, and never wanted to be. I started going to church and became more mature. After I told this to the clinician, he wrote a report, and I later learned that it was used to justify my transfer to a staff secure facility at Casa Mesa in Houston, Texas, where I stayed for two weeks.

4. At Casa Mesa, I also confided in a clinician who told me that our conversation was private. I told him similar information about how I used to pretend that I was in a gang. Then the same thing happened: the clinician wrote a report, and I was transferred to NoVA.

5. I was given no prior warning when I was transferred to NoVA. Immigration officials just came to my room one night and told me I was being transferred without any explanation. I wasn't told about the reports the clinicians wrote until I arrived at NoVA. My case manager at NoVA told me that the reports stated that I was involved in a real gang, Marasalvatrucha, which is a gang from El Salvador. That gang does not exist in

Mexico, so it doesn't make sense that I would be involved with them. The reports also claimed that I was a gang informant, that I used drugs and trafficked drugs. I told my case manager that the reports were false and that the clinicians changed the story that I told them. I am not in a gang and was never in a gang in the past. My case manager told me that he would ask ORR why the reports stated a different story, but I have never been given an update. I feel like the staff do not listen to me and that the government just views me as a number. I want to contest my detention, but I have not been given an opportunity to do so.

6. I have been at NoVA for approximately three months. One youth here has physically assaulted me. I never fight back because I don't want to get in trouble. At first, the youth was detained in the same unit as me, but he has since been moved to a different unit. I have filed at least twelve complaints to the staff to report the youth's conduct, but the staff have taken no action to protect me from the youth. I am certain that I will continue to have problems with the youth as long as I am detained at NoVA.

7. My aunt applied to be my sponsor in December. She and her husband, my uncle, are completing the reunification process. My mom sent my aunt a notarized letter stating that she wants my aunt to be my sponsor. My uncle submitted his fingerprints two months ago, but my aunt is still waiting to receive a fingerprinting appointment. After my uncle submitted his fingerprints, the government investigated him because they thought he had a criminal record, which slowed down the reunification process. The investigation concluded that my uncle does not have a criminal record, but my uncle's brother does. My uncle's brother does not live with my aunt, so the investigation was closed.

8. My case manager says that the therapist must complete a psychological study before I can be transferred to a staff secure facility. I have been told that the study is a test of how I will function in society. I have been waiting for the study to be completed for one month. I do not know why this process is taking so long.

9. The government told me that the reunification process would move more quickly once I am transferred back to a shelter. I was supposed to be transferred to a shelter in Houston by the end of February, but it never happened. I don't know why I am still detained here. I've never had an opportunity to find out why I'm still here or to challenge my prolonged detention here.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of March, 2018, at NoVA, Virginia.

[redacted]

CERTIFICATE OF TRANSLATION

I, Maria Ignacia Klopf, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on March 21 2016

Maria Ignacia Klopf

Maria Klopf

Exhibit 52

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I came by myself to the United States from Guatemala on August 11, 2017. I was fleeing violence and hoped I would live a better life with my uncle here. I have been detained at three different ORR facilities. I am currently detained at Northern Virginia Juvenile Detention Center (NoVA) in Alexandria, Virginia.

3. When I first arrived at the border, I was taken to a Southwest Key shelter in Arizona, where I stayed for approximately eight days. While there, I spoke to a clinician and told her about some of the traumatic experiences that I had in my home country. For example, I told her that when I was younger, I had seen people tortured and killed. I was coerced and forced to do things that I didn't want to do. I often feared for my life and the safety of my family. I thought that my conversation with the clinician would be confidential because we always spoke in private in the clinician's office, and no one ever interrupted us when we met. After I met with the clinician, I was placed on one-to-one security; a staff member was always by my side. I later learned that the clinician wrote a report documenting what I confided in her, and the government used that report to justify my transfer to the staff secure facility at Children's Village in New York.

4. I was transferred to Children's Village on August 18, 2017. I was terrified. During the transfer, I had no idea what was happening and wondered whether I was being kidnapped. No one told me where I was going or why. The staff didn't answer me when I asked why I was leaving the shelter. They just told me to stop talking and only spoke to me in English, which they knew I couldn't understand very well. I was not given any prior notice of the transfer or any opportunity to challenge the transfer. Five days after I arrived at Children's Village, Jesse, the supervisor of the case managers at Children's Village, told me that I had been transferred there because of what the clinician from the shelter reported. This conversation with Jesse was the first time that I learned that the

clinician shared what I believed was a private conversation and that the conversation had been used against me.

5. I feared for my life when I was at Children's Village. The staff punished me when I tried to protect myself and when I told them that I felt unsafe. When I first arrived at Children's Village, I talked to another young man about how scared I was when I was transferred from the shelter. The staff found out what I had said and punished me for discussing my experience. I didn't know I wasn't allowed to talk about my experience, but the staff didn't care. I was placed on "red" behavior level, which is assigned to youth who misbehave. On "red" level, I wasn't allowed to go outside for a week and didn't have as many freedoms as the other youth. For example, I wasn't allowed to play soccer outside, play in the gym, go to the swimming pool, play video games, and I had to go sleep two hours earlier than the other youth. I do not think it was fair for me to be punished for talking about my experience.

6. At Children's Village, multiple youth bullied me and another young man because we didn't speak or understand English very well. I was also bullied because I reported incidents to the staff whenever I felt unsafe. One of the bullies lived in the same room as me. I spoke to the staff many times about the bullying, but they never did anything to prevent it from happening again. After many weeks of bullying passed with no change, I finally wrote a formal complaint to the staff to express how scared I felt. The staff told me to stop complaining about the bullies and threatened that if I submitted any more complaints, my immigration case would be jeopardized.

7. I told multiple supervisors that I wanted to move to a shelter so I could get away from the bullies. The staff told me that I would not be able to move to a shelter, and they did not explain why. I was told that my therapist had to recommend that I be transferred to a shelter. When I asked my therapist to write the recommendation, she said that I didn't need to go to a shelter because I was going to live with my uncle soon. At first, when the therapist told me this, I was very happy. But after awhile, I realized that the therapist was just making excuses; she never intended to recommend that I transfer to a

shelter. I continued to be bullied and I kept begging my therapist to recommend that I transfer to a shelter, but my situation just got worse. I wanted to transfer to a shelter because I felt like every time I shared my concerns with my therapist, she never did anything to help me. I did not feel like she believed me or wanted to help me. I wanted to go to a shelter so that I would be treated better.

8. A few days before I was transferred to NoVA, the staff at Children's Village accused me of cutting my wrists, which was a false accusation. I did not try to harm myself, and I showed the staff my wrists to prove that there were no marks. The staff punished me and prohibited me from being in the same room as the other youth. The staff did not conduct an investigation or show me any evidence but used the accusations to justify my transfer to NoVA. I told the staff at NoVA, including my therapist, that I wanted to appeal the transfer, but no one gave me the opportunity to appeal. I do not believe I was sent to NoVA for legitimate reasons, and I still want to appeal my transfer. Every time I have tried to tell the staff at NoVA that I do not believe I was transferred fairly, they do not take my statements seriously.

9. I have requested bond hearings multiple times. At Children's Village, I asked for a bond hearing, and no one ever scheduled one. I want to have a bond hearing so I can explain to the judge that I am not dangerous, and I will not run away. I just want to live with my uncle and help provide my younger siblings with better opportunities than I had when I was growing up.

10. My uncle has applied to be my sponsor so that I can live with him in Nashville, Tennessee. He and I have a good relationship and we speak regularly. My mom signed documents designating my uncle to be my sponsor. He applied to be my sponsor when I was detained at Children's Village and has done everything the government has asked of him, including providing fingerprints and completing a home study. The government told my uncle that he failed the home study because he did not know about the traumatic events that happened to me when I was younger and because he did not have enough furniture in his home. Once I got to NoVA, I told my uncle all about my experiences

when I was in Guatemala, and my uncle submitted photos of all the furniture he bought in preparation for my arrival. Once the government received those photos, my uncle was told that he passed the home study. However, my case manager recently told me that my uncle needs to send the government a paycheck to prove that he has a job, but I don't know if my uncle knows that he is supposed to send a paycheck. In addition, the staff at NoVA have told me that before I can be released to my uncle, my therapist needs to complete a psychological study. The staff told me that I am on a waitlist and that the therapist hasn't completed the psychological study yet because there are too many other youth on the waitlist. Some of the youth on the waitlist are about to turn 18, and it doesn't look like they will receive a completed psychological study before they age out of ORR. I am frustrated because I already had a psychological study at Children's Village, and I have been waiting for two months for this additional study at NoVA to be completed.

11. Any time I want to find out more information about the status of my uncle's reunification application, I have to ask the staff here. They don't tell me what is going on with my uncle's application unless I ask. The government keeps adding more steps to the process. For example, a few weeks ago, my uncle was required to attend a class that teaches adults how to care for children. I feel like the government keeps delaying my release for no legitimate reason.

12. I have not been able to speak to my uncle for two weeks because the staff at NoVA told me there is a new phone system, and the system does not allow me to speak to my uncle. I am only able to speak with my mother, and my mother has to pay by the minute, which is very inconvenient. I do not understand why she has to pay. Under the old system, my family didn't have to pay to speak to me on the phone. Whenever I have asked to call my uncle, the staff tell me I have to use a different phone, but that phone is broken. I have told the staff and a supervisor several times that the phone is broken, but the staff and supervisor say that it is not their responsibility to fix the phone. I asked my case manager to let me use the office phone for five minutes to talk to my uncle about the

reunification process, but she refused and said if she let me do that, then she would have to let all the other youth use her phone as well.

13. At Children's Village, I took one pill every day. At NoVA, I continue to take medication. It is supposed to calm me down when I am upset, but it doesn't help me at all. I get upset because I am detained, and I don't want to be detained anymore. Anytime I feel frustrated, I do my best to distract myself and calm down. The medication doesn't calm me down; I have to calm myself down. I am trying so hard to be a good student and be on my best behavior. I would not get upset if I were living with my uncle, and I would not need the medication if I were living with him. I asked my doctor to lower the medication dosage because I am preparing to live with my uncle, and I do not want to take the medication after I am released.

14. I try hard to be on my best behavior and avoid trouble. I am an honor student. I have received certificates from several teachers that recognize that I am a good student, and I have received at least four letters of recommendation from different teachers.

15. I really want to live with my uncle. I know I would feel safer and happier if I were living with him.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of March, 2018, at NoVA, Virginia.

[redacted]

CERTIFICATE OF TRANSLATION

I, MARIA IGNACIA KLOPF, hereby certify that I am proficient in both Spanish and English, and that I accurately translated the foregoing statement and read it back to [redacted] in its entirety in Spanish on March 21 2018

María Ignacia Klopf

Maria Klopf

Exhibit 53

Pages **1 - 95**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Vince Chhabria, Judge

ILSA SARAVIA, AS NEXT FRIEND FOR A.H., A MINOR, AND ON HER OWN BEHALF,

Plaintiff,

VS.

JEFFERSON B. SESSIONS, et al.,

Defendants.

NO. CV 17-03615-VC

San Francisco, California
Thursday, June 29, 2017

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff:

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA, INC.
39 Drumm Street
San Francisco, CA 94111
BY: WILLIAM S. FREEMAN, ESQUIRE
JULIA H. MASS, ESQUIRE

For Defendants:

U.S. DEPARTMENT OF JUSTICE
Civil Division
P.O. Box 868
Ben Franklin Station
Washington, DC 20044
BY: SARAH B. FABIAN, ESQUIRE

Reported By: Pamela A. Batalo, CSR No. 3593, RMR, FCRR
Official Reporter

I N D E X

Thursday, June 29, 2017 - Volume 1

DEFENDANT'S WITNESSES	PAGE	VOL.
DE LA CRUZ, JAMES		
(SWORN)	4	1
Direct Examination by Ms. Fabian	4	1
Cross-Examination by Mr. Freeman	43	1
Cross-Examination by Ms. Mass	68	1
Examination by The Court	74	1

E X H I B I T S

DEFENDANT'S EXHIBITS	IDEN	EVID	VOL.
1	13	17	1
2	24	26	1
3	28	29	1
4	34	34	1

Thursday - June 29, 2017 **2:04 p.m.**

P R O C E E D I N G S

---000---

JAMES DE LA CRUZ,

called as a witness for the Defendant, having been duly sworn, testified as follows:

THE COURT: The only thing I will say is I'm not sure that microphone works, so if you want to do it from there, you should make sure you speak up.

MS. FABIAN: Testing.

THE COURT: It is working.

THE CLERK: For the record, please state your first and last name.

THE WITNESS: My name is James De La Cruz.

THE CLERK: Please spell the last name.

THE WITNESS: Sure. James, J-A-M-E-S. De La Cruz is D-E space L-A space C-R-U-Z.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. FABIAN:

Q. Good afternoon, Mr. De La Cruz. Can you explain to the Court what your position is with HHS?

A. Yes, ma'am. I am the Senior Federal Field Specialist Supervisor.

Q. And what are -- generally describe your duties.

A. My duties are to provide supervision for the other Field Specialists Supervisors in the field, and I also supervise Intakes.

Q. What is a Federal Field Specialist?

A. A Federal Field Specialist a person who is designated by ORR to work in a specific geographical location and ensure that programs in that geographical location operate within the policies and procedures of the Office of Refugee Resettlement.

Q. Where are you located?

A. I'm located in Washington, D.C.

Q. Are you familiar with the case of A.H.?

A. Yes, ma'am, I am.

Q. How did you become familiar with that case?

A. I became familiar with that case because the day that this case was initially referred to us by DHS, I learned that one of our -- the Field Specialist Supervisors had received a call from Intakes, and Intakes had received information from DHS, and based on our procedures, evaluated that that young person should be in a secure facility.

And then what happened later, after that decision was made, after the Intakes --

THE COURT: Hold on, before you get there, can you provide a little more detail about -- you said you received information.

Who did you receive information from? Who did they

receive the information from? Can you be a little bit more specific? Provide a little bit more detail about the information that you got in that conversation with -- I think you said it was another Field Specialist Supervisor.

THE WITNESS: Sure.

What had happened was we had received a couple of referrals from DHS that were considered secure referrals. We had noticed that some of these secure referrals were coming from the New York area and that they had been making a sweep of children in that location.

So Intakes, as a matter of course, was just keeping me updated and saying, "Hey, we received a couple of referrals."

THE COURT: Who and what is Intake?

THE WITNESS: Intake specifically is a smaller division within the ORR that works specifically with the Division of Unaccompanied Children Operations.

Their specific responsibility is to receive initial referrals from DHS. What I mean by that is whenever DHS or another federal entity as a matter of fact wants to make a referral of a child into ORR's custody, our Intakes Unit would receive that information and work according to our procedures to find a placement or designated placement for that child.

THE COURT: And so the referral for a secure placement came from DHS. In other words, DHS communicated to ORR that *We're sending you someone and there should be a secure*

placement for that person?

THE WITNESS: Yes.

BY MS. FABIAN:

Q. Is that common, for DHS to make a referral or a custody-level recommendation?

A. It's -- it would be -- for -- for -- for someone from ICE or a unit from Border Patrol, it could be, because I think someone who has been doing this long enough and they know our operations would know that there is information that we would know about or we would take into consideration for making a placement.

So, you know, I don't want to -- it's a matter of semantics where I don't want to say that DHS called and said specifically, *Hey, we want you to put this kid into detention or into secure,* but when we received a referral, I do know for a matter of fact that the information they gave us, that this young person had been arrested and that this young person had some pending charges and that this young person had a level of concern that was beyond what we would normally -- the concerns were beyond what we would normally identify for children in a shelter placement.

Q. Do you rely on DHS's recommendation regarding secure placement?

A. We rely on the information that they provide us to base our recommendation -- to base our decision.

Q. And you mentioned that the information in this case was related to some arrests. How did you become aware of the information on which the recommendation was based?

A. What happened was we received a couple of referrals, and so we had identified okay, you know, which -- where kids were getting placed. In the matter of the course of business, when we -- when cases come into us, what we try to do is make sure that we also work with the care providers to make sure that -- I'm going to back up a little bit.

One of the things that ORR is required to do is to place children in licensed facilities. All of our licensed facilities are licensed by the state, the particular state where they exist.

So what happens is that when we receive children with specific concerns and we place them in a specific provider -- could be a mental health facility, it could be a secure facility -- we also make sure that when we do place a child, we make a referral to that particular agency that it's going to be within the guidelines that they have to follow under their license.

For instance, we might have a shelter in Texas who might be able to take children under certain circumstances, but we might have a shelter in California that might not be able to take that same child because that shelter in California is not licensed to do -- to take that child. And it's the same thing

with secure.

Q. Is the decision to place a child in secure governed by ORR policy?

A. Yes.

Q. And can you -- what is the ORR policy with regard to placing a child into secure custody?

A. Generally it's a child who has a level of behavior that's chargeable or has been charged, including an act of violence, including gang-type behavior.

Q. How do you, when making an initial secure detainment determination -- how does ORR receive the information it uses to determine if a child meets those initial criteria?

A. What happens is when -- when DHS makes a referral to ORR, we receive some general information. There is also some -- some information that -- that's in our referral that DHS fills out that will lead us to believe that we need to ask additional questions.

So in the case of a young person of similar age as this case, once we see that, say, for instance, he's been apprehended and there's some charges, there's been some arrests, then what our Intakes office will do, whoever the staff who is assigned that day -- we have a placement tool.

What happens is that Intake staff will call the DHS, if -- you know, if we don't have sufficient information and we have to ask additional questions, but what they'll do is they'll

call back to that DHS officer and ask specific information. It could include things like, you know, has the child been arrested, what is he arrested for, what type of crime, is it a crime where there is an act of violence, is it a crime of weapons.

And so based on that placement tool, they'll -- they'll rank that -- they'll score that child's background. And if that child's background falls into a certain score, then that will help us decide whether that child should be referred to secure, whether they should be referred to staff secure or to shelter. And that's what happened in the case of A.H.

Q. When you say *that's what happened*, can you describe what you mean by *that's* --

A. What had happened was the Intake staff had scored this young person to be appropriate for secure.

MR. FREEMAN: Your Honor, I'm going to note a continuing objection to hearsay.

THE COURT: Understood. I'm going -- everyone is sort of doing this last minute, so I can decide later what I think is appropriate to consider, but I'm going to allow the flow to continue.

But on that note, how do you know that that's what happened in this particular case? What did you do to learn about the process that was -- the decision-making process relating to A.H.?

THE WITNESS: Well, what had happened was his attorney on the East Coast reached out. The attorney was looking for a child, and I guess somehow she knew to call me. We do have our names public, you know, as a matter of public -- public information.

So I received a call from his attorney saying she was looking for his client, and the understanding was that A.H. had been apprehended by DHS. She wasn't sure why her client was being placed. She stated that she had some concerns.

I do recall that she had said that he had, I think, an SIJS case pending, and so I did look into it and I did link her to the field specialist that is in this region and informed her that we had designated placement for A.H. to come to California and also had informed her that based on our information, based on our procedures for placing A.H. into a secure facility, that's where he was going.

THE COURT: What specific information do you have about the kinds of inquiries the folks at Intake made before -- about A.H. in particular, not about generally what they do?

THE WITNESS: My recollection is they had information that he was referred to ORR. They had -- they had the record and looked into the portals that he had a marijuana charge that was pending, there was a weapons charge unknown. I did notice that. It just said *unknown weapons charge*. And that there was also an intimidation charge that was pending, but I had also

seen that he was also affiliated or ICE had identified him as being affiliated with the MS-13 in Suffolk County.

MS. FABIAN: Your Honor --

THE COURT: Go ahead.

MS. FABIAN: -- may I confer with opposing counsel? I have an exhibit I want to make sure they don't want to --

THE COURT: Sure.

MS. FABIAN: Your Honor, his name appears in the exhibit, which I would need to either redact or submit the document under seal. What would the Court prefer?

THE COURT: Well, you can -- we can -- you can just use it right now to elicit testimony from the witness without using the name of the -- of the detainee, and then we can --

MS. FABIAN: I'm happy to then submit it redacted.

THE COURT: Yes. After the hearing.

MS. FABIAN: In consultation with opposing counsel.

THE COURT: Tomorrow or whenever you can submit it under seal.

MS. FABIAN: Okay. We can consult before we submit it about what you might want to --

MR. FREEMAN: As long as the name of the -- of our client is appropriately stricken, we have no objection to the introduction.

THE COURT: Okay.

MR. MASS: And the A number also.

THE COURT: The what number?

MR. MASS: The A number.

THE COURT: Well, I'm going to have you all submit -- whatever documents you use here today that I admit, what we'll do is we'll have you meet and confer and submit them jointly with any appropriate redactions.

MS. FABIAN: May I approach the witness?

THE COURT: Yes. And you don't need to ask me if you can approach the witness. You're free to do so.

MS. FABIAN: He's not afraid of me, so . . .

(Defense Exhibit 1 marked for identification)

BY MS. FABIAN:

Q. Mr. De La Cruz, I have handed you what has been marked as Exhibit 1. Do you recognize this document? Have you seen this document before?

A. Yes, ma'am.

Q. And can you turn to the second -- well, I suppose it's sort of the second page into the first page.

What is that document?

A. I guess I'm looking at the bottom of the first page. Starting with all the information of the second page -- that information now?

Q. Yes.

A. What that information is is information that we would have received from the DHS officer who was making the referral of

A.H. into ORR's care.

Q. And who is -- who is Stephanie who is the signatory on the -- first of all, what type of document is this?

A. What this is is basically it's a communication to -- I see that that information -- it was an email. It's a standard communication from Intakes to a number of us in ORR's office, but also to Yolo County staff. And I'm seeing -- yeah. That appears to be all of ORR's staff. I'm seeing if there is any DHS on here.

But they're basically Intakes -- that person Stephanie is an Intake Specialist, and she's basically -- what she's doing is giving notice that this young person has been identified into a secure placement, and that secure placement has agreed to accept him into their care.

Q. Is this email something -- this type of email something you frequently receive in the course of your business?

A. Yes, ma'am.

Q. And do you know where the information in the email comes from?

A. Yes, ma'am.

Q. How do you know that?

A. Because this is the same information that's in our portal system. We have a standard operating procedure with DHS that either CBP or ERO, which is ICE, Immigration Enforcement and Removal -- what they'll do is they'll go into their data

system -- well, in this case, it was DHS.

The DHS officer went directly into our portals. They have access to it. And they entered this information into the Intake's portion of the portals and gave notice to the Intake's team that they had entered that information to make a placement referral to ORR and were waiting for us to gather that information and make a decision.

Q. And is this -- sorry. Strike that.

Do you receive several of these emails in the course of your business?

A. Yes, ma'am.

Q. And you said DHS enters the information directly into the portal?

A. In this specific case, yes, ma'am. I mean, what I want to be clear about is that some of our federal partners provide us information in different ways. It all goes into the portals.

CBP, they have their own data system, and we work with CBP at the border. Well, they'll enter information into their own data system, and that information several times a day is pushed into ORR's data system, and in this case, because it's ERO, they would have entered this information directly into the portals.

Q. And is it regular practice for HHS to rely on information entered into the portal by DHS?

A. Yes, ma'am.

Q. Is it regular practice for HHS to make the initial custody determination based on the information entered into the portal?

A. Yes.

Q. Does HHS receive additional supporting information regarding the information that's entered into the portal from DHS?

A. Not consistently, ma'am. In other words, what you're seeing is what we would receive as far as a standard placement. There might be a time where we might receive some information and we might ask to see if they could provide us with additional information.

But in this case, I can't say that we did because it was sufficient information there.

Q. Does HHS -- well, strike that.

Talking about the initial -- what's the next email, I guess, later in time in this document?

A. What this basically is, this is from -- and to be specific, the email that's -- that's -- that would have been dated Monday, June 12th, 2007 at 2:52 p.m., that's notification from the Yolo staff notifying all parties on this email that the UAC has been accepted into placement at Yolo. They've agreed to take this child.

Q. Is there any other documentation that's created in the course of determining that a minor should be placed in secure custody?

A. No.

Q. Now, after the initial secure placement --

THE COURT: Did you want to move this into evidence?

MS. FABIAN: Yes. Sorry, Your Honor.

THE COURT: Any objection?

MR. FREEMAN: I do object to the hearsay nature of the document.

THE COURT: I think it's admissible because this is -- I take this as not being offered to prove that he was an MS-13 gang member or that he had this problem at Lincoln Hall Boys' Haven or that he was in fact a self-admitted gang member.

I take this to be admissible to show that this is information received from DHS that HHS relied upon in making its determination.

Whether it proves to be true or not, we don't know, but it's relevant because it's information that HHS relied on. And so I think it's admissible for a non-hearsay purpose, and it's admitted.

(Defense Exhibit 1 received in evidence)

THE COURT: Go ahead. Sorry.

MS. FABIAN: Just to be clear, Your Honor, do you want him to also talk a little bit about the next steps in the process?

THE COURT: Yes. That would be great.

MS. FABIAN: Okay.

Q. Following the initial decision -- well, after the secure placement was made, how many secure facilities are there in -- that ORR utilizes?

A. At this time, two.

Q. And why was Yolo chosen for a placement of A.H.?

A. Because of the -- the charges. Primarily because of the charges. Specifically it shows that this young person was arrested for possession of marijuana. It shows that he was arrested for intimidation pending, and it shows that the -- there is also the -- I think I missed something. The weapons, the intimidation, and marijuana.

So to me what stands out about that is that's saying that he was arrested and charged. I'm not saying in this case that these are just -- the extent of his crime. We're not making a judgment that these are good or terrible charges or that type of thing.

What we're looking at is that because we work with two facilities and two different areas, and like I said earlier, we have to also work with our -- with our facilities based on what they can do as they are licensed.

Yolo County is able to take youth -- only take youth who are charged or an obvious threat to the community, whereas Shenandoah has more of an open -- has more of an ability to take children who might not necessarily have been charged.

As a matter of course in our business, sometimes we do

receive young -- we do receive minors into our jurisdiction who we believe or who have confessed to having committed murder and those types of things in other countries, but they aren't necessarily charged in the United States. So we do have to work with a program, for instance, Shenandoah, who does have a little more flexibility to be able to take children who might have engaged in those types of acts.

And so when we have a young person who can go into a facility and they can only go when they've actually been arrested or they've been deemed a threat to the community, we're going to have to place with them.

Q. When you say *them*, what do you mean?

A. We'll have to place with Yolo County.

Q. The initial placement into secure custody, can you -- how is that -- what is the next step in that placement decision?

A. Well, after the young person is moved from -- well, okay. I'm going to get a little bit to the -- I guess the granular level because --

Q. Let's start out just -- I want to focus on this case, on A.H. so -- and so my question was too broad. That's my fault.

For A.H., having been placed into Yolo, what is the next step or what is currently occurring with regard to reviewing his placement decision?

A. Okay. What's happening right now, there should be two things that are happening. One is the facility should be

gathering information to determine whether he can be stepped down or whether he should remain in secure.

The other thing that should be happening is they should be looking into -- well, they will initiate the -- the -- they'll initiate working with -- making a determination if he can be released to a parent or another responsible adult who's in the United States.

Q. And with regard to the decision whether he can be stepped down, what information does ORR look at for that determination?

A. They'll -- a number of things. What they'll do in general is what -- they'll look at his behaviors, they'll see how he is adjusting in a secure facility, they'll be looking at also -- they'll do -- they complete an assessment to determine does he have any specialized mental health needs.

They'll also look at whether or not he might have been trafficked or could be someone who could -- you know, identified as someone who would be vulnerable to trafficking.

The other thing that they'll look at is what his behaviors were like or what has gone on with him prior to coming into ORR's care.

Our understanding is that he is charged, and so we will be reaching out to DHS to find out is he being charged, are there any, you know, types of crimes or anything that we should be aware of in making a release decision.

And then the other thing that we'll be doing is making

sure that the mom is aware of those things and evaluating where -- if he is charged, is she able to basically ensure that this young person deals with his charges, is part of that process for having been charged.

We'll also look at whether or not, you know, the past -- since he's been released, we released him once before, now we're being asked to release him again. We'll look at what's happened, you know, since that release from then until now.

Every time we release a child, we do have something called *conditions of release* where we basically ask sponsors to ensure that young people that we release to them continue on with things like education, housing, if there's anything like court, in particular, the immigration court, are they participating in those types of things, and that would be part of our evaluation process.

Q. Do you receive information from sources other than DHS in continuing this review?

A. We can. And -- as, you know -- I'll give you an example.

We had almost 60,000, you know, children come into our jurisdiction in 2016. Not all of the youth that we had had issues that might have been relevant, as in this case.

So when we do see that children have specialized needs or concerns -- it could be anything. It could be medical needs. It could be mental health needs. Our concerns from the past -- or familial. It could be CPS returns.

If we're going to release that young person back into the community or to the people that were once caring for them, we have to go back and make sure that that person receives the support, is able to basically care for that child.

Q. And when you say *we want -- we have to go back and look at that,* how does ORR look at that?

A. What we would do is in this case, you know, this person was referred to us, you know, as an MS-13 gang member. As far as we know, he's part of a sweep, so what we could do is go back and reach out to the community, to the law enforcement community.

We would also ask the school. We would gather information from as many resources as we could. We would ask his mom does she have anyone who could support her recommendation for -- her request for us to release him back into her care, and we would take that information into consideration.

Q. Is A.H. also being evaluated by staff at the facility?

A. Yes. He would be evaluated by -- well, a case manager and the clinicians. For the majority, the clinician.

The clinician, again, should have a process in place where they would talk to the -- they would read any kind of behavioral SIRs. They would take into consideration has he asked to go to a nurse. They would take into consideration what they experienced in, you know, one-to-one type of therapy.

They would also take into consideration information from

the staff about how he's done with other youth in the program, what he responds to. They'd also take into consideration, you know, information learned, you know, does he demonstrate gang-type of behavior, non-gang type of behavior, you know, how does he deal with dealing with peers in incidents where there is a conflict, a verbal conflict, physical conflict.

And, you know, how can he basically be -- you know, how could someone help him manage his own type of behavior, and those types of things. There is quite a few things that a clinician would review in making -- evaluating how that young person would do or what he needs.

Q. Does A.H. have any behavioral issues that have arisen while he is in Yolo?

MR. FREEMAN: Your Honor, I'm going to object to this. It's not necessary to this hearing. It's potentially prejudicial, and we have not had any opportunity to review this. I don't see the relevance as to what happened after he was placed in a secure facility.

THE COURT: I think it's relevant to the extent you are seeking relief relating to the kind of inquiry they need to conduct now to determine where he should be.

I mean, it might not be relevant to relief you are seeking based on the initial decision to send him to Yolo, but to the extent you're seeking relief about what they should do going forward and what kind of inquiry they need to conduct before

keeping him there, which I think is part of the relief you are seeking, I think it is relevant.

You can go ahead and answer the question, but explain how you know also -- know the information.

THE WITNESS: Okay. I know the information for this specific case or in general?

THE COURT: This specific case.

THE WITNESS: Okay. For this specific case, I know about it because we know about this TRO. Basically feel like it's my responsibility to work with Elicia to know why this young person is in our case, what kind of issues might come up, and it's also a part of our responsibility to look at are we actually doing the right thing by keeping this young person in secure right now.

So I did look at the SIRs.

THE COURT: What is SIR?

THE WITNESS: Serious Incident Report.

So I looked at the Serious Incident Reports myself and I saw that there were basically Serious Incident Reports for this young man.

MS. FABIAN: Your Honor, may -- I don't need to ask. I'm going to hand --

THE COURT: Go ahead.

MS. FABIAN: I'll ask this be marked as Exhibit 2.

(Defense Exhibit 2 marked for identification)

BY MS. FABIAN:

Q. What is this document?

A. Ma'am?

Q. I'm sorry. What is this document?

A. This is -- this is a Serious Incident Report that describes an incident that A.H. was involved in on June 20th, 2017.

Q. And how are Serious Incident Reports created?

A. Serious Incident Reports are -- these documents are created when a youth becomes involved into an -- in some kind of incident. It could be a physical altercation. It could be verbal. It could be an allegation against other children, against other staff, basically something -- a concern that is of serious -- that needs to be looked into by the care facility and/or the FFS, and it's documented in our portal system.

Q. And so this paper document -- it reflects information from the portal system; is that correct?

A. Yes, ma'am.

Q. Who enters the information into the portal system?

A. In this case, it would have been the case manager or the clinician. The portal is -- SIRs can be generated by either a clinician or a case manager or a staff in the facility with the proper clearance to be able to do that.

Q. How does the person who enters the information into the portal -- how are they aware of the information that they're

entering?

A. They are typically the first -- the person who -- who directly has to engage in intervening in that child's behavior or it might be the person who a child disclosed information to, but it's typically a first-line person who -- who's dealing with that event.

Q. And is the information entered -- when is the information entered into the portal in relation to the events that the document would reflect?

A. An SIR is required to be entered within the first hour or so and reported to ORR no less than 24.

MS. FABIAN: Your Honor, I would like to move the admission of Exhibit 2.

THE COURT: Any further objection?

MR. FREEMAN: Objection. It's a multiple hearsay document.

THE COURT: Okay. Well, again, same thing. I think it's admissible to show what information -- what has been told to ORR which relates to ORR's decision about what to do with the child. So it's admitted for that non-hearsay purpose.

(Defense Exhibit 2 received in evidence)

BY MS. FABIAN:

Q. And so the Incident Report that I handed you, what -- what behavioral issue does this Incident Report -- sorry. Strike that.

What does this Incident Report -- what incident does this report reflect?

A. What it reflects is that A.H. became engaged into an altercation.

MR. FREEMAN: I'm sorry to interrupt, but I do have the same objection as to hearsay.

THE COURT: You can say what the -- if you feel it's necessary, you can say what the report says. I don't think you have any personal knowledge whether it actually happened, and I'm not considering this document for the fact that it actually happened. I'm considering this document for what it reports.

So I'm fine for you to testify about what it reports and what -- how you -- what import you place on that information.

THE WITNESS: Okay.

What this -- this report basically says is that A.H. became involved in an altercation with another youth. In the course of dealing with this, the staff needed to physically intervene on the case of A.H. and use some restraints to basically help him de-escalate.

BY MS. FABIAN:

Q. And how would this information be considered in your -- in ORR's overall assessment of a custody decision for A.H.?

A. This is one incident. And so what the field specialist would do -- normally, it's the shelter staff are the ones who deal with this. And what they would normally do is they would

see this is one incident of a particular child's conduct in the facility.

They should use it objectively which is, you know, this young person became engaged in a fight. This is one time. If anything came out of this, the concern would be -- is that they know that this young person might need some help in learning how to de-escalate himself when he becomes involved in another -- in a conflict. And that's what this one particular document would do. We wouldn't base any totality of any kind of decision based on one event.

MS. FABIAN: I'm going to ask to mark this as Exhibit 3.

(Defense Exhibit 3 marked for identification)

BY MS. FABIAN:

Q. And is this also a Significant Incident Report?

A. Yes, ma'am, it is.

MS. FABIAN: I'd like to move the admission of Exhibit 3 on the same basis.

MR. FREEMAN: Same objection, Your Honor.

THE COURT: Admitted on the same basis.

MR. FREEMAN: I also should say that we have a continuing objection to the admission of these documents to the extent that they do not black out the name and A number of the petitioner --

THE COURT: Well, as I specified earlier, they may not

be placed into the record until that information is blacked out.

MR. FREEMAN: Thank you.

(Defense Exhibit 3 received in evidence)

BY MS. FABIAN:

Q. Just briefly, can you describe what this document states?

A. What this document basically states, that this is an incident where he was involved in a verbal altercation as it was reported by staff and that it was an incident of verbal altercation that occurred due to gang affiliations.

Q. And how would this incident report be considered as far as the overall custody determination that ORR is making?

A. Again, this is something that we would take into consideration, not -- among other facts and other information.

As I said, he's -- A.H. would be assessed on a number of other issues. So -- but this is something that the facility would take into consideration, as does he, you know -- he seems -- appears to have some gang affiliation.

THE COURT: Can you show me where in this report is a description of his conduct that suggests gang affiliation?

THE WITNESS: Sure. I guess somewhere -- I guess I would call it the second page, the third paragraph. You asked me specifically about gang. I'm looking on here and I do see the spitting part.

THE COURT: Sorry. Where?

THE WITNESS: On, I want to say it's about -- it's almost on the bottom of the first third portion of the second page.

THE COURT: Okay.

THE WITNESS: It says, "Approximately 1000 hours after Youth Arnold was secured in his room, youth H.A.M. was also let out of his room to speak with ORR staff" --

THE COURT: Hold on, hold on, hold on. Couple things. First, I'm still having trouble figuring out where you are -- first, I'm having trouble figuring out where you are, and, second, you've got to go a little slower for the court reporter.

THE WITNESS: Sorry.

THE COURT: Let's see. Approximately what hours?

THE WITNESS: One thousand.

THE COURT: "At approximately 1000 hours after Youth A was secured in his room"?

THE WITNESS: Yes, sir.

THE COURT: Okay.

MR. FREEMAN: I'm sorry. How many lines from the top or bottom are we talking about?

THE COURT: It looks like it's about 12.

MR. FREEMAN: Okay. Thank you.

THE COURT: It starts in about the middle of the page, "At approximately a thousand hours."

MR. FREEMAN: We have it. Thank you, Your Honor.

THE COURT: Okay.

"After Youth A was secured in his room, youth H.A.M. was also let out."

Go ahead and read whatever you want to read, without mentioning anybody's names.

THE WITNESS: Okay. Let me see.

"1,000 hours, Youth A was secured in his room with Youth H.A. and also let out of his room to speak with ORR staff. He approached Room B-13" --

THE COURT: A little slower.

THE WITNESS: -- "where youth H.A. roam" -- "roamed" -- I think it meant to say "roamed." "And he kicked his door and started yelling at him in Spanish. At 10:30 hours, I noticed nurse" -- "a nurse and advised her of the Youth H.A. had been spit on. At 10:35 hours, the nurse entered into B-Pod and assessed youth H.A. A gold medical slip was filled out on behalf of Youth H.A. Due to Youth" -- I guess, our A.H. -- "spitting on Youth H.A. and deciding to fight, Youth A will receive a hearing."

In other words, how I perceive that is that youth -- our youth that we're talking about, A.H., is going to receive a hearing because -- if he's been inciting this fight.

"Due to Youth E.H., Youth R inciting Youth A to fight for failure to follow staff instructions" --

THE COURT: What does any of that have to do with gangs?

THE WITNESS: That's -- it's not clear from the documentation.

THE COURT: I see there's something a little bit later talking about Youth H.A., who I guess is the person that A.H. got in the fight with?

THE WITNESS: Right.

THE COURT: "Once secured, Youth H.A. began kicking his door and yelling 'fuck MS-13' continuously."

So that's the one reference to anything gang related that I see.

Okay.

THE WITNESS: All right.

BY MS. FABIAN:

Q. I'm not sure where we were exactly.

How would this document be considered as part of ORR's overall custody assessment of A.H.?

A. This is one more incident of a behavior that we -- we would look at to see how he interacts with other youth. The program should be working with him on these types of issues, on how to engage himself when he needs to basically engage other youth.

It's a little difficult that there is gang affiliation, but it's still something that the shelter would work with him.

What I mean on -- what I mean by that is that sometimes in an engagement, you know, kids just have impulse control, and if they just have poor impulse control by nature, then it's getting them to remember hey, if somebody bothers you and upsets you, then this is how you need to handle it and then how you need to basically engage and conduct yourself in working things out.

When it's an issue of gang behavior, it's now two issues. It's one -- it's like hey, now you're engaging in an affiliation with a certain group of people which can cause problems. That's one issue. But now you have to deal with this second issue of -- is when you do deal with that affiliation and you encounter a group of people, then what's going to happen is you're going to have to be able to control yourself not to get in their fights.

So now you have -- instead of just somebody with impulse control, you now have to deal with the other issue of gang affiliation as well, and it becomes a little bit more complex.

MS. FABIAN: Your Honor, I have one more -- I just -- my aim is not to pile on here.

THE COURT: That's fine.

MS. FABIAN: It's to get the evidence. I believe we're at.-

THE COURT: This was admitted. I did say this is admitted on the same basis as the previous one, yes.

MS. FABIAN: We're at 4.

(Defense Exhibit 4 marked for identification)

BY MS. FABIAN:

Q. Is this another Significant Incident Report?

A. Yes, ma'am, it is.

MS. FABIAN: I'm going to move to admit it on the same basis as the prior two.

THE COURT: Any further objection?

MR. FREEMAN: Same as before, Your Honor.

THE COURT: Okay. Admitted on the same basis.

(Defense Exhibit 4 received in evidence)

BY MS. FABIAN:

Q. Can you briefly describe or state what this report --

A. What this basically is is a report is that the youth engaged in disruptive and disrespectful behaviors.

Q. And how would this incident report be considered in ORR's overall consideration of whether A.H. should be held in custody?

A. What this basically is is an indicator of -- is you have a detention facility, adult staff, who is basically giving a -- A.H. some routine instructions not to do something or to do something, and his response was inappropriate by -- by him basically, you know, saying sexual innuendo and inappropriate things to the staff, which is a concern because this is the conduct that you wouldn't typically expect from the average

person in any environment.

Q. And so how would this behavior -- well, how would this behavior figure into ORR's custody evaluation?

A. Well, again, there's two separate issues that we would be evaluating.

We would be evaluating whether or not we could -- it would be appropriate to step A.H. down into a less restrictive environment.

The other issue is would we -- if the mom or another adult sponsor was to come forward, would we release A.H. to that sponsor. Would that person be able to basically engage with A.H. to intervene, so -- and in a way that he didn't -- he was able to be safe in a community, in school, and those types of things.

Q. When will ORR make its -- its -- I guess it would be the second custody determination -- custody-level determination for A.H.?

A. Sure.

So not dealing with the issue of whether he should remain in secure, but dealing with the issue of release?

Q. No. Sorry. I'm not using the right language then.

Not dealing with reunification, dealing with the question of level of custody in secure, when will ORR at the latest issue a determination on whether A.H. should remain in secure custody or be stepped down?

A. On approximately 7 -- July 13th, of 2017. In other words, 30 days after his initial placement into ORR.

Q. And on the other side, the reunification determination, what -- where is A.H. in the reunification process?

A. The most recent information that I have is that on June 22nd -- well, prior to June 22nd -- now, let me restart this.

When A.H. came into our jurisdiction, my understanding is that the care provider reached out to the mother, and with the effort -- with the goal to let her know that he is now in our jurisdiction and where he is.

And what they would also do is find out where she lived, find out whether she was interested in becoming a sponsor. And they would have provided that information to her by sending it to her or working with someone because she could also, you know, download it off of our Internet website. She would be able to gather that information and also provide whatever documentation is required under the reunification process.

My understanding is that it wasn't clear to the program, to the care provider, that she wasn't being responsive to the request, and it's not clear why she stopped being responsive. But my understanding is that on June 22nd, she had stated that she was looking at either still sponsoring herself or locating another sponsor.

MR. FREEMAN: Objection. Move to strike. Hearsay as

to the mother's statement.

THE COURT: Statement of a party opponent. She's the petitioner. Why isn't it a statement of a party opponent?

MR. FREEMAN: The hearsay, though -- he didn't hear that statement. It comes through a third person.

THE COURT: Yeah. That's right. Okay. Granted.

THE WITNESS: Okay.

MS. FABIAN: And, Your Honor, just so you know, I'll ask a follow-up question, I think. We don't contend at this time that she's not intending to -- we have no position whether she intends to seek reunification or that she's not participating.

Q. But what I'll ask is to your knowledge, has she yet -- has she yet filed a reunification package requesting reunification -- has plaintiff?

A. She's not completed all of the documentation that's required.

THE COURT: Why would she need to do that, having already been -- the child already having been placed with her?

THE WITNESS: Because, one, things change. People's circumstances change. I think it's been a year since he's been with those. But for one, he left and he came back.

And this is -- this is now -- we treat this somewhat as a new case because it's not every day -- it does happen for different reasons, but usually when a child comes back to us,

it's because something has happened in their home, so we would be required to go back and restart the reunification process all over again to ensure that we don't miss out on something that could have happened from the time he was first released to now.

THE COURT: Okay.

BY MS. FABIAN:

Q. Does ORR have a separate process in place for an individual who had previously been in custody and been released?

A. It's pretty much the same process, yes.

MS. FABIAN: Your Honor, have we elicited the testimony that the Court needs? I'm just trying to make sure I have the scope of what we're trying to get out here.

THE COURT: Well, I mean, I'm jumping in and asking questions when I need to, and I'll presumably do that during cross-examination, and we'll see where we are after that.

THE WITNESS: I have to clarify something because it could cause some confusion.

When A.H. initially came to us, the process that we used would have likely been, because it's goes -- you know, it was the mom. What would have happened was -- and if we didn't have any information like we do now, what would have happened is we do the same process. We gather information. We gather, you know, the documentation that we normally would for all

releases.

But now because it's -- it's -- you know, we have the behavior issues -- if we had known there were behavior issues the first time, we would have considered doing a home study, we would have considered doing post-release services.

But, again, now because this is a case where it's a second referral, we have more information, then we would be likely providing additional services to the home study, post-release services. And post-release would only happen if we did make a decision to release, but more than likely, we would do a home study before we made a release determination of -- either to deny or to approve.

BY MS. FABIAN:

Q. With regard to the determination to place A.H. in secure, you said that a determination would be made on or around July 7th; correct?

A. 13th.

Q. Thirty days after the initial intake?

A. Yes, ma'am.

Q. Is there -- is that the final decision? Is there a subsequent review of that --

A. No. We're required to do that every 30 days, and in addition, if he's in our care for 90 days, then a supervisor would review that as well.

If at any time he decides that he doesn't agree with our

decision, he can make an appeal directly to the ORR director.

Q. And is there a timeline for any appeal to the ORR director?

A. No. In other words, how I would say that is, is that it's always continuing. Let's say, for instance, in the first 30 days we make a decision to not step him down, then it starts going into 60 days. And let's say it gets to 60 days and we decide we still haven't made a determination that we could step him down, then he could make -- he could invoke that request, you know, on day number 100 or 105.

So there is no statute -- there is no limitation of when he could ask for that. Does that make sense? Yeah. Okay.

Q. With regard to the decision that's still early in the process, but if ORR determines after review that it cannot reunify A.H. with his mother, is there an appeal process for that decision?

A. Yes.

Q. Can you describe that appeal process?

A. Yes. Generally what can happen is -- and this is a fairly new process. These have changed a little bit.

So if A.H. invoked, I want to say this might be the first time I'm aware that it's being done, but what would happen is if we made a decision to deny, then the mom could basically ask the ORR director for an appeal. And that -- yeah. Generally that could happen at any time.

Q. And how is that appeal conducted? Sorry.

First, how is the denial communicated to A.H. and his mother?

A. What would happen is first what happens is once we receive all the documentation -- and in this case, it's likely going to be a home study. Once we receive that, we would have approximately 30 days to get back to -- to -- to them with the final decision.

In the course of that, we do -- in headquarters, we do have somebody that would staff that with other -- like panel the decision, and they would come up with the decision and they would make that recommendation to the ORR director.

The ORR director would then take that into consideration and decide whether they should deny it or whether they should go ahead and proceed with the release.

If we don't release the child, then what would happen is he would receive notice through the shelter and then the mother would receive notice through the shelter, but she would also receive written documentation and she would also receive information on how to appeal that case.

Q. And then you said the first appeal is to the director. How is that appeal conducted?

A. Well, he -- he -- my understanding is he would also panel that. He would ask for additional information. And he would ask for a panel to also review the case as well and provide

their recommendation.

Q. Will he issue a decision?

A. Yes. One way or the other.

Q. And if the director at this level of appeal denies release, is there a subsequent level of appeal?

A. I believe so, yes, ma'am. There is now. Again, it's a new procedure, it's a new policy, so I would feel better if I went back and looked up the details on that.

Q. Where is that located?

A. It would be only in our ORR policies and procedures.

Q. Would I be correct to say -- is that the assistant secretary level?

A. Yes, ma'am.

MS. FABIAN: And I would be happy to point the Court; otherwise, I believe it's in our briefing as to the section. I won't ask him to have it memorized.

THE COURT: That's fine.

MS. FABIAN: I have no further questions.

THE COURT: Okay. Why don't we take a five-minute break and then do -- go ahead and proceed -- I assume you want to do some cross-examination?

MR. FREEMAN: Yes, Your Honor. Thank you.

THE COURT: Be back in about five minutes.

(Recess taken at 3:09 p.m.)

(Proceedings resumed at 3:20 p.m.)

THE COURT: Mr. De La Cruz, you can go ahead and have a seat. Every witness does that.

THE WITNESS: I'm not special, I guess.

THE COURT: Go ahead.

MR. FREEMAN: Your Honor, if I may ask, due to the slightly unusual nature of the proceedings today, when I'm done, if Ms. Mass has a couple of questions, can she ask them?

THE COURT: Not a problem.

MR. FREEMAN: It's easier than passing me notes.

CROSS-EXAMINATION

BY MR. FREEMAN:

Q. Mr. De La Cruz, good afternoon.

The first question I have for you is at some point, A.H. went from being in the custody of ICE to being in the custody of ORR. When exactly did that happen?

A. That would have been -- my recollection is that DHS made the referral to ORR on June 12th, and he was intaked physically at the Yolo Center in the afternoon on the 13th, I believe.

Q. I'd like to be as precise as I can with the times that things happened. So when was the intake?

A. You know, I'd have to -- I really apologize. I'd have to look at a record to be able to give you that information.

Q. Well, the Exhibit 1 shows an email at 2:50 in the afternoon on June 12th.

MS. FABIAN: I took the witness' copy.

MR. FREEMAN: I'm happy to give you mine.

MS. FABIAN: I have it.

MR. FREEMAN: Thank you.

THE WITNESS: All right. Thank you.

BY MR. FREEMAN:

Q. Does that help you remember when the intake occurred?

A. Well, the timeline, a little bit, but it's not quite complete.

Q. Do you know when the arrest of A.H. by ICE took place on June the 12th?

A. It would have happened before 2:32. I want to say, if I recollect, that the apprehension date would have happened around 12:00 or a little bit sooner than that.

Q. So around noon on the 12th?

A. That's my belief, yes, sir.

Q. And when did -- when did your office determine that A.H. should be sent to a secure facility?

A. I'm reviewing this record.

On the record that you gave me, on the bottom part of the first page, looking at the date, June 12th, 2017, at 2:32:24 p.m -- I'm reviewing this -- that Intakes is notifying -- had received notification from DHS through the portals that a referral had been made. I want to say that at approximately noon, DHS would have apprehend him, sometime between noon and this time at June 12th.

And I'm reviewing this with incomplete records, but I'm looking at the timeline I would normally look at -- is that between 12o'clock and 2:32, ICE would have entered the information into our portal system and made it known that they were taking that initial step to refer A.H. into ORR's jurisdiction.

From what I see here is somewhere in that time, Intakes would have reviewed this information that's on the second page. They would have looked at the information about criminal charges, made the determination, using our policy, that he -- that A.H. was appropriate for secure care, and then when I look at this up here, I see the email from Mr. Castaneda at Monday, June 12th, 2017 at 2:52, and they're basically saying that UC has been accepted for placement in the Yolo County.

So at that point, we would have communicated to DHS that A.H. has been designated for placement at Yolo County, and we would have given them that notification, and they would have started the transportation piece for transporting him from, I want to say, New York to -- to Yolo County in California.

Q. Now, that's 2:52 Eastern time; correct?

A. Yes, sir.

Q. So within three hours of his arrest, give or take, you've made -- your office has made a determination that he should be sent to a secure facility; correct?

A. Yes, sir.

THE COURT: I'm sorry. Could I ask one clarification question?

So this information on page 2 of Exhibit 1, arrested for intimidation, arrested for possession of an unknown weapon, arrested for possession of marijuana, self-admitted gang member, that is information that DHS entered into your system?

THE WITNESS: Yes, sir.

THE COURT: Okay. And so then ORR employees pull it up on the system, and that is where they get the information?

THE WITNESS: Yes, sir.

THE COURT: Okay. So there wasn't any actual conversation then between somebody from DHS and somebody from ORR?

THE WITNESS: Not that I'm aware of.

THE COURT: Okay. And in the normal course, there would not have been a conversation between somebody at DHS and somebody at ORR? There would just be a review by somebody at ORR of the information that DHS input into the system?

THE WITNESS: Yes, sir.

THE COURT: Okay.

THE WITNESS: And I'm looking at the information that's here contained in this email, which is information that is sufficient to make a determination.

THE COURT: Got it.

And your position is that this -- this information and the

way it's been transmitted to ORR is sufficient to comply with the requirements of the statute?

THE WITNESS: Yes, sir.

THE COURT: Okay. The 8 U.S.C. Section 1232? The TVPRA?

THE WITNESS: Yes, sir.

THE COURT: Okay. Thank you.

BY MR. FREEMAN:

Q. So could you explain to me at the bottom of page 1 on Exhibit 1 where it says, "from ACF ORR DUCS Intakes"?

A. Yes, sir.

Q. What is that?

A. That's our Intakes hotline. ACF -- ORR DUCS -- the division used to be titled Division of Unaccompanied Children Services, and so that email -- the resource box has remained that way for the last 12, 13 years.

Q. But that's -- a human being sends that information to you or is that just generated by a machine?

A. This information would have been sent to us by a person.

Q. And that person is who?

A. From here, from the signature on the second page, a young lady by the name of Stephanie.

Q. Okay. Now, during the three hours between the arrest -- and I'm being generous because you probably got information after the arrest. But between the arrest and the time he was

determined to be sent off to Yolo, did you or anyone at ORR ask anyone at DHS about the information that they had input?

A. I do not have a recollection of that, sir.

Q. Okay. It wouldn't be your typical practice to call up DHS or ICE and say, *Can you tell us more about this arrest or that incident*?

A. I want to say -- go back to the substance that's here on the second page. Is -- there is sufficient information for us to be able to make a placement determination.

Q. That wasn't my question, sir.

Did anybody ask for more detail about the information that was provided to you?

A. From DHS, not that I'm aware of sir, no.

Q. Now, you now know that some of that information is wrong, don't you?

A. I can't say that it is or isn't, sir.

Q. Take a look at the 5/25/2017 arrested for possession of an unknown weapon.

A. Right.

Q. You now know that took place actually not in 2017, but in 2016; correct?

A. My understanding is I believe that that's accurate.

Q. Which is accurate?

A. That it could have happened before. I did see a record somewhere after placement that it was made in 2016.

Q. Have you looked at the declaration of Daniel Loechner submitted by the defendants in which it says, quote, "According to records provided by local law enforcement, in May 2016, A.H. was arrested by the Amityville, New York Police Department for medicine and possession of a weapon"?

A. I don't have that record, sir.

Q. I'm happy to hand you my copy. Please forgive my markings on it.

A. Okay.

Q. Do you know see that Mr. Loechner contradicts the information that is contained in Exhibit 1?

A. This is the first time I've seen it so if I could have a few minutes to review it, would that be okay?

Q. Certainly.

A. (Witness reviews document.)

Okay. I see it, sir.

Q. Yes. Is it now your understanding that the information about the date of the arrest in Exhibit 1, the arrest for possession of a weapon and intimidation, is wrong?

A. I received -- I see that the dates are wrong -- or there's -- what I see is there is two conflicting dates.

Q. One of them is sworn under oath; correct?

A. Yes.

Q. May I?

A. Sure.

Q. Did you or anyone under your supervision at the time -- around the time of receiving Exhibit 1 know that that charge from 2016 had been -- was dismissed in contemplation of adjournment in the state of New York, which means there was no finding?

A. No. What I do want to say is -- and I believe -- I do want to say that when the -- when A.H.'s attorney initially contacted me, she basically said, *Hey, I have a concern. There's some proceedings that are going on in New York. I'm his attorney, and some of the charges that, you know, ICE is picking him up on could be incorrect,* so what I recollect is that -- telling her about our reunification procedures, and that once this young man came into our jurisdiction, we would be gathering more information about him and then we would come to some kind of decision -- we would use that information to come to some kind of a decision.

Q. But by that time, by the time you had the conversation with A.H.'s attorney, Stephanie Gibbs, that was 5:00 the following afternoon, Tuesday the 13th; correct?

A. Approximately, yes.

Q. Now, during the time between when you got notice of the arrest and a decision was made to send A.H. to Yolo -- first of all, it was within the knowledge of DHS that A.H. was represented by an attorney; correct?

A. I wouldn't know that.

Q. Okay. Well, at the time Ms. Gibbs talked to you the following day, she sent you the forms that showed she had entered an appearance on behalf of A.H.; correct?

A. I believe she had.

Q. And those forms would be somewhere in the records of the executive office for immigration and review -- somewhere in the immigration system there was information that A.H. was represented by an attorney; correct?

A. I would assume so.

Q. Was any effort made to reach out to the attorney between the time A.H. was arrested and the time he was sent to Yolo?

A. Could you restate the question again?

Q. Was any effort made by anybody to reach out to A.H.'s attorney between the time he was arrested and the time he was sent to Yolo?

A. I don't have recollection of that --

THE COURT: Hold on a second.

MS. FABIAN: Objection. I don't think he has testified that he is aware --

MR. FREEMAN: To your knowledge.

MS. FABIAN: He doesn't work for DHS.

THE WITNESS: Right. To my knowledge, I wouldn't.

BY MR. FREEMAN:

Q. I'm only seeking your knowledge.

A. Sure.

Q. Are you aware that A.H. repeatedly asked the -- his ICE arresters and the people who had him at the Varick Street facility in New York and elsewhere to speak to an attorney? Were you aware of that?

A. No, sir.

Q. Presumably you were not aware that those requests were denied; correct?

A. Yes, sir.

Q. Were you -- was any effort made to reach out to the custodian to whom A.H. had been released under an agreement -- in other words, A.H.'s mother -- was any effort made to reach out to her before sending A.H. off to Yolo County?

A. I can't speak to DHS, but I can say that any attempts to contact a mother prior to him coming into our jurisdiction -- I do not believe anyone contacted her.

Q. I'm talking about prior to the time he was sent to a facility across the country.

A. Right. I have no --

Q. Okay. At the time, ORR had a custody agreement with the mother; correct?

A. We had released -- we had previously released A.H. to his mother, right. That's correct.

Q. I misspoke. It's a sponsor agreement; correct?

A. Yes, sir.

Q. And is it ORR policy not to contact sponsors before taking

their children out of the jurisdiction?

A. We rely on DHS's determination to -- to identify that a child is an unaccompanied child who belongs in federal jurisdiction and that's what we rely on.

Q. So no effort was made to contact the mother?

A. No, sir.

Q. Now, was any effort made to talk to the arresting officer who appears somewhere in all of these records to have said that this young person on arrest admitted to being a gang member -- was there any effort made to corroborate information to see whether that was true?

A. Okay. To my knowledge, no.

Q. Okay. To this day, has there -- has anyone within the Government, to your knowledge, reached out to the county police or the local police who made this arrest in which it's alleged that A.H. admitted to being a gang member -- has anyone in the Government, to your knowledge, reached out to the arresting officer to ask if that's true?

A. To my knowledge, no.

Q. I'm going to ask you about the marijuana charge as well.

Did you have knowledge -- or to your knowledge, did anybody know at the time A.H. was being considered for secure treatment -- secure detention, that the marijuana charge had been dismissed in contemplation of adjournment?

A. No, sir.

Q. Did anyone know that the -- that A.H. had been in a supervised work program and that the supervisor in the work program had said he was a very commendable participant in the program?

A. No, sir.

Q. So basically all you had was some information input by ICE that nobody in your organization really cross-examined; is that correct?

A. Yes, sir.

Q. Now, you referred to a -- you'd received a bunch of secure referrals because DHS was doing a sweep. Do you recall that testimony?

A. Yes. And so DHS was telling ORR, *We believe that these are people affiliated with gangs and they should be securely detained?*

A. In not those exact words, but yes, sir.

Q. Okay. Do you have any procedures for reviewing or challenging that recommendation in the three hours between notice of the arrest and the time that you make a decision to send -- to send a youth off to secure detention?

A. If we believe that we have complete information, no, sir.

Q. Now, the gang piece -- am I correct that the ORR policies were just recently changed -- in fact, on June 12th -- to include gang affiliation as a factor in determining what kind of detention should be ordered?

A. Sure. They were approved and put into effect on that date.

Q. So that's the day that A.H. was arrested; correct?

A. Yes, sir.

Q. To this date, to your knowledge, has anybody been in communication with the mother directly in person about the circumstances of her son's arrest and transfer?

A. My understanding is -- my understanding is that the Yolo County facility staff have made contact with the mother.

Q. In person or by email or by sending --

A. It would have been telephonic.

Q. You mentioned, I think at the beginning of your testimony, that Ms. Elicia Smith, who has been sitting here patiently in court all day -- she is the field -- federal field specialist in San Francisco for ORR; correct?

A. Yes, sir.

Q. So she has jurisdiction over the San Francisco -- over the detention of persons under ORR supervision within this geographic area?

A. She's responsible for ensuring that the program follows its policies or ORR's policies and procedures.

Q. With respect to A.H. and anyone else within this geographic area; correct?

A. Yes, sir.

Q. And she would be responsible for detentions that happened

to occur in the Yolo Center?

A. If you could define *responsibility* and *detention*, that would help me answer the question a little bit more directly.

Q. Well, why don't you explain what her responsibility is.

A. What her responsibilities are, are that when a young person -- well, it's to ensure that children placed under the auspices of the Offices of Refugee Resettlement receive the services required by the Office of Refugee Resettlement, and that the programs that are in her geographical -- geographical location assigned to her follow ORR's policies and procedures in ensuring that those services are provided to any particular child in that geographical location.

Q. Okay. So -- but she's -- she's -- other people report to her, but she's the top person within this geographical location to make sure that that happens?

A. Yes.

Q. Now, if Stephanie Gibbs had not called you at 5:00 the day after the arrest, what would your normal procedure be for alerting the attorney of an unaccompanied child to the fact that he had been picked up and detained?

A. ORR funds legal services in all of the jurisdictions where we have children, so under most circumstances, children come into our jurisdiction and they don't have a legal representative.

So normally what would have happened is when a child comes

into our care, the legal representatives, what they do is they check in every once in a while to see if any new kids have come in, but we also ensure that -- the facility knows that if a child comes in is that we would engage our funded legal representatives to engage with that child to do a screening and a know-your-rights presentation.

In some cases, when a child has a legal representative and we find out by happenstance, then sometimes it's our legal rep that will reach out to the attorney because it's questionable whether or not that attorney is still engaged, whether there is anything going on, but if we find out a child -- the child says, *Hey, I have legal representation*, and they identified that they have legal representation, then the facility would reach out to that legal representative.

Q. But there's -- what I think I'm understanding is that there's no process within ORR, even when an unaccompanied child has an attorney, in pending immigration court proceedings to find -- affirmatively find that attorney and contact him or her?

A. If a child says that he or she has a legal representative, then yes, we would do that.

Q. But barring that, what I'm saying is if you just don't know, there's no affirmative outreach, even though the attorney may have information already in the system and notices of representation?

A. I guess what you're asking me is as part of our screening and our interview, we would ask a child if they have a legal representative? No, we don't.

Q. Now, I want to go to the phone call that you had with A.H.'s attorney, Stephanie Gibbs, at about 5:00 on June 13th. You recall that she -- there was another person on the line, a law professor?

A. Yes, sir.

Q. Okay. And do you recall Ms. Gibbs requesting that A.H. not be interviewed by anybody unless she was present or had an opportunity to be present by telephone?

A. Yes. I remember that clearly.

Q. And what did you tell her in response to that request?

A. Well, we actually had a discussion. What I will say is when she called, this is an attorney who's reaching out. She's an appropriate -- she is an attorney who seems to want to engage in the best interests of her client.

My response is to, you know, give her and -- try to be as helpful as I can to her. So she -- she asked us about -- she was on the phone with the law professor, and I can't remember the complete details, but she said -- basically she goes, *Are you going to interview my client?* And I said, *Let me explain the process to you*.

Because what I -- what I recall having a discussion about is that she was concerned that maybe we would do some kind of

an interview, sort of like a -- what do you call that? Evidence type of interview like law enforcement.

THE COURT: Interrogation.

THE WITNESS: An interrogation.

So what I explained to her was that all of our programs are licensed, and they're licensed facilities, and so we require our programs to interview -- do an intake assessment and to interview children to be able to find out things: are they sick, why are they here, that kind of thing.

So what I also recall is sending her our policy for secure placement, and I also sent her a citation in an email that said here is what we -- what the care providers will -- I guess it's a warning for -- not a disclaimer, but basically informing them that they have to be careful about what they tell us in that anything that -- any kind of information could affect their case.

So I did provide her with an email about that. But I did say to her we have to also be able to gather information per our licensing standards and per our -- just to make sure that this young person knows where he is and that kind of thing, and we had a discussion about that.

BY MR. FREEMAN:

Q. Now, he has -- he was interviewed when he arrived at Yolo; correct?

A. Yes.

Q. And his attorney was not present or -- by telephone or in person?

THE COURT: You haven't asserted that he had the right to have his attorney present in this discussion, have you?

MR. FREEMAN: We have asserted --

THE COURT: It's not a claim based on that.

MR. FREEMAN: We have asserted in our Complaint his right to counsel in his ongoing proceedings, yes, both in family court and in immigration.

THE COURT: Yes. But not based on asking him questions outside the presence of his attorney when he's in their custody; right?

MR. FREEMAN: Well, it's certainly part and parcel of that, Your Honor, and we can amend to make that assertion, but --

THE COURT: I'm not sure you need to amend to bother to make a constitutional claim on that. Of course, you're free to, if you want.

I wouldn't dwell too much on asking him questions outside the presence of his attorney. I would move on, if I were you.

MR. FREEMAN: Very good. Understood, Your Honor.

Q. I do want to ask you about some of -- not all of them. One of the SIRs in particular. I think that was Exhibit 3. That was the one with the long passage of text where we had to search for parts of it that involved our client, A.H.

The first page of Exhibit 3 under *Synopsis of Event*, I'll read it: Quote, "Youth involved in verbal altercation, and it was reported by staff that incident occurred due to gang affiliations," close quote.

Do you see that?

A. Not in front of me now, but I do want to say I recall that.

MS. FABIAN: Here.

MR. FREEMAN: I'm sorry. I didn't realize you didn't have the exhibits.

THE WITNESS: Just to save me a little time, could you show me where that is on here? Or save us a little time? Okay. Thank you.

BY MR. FREEMAN:

Q. And if it will help you, I'm going to ask you whether you recall stating in your declaration essentially the same thing, that -- paragraph 6, "In the third incident on June 22, A.H. was involved in a verbal altercation and staff reported that the incident occurred due to gang affiliations."

Do you recall that being in your declaration?

A. Yes.

Q. Now, we've looked at this in some detail. In this entire report, did A.H. say anything about gang affiliations?

A. In this document?

Q. Yes, correct.

A. My understanding is he did.

Q. Show us where, please.

A. "Once secured, youth A.M. began kicking" --

THE COURT: Whoa, whoa, whoa.

MR. FREEMAN: Five lines from the bottom, Your Honor.

Q. You are referring to an alleged statement by youth H.A.M., who is not our client. He is someone else; correct?

A. Right.

Q. So is there anywhere in that report where A.H. said anything about gang affiliations?

A. That's correct.

Q. And under *Synopsis of Event* at the top, it says it was reported by staff -- it's all passive tense, but who is the staff who reported that? Is there some way to know that?

A. Well, to find out the specifics, the closest we would have is to look at the bottom of page 2, and it has the name of the staff filling out the report.

Q. That's Brenda Moreda?

A. Correct.

Q. But do we know whether Ms. Moreda was the person who reported that the incident occurred due to gang affiliations?

A. Not without further investigation.

Q. Okay. Let's talk -- and I'm coming close to wrapping up.

Let's talk about the two processes that you've identified going forward, one for the every 30-day step-down process and

one for the reunification process.

Does A.H. have access to the information that's being used by ORR to determine whether he can be stepped down before the determination is made?

A. First, A.H. would know why he's in secure placement, and what -- part of -- part of the reason why that's important is because he would -- he would -- the clinician would have to know to make sure that he knows why he's in that facility.

Then what would happen is he would also be informed that he is being evaluated on whether he would be stepped down or not.

So at some point in those discussions, in those staffings, the staff would have to be up front with him and tell him, *Hey, this is the reason why you're here and these are the reasons -- these are some of the behaviors that have occurred, these are some of the concerns that* -- that is if he's not going to get stepped down.

They would basically work with him as best as they could to make sure that he knew what the behaviors were, and then what they would also do is they would also try to build some kind of a specialized individual service plan for him to help him understand what kind of behaviors could help him move towards either stepping down and being more successful in his placement.

So that information -- they would have to go over with him

what -- how -- how those incidents are basically affecting our decisions because we would be trying to work with him to eventually move toward stepping down.

Q. My question was a little bit narrower, sir.

A. Sorry.

Q. That's okay.

Before a decision-maker makes a decision on stepping down, does A.H. get to see the documents that the decision-maker looks at?

A. They would -- I wouldn't say that he sees the documents, no, sir.

Q. Does he get to look at the SIRs?

A. He would be informed about the SIR, yes, sir.

Q. Well, the reason I ask the question is because there is some questionable stuff in these SIRs, in my humble opinion.

Does he get to take a look at the SIRs?

A. No, sir, I don't believe so.

Q. Does the attorney get to take a look at the SIR?

A. The attorney would get a copy of the SIRs.

Q. Does the attorney get a copy of the SIR before the decision is made?

A. She could make a request to get that information.

Q. Would she get that information before a decision was made? If she made a request today, would she get that information?

A. That would go to our records department. To my knowledge,

she would.

Q. Is that a policy or is that just something that you do on the fly?

A. It should be in our policy.

Q. Does the mother get a copy of the information that the decision-maker looks at?

A. She would be informed.

Q. Does she get a copy of the documents, sir?

A. She can make a records request as well.

Q. Same process?

A. Yes, sir.

Q. How quickly are those requests turned around?

A. Well, typically 30 days. But if an attorney gave his information and said hey, they really need to know this for some particular reason or not, they could work with us and we would expedite that.

Q. But decisions are made every 30 days, aren't they?

A. So let me be clear. We would inform the attorney and the mother in a timely manner. I would have to go back and look at our policy to see if there is a specific time that we would inform them of an SIR. So they could technically receive information within 24 hours.

And the other thing that would influence that is the licensing of that program. I would have to go back and do some research and see if they're required under their license to

have to report that information.

So communicating information and searching it and making a receipt -- and receiving it, that information in a written form, are two different things. So --

Q. Did -- I didn't mean to cut you off. I want to make sure you're done.

A. Okay.

Q. Does counsel have the right to appear at a hearing before the step-down determination is made?

A. Counsel would have the right to have a meeting and be informed, and it wouldn't necessarily be in a hearing.

Q. So there is no confrontation of witnesses or any kind of a formal process like we have today?

A. Not with the 30-day process.

Q. Okay. What about the reunification process? Same question. Does counsel have a right to be -- to actually have a role in that process before a decision is rendered?

A. Counsel has the right to be informed. And they also have a right to be informed of why we're going to make a decision. And we would also think that the -- that the -- that would happen simultaneously with the parent, but they would -- they would be informed of that information.

Q. They're informed of the decision after it's made?

A. Yes -- well, it just depends on counsel because sometimes counsel -- we've had counsel work with a parent and work with

the child, and they might participate by sharing information with the care provider.

We've had counsel reach out to affiliates for services in certain areas and help the parent go out, and let's say if it's a gang prevention type of program, they could -- they -- they're open to helping the parent find resources. They've done things like that before.

So if that's the kind of engagement that we have and the kind of relationship the attorney has with the program and they're not prohibited from having, then what would happen is they would know ahead of time how the outcome is going to be, but I can't say as a matter of course that that's part of our ongoing procedures to do that.

Q. Now, in terms of the release process, I think I understood you to say that the mother has to go through a whole lot of process basically to resubmit information to determine whether she's a suitable caretaker?

A. That's correct.

Q. Sponsor?

A. Yes, sir.

Q. Now, HHS has already made that determination before; right?

A. Right.

Q. Do you go back and basically take the information she gave you before and program that in yourself, or does she have to

provide it all again?

A. She would -- she would be given a new reunification packet and be asked to provide current information.

Q. You basically treat it as a new process, don't you?

A. Yes.

MR. FREEMAN: Ms. Mass does have a couple of questions.

Thank you very much, Mr. De La Cruz.

THE WITNESS: Sure.

CROSS-EXAMINATION

BY MR. MASS:

Q. Good afternoon, Mr. De La Cruz.

Just to follow up on a couple questions -- a few questions, you talked about how A.H.'s attorney reached out to you on the 13th and mentioned to you that some of the charges that ICE was relying on to make the arrest were incorrect.

Have you taken any steps to look into that since that phone call?

A. I've asked Elicia to work with the program to gather information about that. And that's something that they would do as a standard as well, standard practice.

Q. And that's a 30-day time frame to get -- to get all that together and make a decision with it; is that correct?

A. Yes.

Q. And before ORR made the decision to transfer A.H. to Yolo

to the secure facility, did anyone from ORR speak to A.H. about the reason that you were making that decision?

A. No one would have contacted A.H. prior to him actually physically arriving in ORR's custody.

Q. In Yolo County; is that correct?

A. Yes, ma'am.

Q. And so just -- I know that my co-counsel was trying to pin this down.

When do you consider that he actually became in ORR's custody? Was it when he was admitted into Yolo County?

A. When they do an intake, yes, ma'am.

Q. But ORR made the decision to send him there before he was in your custody; is that right?

A. That's correct.

Q. And then you spoke about the basis for the decision to send him to a secure facility being that there were pending charges.

A. Correct.

Q. And I was wondering what counts as pending for the purposes of that decision.

A. What counts as pending is receiving information from DHS that he was arrested, and it's up to the court or the jurisdiction where those offenses would have occurred for them to decide whether to actually charge him with those things.

Q. So the fact that he -- at the time we know that you

didn't -- ORR was not aware that those charges had been resolved at the time that you had the information that they were pending; is that right?

A. Yes, ma'am.

Q. And would it have mattered to ORR that had you known in fact those charges weren't pending but had actually in fact already been terminated?

A. They would have caused us to review that decision.

Q. And if there's an arrest but there's no factual finding of guilt or any kind of admission, does the fact that the arrest is for something serious -- is that enough to put -- was that enough to put A.H. into secure custody?

A. Yes.

Q. You mentioned that your programs are licensed.

A. Yes, ma'am.

Q. Is there a difference between the term *licensed* and the term *secure* for purposes of ORR custody?

A. Yes. Well, licensed -- licensed is the authority to provide a service; in other words, an entity goes to -- an agency goes to a state entity, licensing entity, and they receive authority to provide a particular service.

Secure is a type of service.

Q. And are you familiar with the requirements of the Flores consent decree?

A. For the most part, yes, ma'am.

Q. And under that decree, there is a presumption of releasing minors to their -- to their parents or to a guardian; right?

A. That's correct.

Q. And people -- and minors who are not released to their parents are supposed to be -- generally supposed to be in nonsecure facilities; is that correct?

A. Generally, yes.

Q. So under that decree, is it your understanding that ORR's responsible for complying with that settlement agreement also?

A. Could you restate the question again?

Q. Does ORR aim to comply with the Flores settlement agreement when they make decisions about secure custody?

A. Yes.

Q. And is it your understanding that secure custody is allowed under that agreement for mere arrests and mere allegations of criminal activity?

A. When we placed A.H., we placed him according to our policies, and our policies do allow us to place children who are -- have gang affiliation into secures. And also crimes -- you know, particular chargeable/nonchargeable crimes.

Q. But you've also said mere allegations of gang affiliation and mere allegation of criminal activity is enough to place a child in a secure facility; is that right?

A. Information that we receive and according to our policy is something that we take into consideration, yes, ma'am.

Q. And in this case, you really only had allegations of gang affiliation and allegations of criminal charges; is that correct?

A. What we received is information that we basically construed as fact, which is that when that determination was made for placement, the information that we provided was that A.H. had been arrested for possession of marijuana.

We also received that he was arrested for possession of a weapon, which was pending, and we also received information that he was arrested for gang intimidation, which was pending.

And at the time that we received the information, that's not always sufficiently time for us to be able to establish what that means or whether that's fact or not. What I'm saying is we have to take DHS on what they're providing us, and that's pretty much what we did.

Q. Do you have ORR staff based in New York?

A. Yes.

Q. You mentioned that in the decision to release a child to his or her guardian or to the sponsor, that there's a packet of information that gets put together and that the director makes the decision based on what's in the packet; is that correct?

A. For secure children, yes, ma'am.

Q. Yes. And does the child have access to that packet before the decision is made or at any time?

A. As a matter of standard operating procedures, the shelter

does not provide that to them.

Q. Okay. But just -- okay.

And does the child's attorney get access to the packet that the ORR director depends on to make his decision before the decision is made?

A. That's not an easy yes-or-no question. Sometimes the attorney fills out the packet with the parent.

So I think what you're asking is when we make a release decision, do we have a procedure where we give the attorney a packet of information and we say ahead of time, *We're giving this to you; we're telling you ahead of time that we're going to make this decision.* I think that's what you're asking me. Am I correct?

Q. I'm asking whether the child or his representatives have any access to the derogatory information that the ORR director relies on to make a decision about custody?

A. The child and the parent would know ahead of time what information has been provided. Do we give them a packet of what the parent has turned in? No.

Q. I'm asking if you would make the same information available to the child and his or her representatives as you make available to the ORR director --

A. No. Okay.

Q. Thank you.

A. Sure.

Q. I just want to clarify the record. Did you testify that it was your understanding that A.H. had been arrested for gang intimidation?

A. Yes, ma'am.

Q. And that's based on Exhibit 1? The information that was in the email from Stephanie, the Intake specialist?

A. Sure. The email that is dated -- well, it's two pages, but it's on June 12th, 2017, 2:32.

Q. And where is it in this email that it says that he was arrested for gang intimidation?

A. Oh, I see what you're saying. No. It says -- well, he was arrested for intimidation on 5/25, and he was identified as a member of the MS-13 by Suffolk County.

Q. Okay.

No further questions.

THE COURT: I have a couple follow-up questions.

EXAMINATION OF DE LA CRUZ

BY BY THE COURT:

Q. So I apologize if you answered this question already, but I just want to get clarification of it.

Did ORR know, during this period where it had been referred A.H. and before it decided to send A.H. to Yolo -- did ORR know that it had previously placed A.H. with his mother?

A. Yes, sir, I believe so.

Q. Okay. So that information was in the possession of the

people who decided -- the people at ORR who decided that he needed to go to Yolo?

A. Yes, sir.

Q. Okay. But there was no phone call to the mother before making a decision to send him to Yolo?

A. From ORR?

Q. Yes.

A. No, sir.

Q. And he was being held, you said, in New York. He was at an ICE facility in New York?

A. That was my understanding and the staff's understanding, yes, sir.

Q. Okay. What were the other facility options that ORR had at the time? Where are the other places that he could have been sent other than Yolo?

I'm not talking about only secure facilities; I'm talking about other facilities. What would be the next step down in terms of --

A. It could have been a staff secure placement. We have a staff secure in New York. We also have a -- we have staff secure in New York. We have one in Chicago.

Q. Talk to me about what a staff -- quote, "staff secure," unquote, is?

A. A staff secure program is a program that relies more on staff intervention and pragmatic-type of intervention to be

able to help direct a youth in their daily activities. And the difference is that a secure facility would rely more on the physical aspect of being able to help redirect a youth.

In other words, if somebody's upset and somebody's hostile, they have it in their ability and their license to be able to escort somebody, have to use more -- have to use restraints, if necessary. Or to actually place them in a room by themselves and lock the door until they calm down.

And so that's what I mean by the physical part.

Whereas a staff secure program is a program where, for instance, keeping the kids more busy, having a lower staff ratio where the staff would be there to intervene more quickly and be able to give more individualized attention to that particular child.

There would be more emphasis on that type of an intervention.

Q. So is the child detained in that, quote/unquote, "staff secure" facility? In other words, the child is not permitted to leave that facility?

A. Yes. In other words, all of our facilities, from my understanding -- historically is that all of our facilities are considered detention, even our shelters.

Q. And the staff secure facility is -- does the child have a roommate?

A. Yes.

Q. One roommate, multiple roommates?

A. If -- if -- yes, they could.

That's something that we would program in. All of -- yes. All of our staff secures and our shelters would have that, but --

Q. Would have what?

A. Well, like, if we have a child who is transgender or we have a child who -- and doesn't feel comfortable or we have a child who maybe engages in more type of, you know, sexually inappropriate type of behaviors, then we would have to, like, not have a roommate for that particular child.

Q. Okay. So there is flexibility at the staff secure programs?

A. Yes.

Q. And does staff -- is staff armed?

A. No.

Q. Staff is not armed?

A. In a staff secure facility, no.

Q. What's the age range of people, children, held in the staff secure facility?

A. Typically, it's usually someone who's between 12 to 17.

Q. Is it different age ranges for different facilities?

A. Yes. It depends on their license. An example is there is some shelters who can take, you know, children from 0 to 17. Same thing with foster homes.

So it just depends on what that program, that particular program, is licensed to be able to work with.

Q. And it's not ORR staff, but it's somebody with whom ORR has contracted; is that right?

A. Yes.

Q. Okay. So a county facility or a private facility?

A. Yes. Typically the secure facilities -- for instance, Yolo County is a county facility, and I believe Shenandoah in Virginia is as well.

Q. What about New York?

A. That is a nonprofit agency so they're private.

Q. Okay.

A. So as an entity, they operate as a private entity, but they're licensed by the state.

Q. Okay. And do you know anything about their criteria for who they will take, who they can take, what type of person they can and can't take or will and won't take?

A. Sure. They would also -- they would be a facility that would take a child who could respond to interventions, to staff interventions, and someone who's basically -- they don't either have any information or any belief that this person would engage in physical violence and that type of thing. Or someone who might have had that in their background but has made progress in being able to start, you know -- self-regulating when they have to get in some kind of a conflict.

Q. Okay. As you sit here today, looking at Exhibit 1 again and the information that the DHS folks -- do you still have that in front of you?

A. I do.

Q. The information that the DHS folks entered into ORR's system, I want to go through and ask you whether -- which information you now know -- have confirmed as accurate and which information you've confirmed is inaccurate.

So the arrest for possession of marijuana -- and it says "in the fifth." Do you know what "in the fifth" is?

A. Let me see. Well, to me it looks like it's probably part of that particular state's penal code, "in the fifth."

Q. Okay. And it says he was arrested for possession of marijuana. Have you confirmed now that that is correct, that he was arrested for possession of marijuana?

A. What I'd have to do is go back and reference the original affidavit that the gentleman provided to me, and I'd like to reference that again because I do know that the dates are wrong.

But now that you're asking me the question, it doesn't say that he wasn't arrested. It says he was arrested on a different date.

Q. Okay. Which affidavit are you referring to?

A. There was one -- I think it was the testimony provided from -- I think his name was Loechner.

Q. Okay. Why don't you give him that again. Okay.

So other than Loechner's declaration and your review of this Exhibit 1, you don't have any -- that's the only information you have about whether these -- the items in this -- in this Exhibit 1 are accurate?

A. Yes, sir. That's the only known information that I have.

Q. Okay. All right. Then I don't think I need to go through it with you. I just need to know that that's all that has been done to confirm whether this stuff is accurate or inaccurate.

A. The only other piece that I don't know has happened is has the program actually reached out and obtained a record from the jurisdiction that originally arrested this young man.

Q. When you say *the program*, who are you referring to?

A. Yolo County.

Q. Is there a reason the people at Yolo County would do that as opposed to somebody from ORR?

A. Well, they would do it as our requirement. In other words, Yolo County -- Yolo County is, I guess, acting under our procedures and our policies. And one of our requirements would be that they gather information to be able to make a recommendation for release so that we would ask them to do that, and if they weren't able to obtain that, then they would let an FSS or Elicia know and she or her supervisor could reach out to the entity where -- that actually did the arrest, actually conducted the arrest, and ask them if they will

provide us with the record.

Q. Again, so the people at Yolo County are -- the county employees at that facility are expected to understand ORR policies regarding the custody of unaccompanied minors?

A. That's correct.

Q. And it's Ms. Smith's -- Elicia's responsibility for making sure that those policies regarding the custody of unaccompanied minors are followed by those county officials?

A. Yes, sir.

Q. Okay. How common is it that you'll be referred somebody from DHS who you have already placed with family members? DHS arrests somebody and refers them to you, and they've already been placed with family members.

I assume that the most -- by far the most common is somebody who ORR has not come into contact with yet; is that right?

A. Yes. It -- it's happened -- well, first -- I guess one of the other things that we -- we also recognize is the Homeland Security Act and the definition of an *unaccompanied alien child*, which is, you know -- you have to be under the age of 17 -- I'm sorry -- under the age of 18. You have to be in the United States without any kind of legal status, and you also have to not be in the accompaniment of your parent or legal guardian or they are otherwise unavailable.

So, you know, that -- from time to time we will receive a

referral from DHS and they will inform us that they have a child who they are having to separate from their parent, and it could be for different reasons.

We've had parents who physically are sexually abusing their own child. We've had incidents where the parent has criminal charges and they're getting detained and so they'll make the referral to us. Or they'll also make a referral to us and say that the parent is -- is not, you know, coming forward to pick up their child and they've given them notification, which happens sometimes because parents aren't documented and they don't want to get detained themselves.

So for us to get a referral for a child and that child is going to be separated from their parent is not uncommon.

Q. Okay.

A. And I can say, now that you've gotten me thinking about it, it happens almost every other day.

Q. Okay. And what about this type of situation where DHS simply arrests somebody based on a warrant that they are removable and refer them to you? How often does it turn out that that person has already been placed by you with a family member?

A. I'd have to say at this moment, not very -- that I can recall, not frequently.

Q. Can you recall any instance in which that's happened?

A. Where DHS has made a referral to us and they removed the

child from the parent and it's just simply over -- for purposes of immigration?

Q. Yes.

A. No, because normally there is -- there is some reason for that.

You know, when I go -- if I was to go back and look at cases where we received a referral a second time, it's usually because there's something else that's going on. Again, it's either because the parent is -- there is some kind of abuse issue, there is a neglect issue, there is an abandonment issue, or the child has gotten picked up from local law enforcement and that local law enforcement has basically referred the case over to DHS and DHS has made the determination to -- to ask us to take custody of that child.

Q. Okay. Let me think. I think that was it.

Do you know if DHS had any reason to believe, when DHS referred A.H. to you that -- do you know if DHS had any reason to believe that A.H. had already been placed by you with family?

A. Okay. That's not a simple question so I'm going to have to answer you, okay, to be -- to be forthcoming.

When we -- when a child is in our jurisdiction and we release a child to a sponsor, whether it's a -- whether it's -- it could be any adult. It could be a distant family member. It could be someone with a relationship. It could be the

mother, the father --

Q. Are you thirsty, by the way?

A. Sure, I will take some water.

Q. You can continue.

A. Okay.

So whenever we release a child, we notify DHS that the child is being released from us to a particular person.

And that's something that we do for all of our cases. For every single child that we release out of our jurisdiction, we give DHS notification before we do the release and we also give them notification that the child has been released. Okay?

Now -- so when we talk about, you know, do we give -- would DHS have been notified, yeah, we would have notified the field office juvenile --

Q. What you are going to say is you don't have any reason to believe that the particular ICE agents who picked him up and sent him to you knew of the information that you had previously transmitted to DHS?

A. That's correct.

Q. Okay. All right.

A. They could have, they might not have, but we also have to look at even if they know, are they making a decision that that parent is unavailable.

Q. Right. Okay. Okay.

Does anybody have anything, very, very briefly, before we

finish?

MR. FREEMAN: No, thank you.

MS. FABIAN: No, Your Honor.

THE COURT: You can step down. Thank you.

All right. We're going -- we're going to take -- we will take a five-minute break, and then I'm going to come out and tell you whether I'm going to rule from the bench or whether I will take it under submission and issue a ruling like tomorrow or something like that.

MR. FREEMAN: Thank you.

(Recess taken at 4:28 p.m.)

(Proceedings resumed at 4:41 p.m.)

THE COURT: Okay. In light of the time sensitivity, I'm just going to issue a ruling right now from the bench.

First, on the issue of proper respondent, I think it's a close question, and my ruling is without prejudice to the Government asking me to revisit it at a later stage in the litigation, if necessary, but I am concluding that Ms. Smith is the appropriate respondent.

As I said earlier, I do not believe that the distinction between immigration habeas cases and other core habeas cases, criminal cases, the *Padilla* case -- I don't believe that distinction is convincing or the reasons for that distinction are convincing.

But I do believe that it is appropriate, at least -- and I

believe -- it's a close question, and, like I said, you can ask me to revisit it, but I do believe that it is appropriate to distinguish between situations where the Government is holding someone in its own facility and situations where the Government is holding someone in a contracted-out facility.

I also think that in a situation where the Government is holding someone in a facility run by some other entity, some other government entity or some private entity, there are a lot of reasons, as we discussed today, for not having the head of that facility be named the respondent in a habeas case.

Moreover, I think the testimony here made clear that in this context, Ms. Smith really is the custodian because Ms. Smith is responsible for how things go with the custody of the child.

There are all these ORR policies about the way in which the child is held in custody and the procedures for holding the child in custody, and Ms. Smith is in charge of that, in charge of overseeing that, much like a warden would be in charge of it in a more conventional scenario.

Moreover, I became even more convinced this must be the right answer upon hearing that -- basically it appears that every facility that ORR uses is a facility operated by somebody other than ORR, including these private not-for-profit corporations.

So it seems like the Government's argument in this case

for who is the proper respondent would stand for the proposition that if somebody's in a nonprofit group home like the one described in New York, the only appropriate respondent in a habeas petition would be the person who works for that nonprofit organization who's in charge of running that group home.

And that, it seems, can't be right and particularly when we now have testimony about how it's really ORR officials, the ORR district director, who is responsible for making sure that the ins and outs of custody are handled properly by the people who are under contract with ORR.

So that is my conclusion about the proper respondent, and so we're in the right district, and so I won't be, at least at this stage, again without prejudice to the Government making the argument later, if necessary -- I am concluding that we're in the right district, and I won't be transferring the case to the Eastern District of California.

With respect to the merits, I think on most of the issues raised by the petitioner, the petitioner has not established a likelihood of success or raised serious questions on the merits.

I think also with respect to the access-to-counsel issue and the access-to-courts issue, in addition to not establishing strong likelihood of success on the merits, the petitioner hasn't established irreparable harm because of all the issues

we discussed this morning and early afternoon regarding getting a continuance.

However, with respect to one issue and that is -- sorry; give me a second -- that is the issue relating to 8 U.S.C. Section 1232 -- by the way, before I forget, let me hand these exhibits back to Kristen.

With respect to the TVPRA, I believe that under the sliding-scale approach that exists in the Ninth Circuit, the petitioner has raised serious questions going to the merits. I wouldn't say made a strong showing of a likelihood of success, but has raised serious questions going to the merits on whether the TVPRA was violated by not giving adequate consideration to whether A.H. should be placed into custody and placed into a secure facility.

I say that with the caveat that -- as I said, I think it's a close issue, even as to this child, but I say it without regard to what the requirements are in the vast, vast majority of cases. I mean, one of the things that the testimony established here is that this is a highly, highly unusual case.

But this is a case in which ORR had already screened the child, screened the mother, made a decision that the child could be placed with the mother, and entered into a contract with the mother regarding the care of the child.

In those circumstances and given that ORR knew at the time it received the referral from DHS that it had already engaged

in this screening process, it had an obligation to investigate the information it was receiving from DHS about A.H.

Obviously it doesn't need to be reached, but I think it's fair to assume at least that in normal circumstances, ORR might not need to look behind the information it receives from DHS about an unaccompanied minor that DHS has picked up for the first time and that ORR has been referred for the first time and that ORR has never had any contact with before.

But in a case like this, ORR had an obligation under the statute, given the information that it had, to do more, to make sure that the child should be in custody and that the child should be in -- that being in a secure facility was the least restrictive setting that is in the best interests of the child.

And so I believe that in a Temporary Restraining Order, that violation or possible violation ought to be remedied, and here's what I'm going to order ORR to do:

I'm going to require ORR to look much more carefully than it has done up until now into whether it should have taken the child into custody on -- June 12th, was it?

MR. FREEMAN: Yes, Your Honor.

THE COURT: And whether it should have -- if it should have taken the child into custody, whether it should have placed the child in a secure facility on June 12th.

I'm going to require ORR, number three, to look much more carefully into whether -- even if it was appropriate to take

the child into custody on June 12th, whether it remains appropriate under the statute to keep the child in custody, and if so, where.

If so, number four, should the child remain in custody in a secure facility.

So just to be clear, what I'm asking -- what I'm ordering ORR to go back and look at carefully is, number one, whether it should have retained, on June 12th, the child in custody at all.

Number two, whether it should have sent the child to a secure facility.

Number three, whether the child should remain in custody today.

And number four, if so, whether the child should remain in a secure facility as opposed to, say, the facility in New York that we discussed.

I'm going to require ORR to make that determination by July 7th.

And among other things -- I mean, it's obviously up to ORR whether it wants to be more thorough than I'm requiring, but at a minimum -- at a minimum -- ORR must conduct a careful check of the accuracy of the information it received from DHS, including obtaining police reports, if possible, and court records, if possible, and including contacting the appropriate local law enforcement officials who might have information

about the child's status as a member or affiliate of MS-13.

ORR must give the child an opportunity to be heard in the presence of his attorney and must give his attorney the opportunity to be heard in connection with this decision.

ORR must give the attorney access to all the information on which the decision would be based and give her an opportunity to respond to that information before the final decision is made by July 7th.

Those are all the requirements that come to mind that I want to impose on ORR in connection with this reconsideration, but I'm willing to hear other suggestions, if anybody wants to make any other suggestions about what ORR should be required to do.

MS. FABIAN: Your Honor, one question.

And I'm only guessing here if July 7th was based on testimony from my client. The 30-day process is already under way and sort of --

THE COURT: I'm concerned --

MS. FABIAN: -- anticipated to close on the 13th, and only because of the holiday next week would ask if perhaps the Court would allow them to complete it --

THE COURT: No. I'm ordering it to be done by July 7th, and I'm very concerned about the adequacy of that process, which is why I included some specific requirements for things that ORR needs to do and things that ORR needs to look

into.

MS. FABIAN: Okay.

And then I guess I would ask -- and I -- I apologize. You asked ORR to -- I understand the requirements with what they need to do and the process that that they need to follow. I think that makes sense.

You initially said to review the initial decision and -- so that their initial custody determination and then their -- make a new determination. And you said consistent with the statute.

Is that consistent with their own policy as they've interpreted the statute, or is there another sort of interpretation of the statute that you're asking them to apply?

THE COURT: I don't have in mind any requirement that they make a determination that is different from how they would do it pursuant to their policy, except to the extent that the policy is inconsistent with anything that I just said. Is that fair?

MS. FABIAN: That's helpful, Your Honor. Thank you.

THE COURT: Anything else?

MR. FREEMAN: Thank you, Your Honor.

Just a logistical question purely, and we understand the order.

In terms of opportunity for counsel to have input and respond, I take it that that's something that happens before

the 7th and that there's a report that needs to be submitted by ORR to this Court and to us by the 7th?

THE COURT: Well, so clearly what is baked into my order that I just announced is that ORR needs to provide the child's attorney with the information that will go into whatever decision they will be making well enough before the 7th to give the attorney an opportunity to respond.

The child himself, as I said, must be given an opportunity to be heard.

You seem to be asking is ORR required to submit a report by the 7th.

MR. FREEMAN: Right. I'm not trying to be obtuse. I'm just trying to figure out where does this go and who does it get to and when.

THE COURT: I think it's -- it can be that ORR submit a report, it can be that the parties come back for a Status Conference on the Tuesday after -- actually, I don't believe I'm going to be -- where am I going to -- I'm not going to be here.

I mean, we could have -- am I going to be here that Friday, the 7th? We could have a Status Conference on Friday, the 7th, or ORR can provide a written report -- what would be --

MS. FABIAN: I will be in L.A. on the 7th.

THE COURT: We could have a telephonic Status

Conference on the 7th.

Would you rather do that or would you rather submit something in writing on the 7th?

MS. FABIAN: I believe if my client is going to issue a decision, it would make sense for us to at least submit that to opposing counsel, if not submit it to the Court, and then follow up with a Status Conference from there so that -- so I don't believe we would be able to provide that any earlier, and that way the parties could talk about what we would propose to the Court happen from there.

THE COURT: Okay. So what does that mean? Status Conference on Friday?

MR. FREEMAN: Friday afternoon, the 7th? Friday morning?

MS. FABIAN: I guess what I'm saying is if my client issues something on the 7th, having a Status Conference might be premature on that Friday, only because we'll all sort of review it when it's issued and then perhaps talking after that to determine now that that is there, what do we believe should happen next.

THE COURT: Okay. I'm somewhat hopeful -- back when I worked for the Government, if I was the litigator in a case like this, I would then be involved in the decision that was going to be issued afterwards. I'm hopeful that you are going to be involved as well.

MS. FABIAN: Absolutely, Your Honor. Because I'm in court and across the country from my clients on that day and assuming it is issued that day, that would be the day -- the earliest I would then be able to discuss that with opposing counsel. I think if we're doing that for the first time with the Court, it may be less productive in terms of seeing where the parties --

THE COURT: I assume one of two things is going to happen: Your client will make a decision that they're happy with or your client will make a decision that they're not happy with.

And if they're not happy with it, presumably they will want to seek further relief here, and if they want to seek further relief here, that -- it's going to take time for them to prepare their submission and all that stuff. They're not -- I assume they're not going to be seeking relief on Friday afternoon.

But I think what I would like to do is set a Status Conference for Friday afternoon on the 7th at 3:00. And if you mutually decide that there is no value in having that Status Conference at that time, you can move to continue it to Wednesday, the 12th.

We have Case Management Conferences on Wednesday the 12th that week; right? Why are you looking so troubled?

THE CLERK: We have four items at 1:30; one item at

2:30.

THE COURT: That's not too bad.

Why don't we say 2:30 on Friday the 7th, and you can move it, if you want, to 2:30 on Wednesday, the 12th.

MS. FABIAN: That sounds fine.

MR. FREEMAN: Thank you, Your Honor.

THE COURT: Okay.

MR. MASS: And is that going to be in person or telephonic?

THE COURT: I assume telephonic would be better.

MS. FABIAN: It would need to be, yes.

MR. MASS: Okay. Thank you.

THE COURT: All right. Thank you.

(Proceedings adjourned at 5:02 p.m.)

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: Monday, July 10, 2017

Pamela A. Batalo

Pamela A. Batalo, CSR No. 3593, RMR, FCRR
U.S. Court Reporter

Exhibit 54

EXHIBIT C TO

DECLARATION OF ASHLEY CORKERY

[B. Cardall Responses to RFAs]

PHILIP J. POGLEDICH, COUNTY COUNSEL (State Bar No. 197110)
OFFICE OF THE COUNTY COUNSEL
625 Court Street, Room 201
Woodland, CA 95695
Telephone: (530) 666-8172
Facsimile: (530) 666-8279

Attorneys for Defendant/Respondent BRENT CARDALL,
Chief Probation Officer of Yolo County
In His Official Capacity

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LORENZA GOMEZ, as next friend for J.G., a minor, and on her own behalf, et al.,

Petitioners/Plaintiffs on behalf of themselves individually and others similarly situated,

v.

JEFFERSON B. SESSIONS, et al.,

Respondents/Defendants.

Case No. 3:17-cv-03615-VC

DEFENDANT BRENT CARDALL'S RESPONSES TO PLAINTIFF'S REQUEST FOR ADMISSION, SET ONE

PROPOUNDING PARTY: PETITIONERS/PLAINTIFFS

RESPONDING PARTY: Defendant/Respondent BRENT CARDALL, Chief Probation Officer of Yolo County, in his official capacity

SET NO.: ONE

Defendant/Respondent Brent Cardall ("Defendant") hereby responds to Plaintiffs' Requests for Admission (Set One) as follows. All capitalized terms set forth below shall have the meaning set forth in the Definitions section of Plaintiffs' Requests for Admission.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that prior to August 26, 2017 the federal government sent at least seven UNDOCUMENTED TEENAGERS to YOLO.

RESPONSE:

Admit.

REQUEST FOR ADMISSION NO. 2:

Admit that prior to August 26, 2017 the federal government failed to provide evidence of alleged gang affiliation with respect to at least seven UNDOCUMENTED TEENAGERS sent to YOLO within 30 days of their arrival at YOLO.

RESPONSE:

Admit.

REQUEST FOR ADMISSION NO. 3:

Admit that the federal government failed to provide evidence of alleged gang affiliation with respect to A.H. and J.G., the two UNDOCUMENTED TEENAGERS sent to YOLO who are named in the AMENDED COMPLAINT, within 30 days of their arrival at YOLO.

RESPONSE:

Defendant admits this request in part and denies it in part, as follows. The federal government provided some information on A.H.'s alleged gang affiliation on July 3, 2017, 20 days after his arrival at YOLO. The information is contained in documents that will be produced concurrently with the service of these responses (Bates Nos. 0762-67). Defendant takes no position as to whether the information provided on July 3, 2017 is sufficient to establish the alleged gang affiliation of A.H.

REQUEST FOR ADMISSION NO. 4:

Admit that prior to August 26, 2017 the Yolo County Probation Department could not verify gang affiliations for most of the UNDOCUMENTED TEENAGERS sent to YOLO.

RESPONSE:

Admit.

REQUEST FOR ADMISSION NO. 5:

Admit that prior to August 26, 2017 the Yolo County Probation Department reached out to local law enforcement agencies where the UNDOCUMENTED TEENAGERS were first arrested but often found corroboration of gang allegations from these agencies to be lacking or insufficient.

RESPONSE:

Admit.

REQUEST FOR ADMISSION NO. 6:

Admit that prior to August 26, 2017 the Yolo County Probation Department concluded it did not have just cause to detain most of the UNDOCUMENTED TEENAGERS sent to YOLO.

RESPONSE:

Admit. In responding to this Request for Admission, the responding party has interpreted "just cause" in a manner consistent with Section 1.2.4 of the ORR Guide (describing the circumstances under which it is appropriate to place a child in a "Secure Care Facility") available on the internet at the following link: https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied.

Dated: September 20, 2017

By _____
PHILIP J. POGLEDICH
County Counsel, County of Yolo
Attorneys for Defendant Brent Cardall

EXHIBIT D TO

DECLARATION OF ASHLEY CORKERY

[B. Cardall Supplemental Responses to RFAs]

PHILIP J. POGLEDICH, COUNTY COUNSEL (State Bar No. 197110)
OFFICE OF THE COUNTY COUNSEL
625 Court Street, Room 201
Woodland, CA 95695
Telephone: (530) 666-8172
Facsimile: (530) 666-8279

Attorneys for Defendant/Respondent BRENT CARDALL,
Chief Probation Officer of Yolo County
In His Official Capacity

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LORENZA GOMEZ, as next friend for J.G., a minor, and on her own behalf, et al.,

Petitioners/Plaintiffs on behalf of themselves individually and others similarly situated,

v.

JEFFERSON B. SESSIONS, et al.,

Respondents/Defendants.

Case No. 3:17-cv-03615-VC

DEFENDANT BRENT CARDALL'S SUPPLEMENTAL (CORRECTED) RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSION, SET ONE, REQUEST FOR ADMISSION NO. 3

PROPOUNDING PARTY: PETITIONERS/PLAINTIFFS

RESPONDING PARTY: Defendant/Respondent BRENT CARDALL, Chief Probation Officer of Yolo County, in his official capacity

SET NO.: ONE

Defendant/Respondent Brent Cardall ("Defendant") hereby supplements and corrects his original response to Plaintiffs' Requests for Admission (Set One), Request for Admission No. 3, as follows. All capitalized terms set forth below shall have the meaning set forth in the Definitions section of Plaintiffs' Requests for Admission.

SUPPLEMENTAL (CORRECTED) RESPONSE

TO REQUEST FOR ADMISSION NO. 3

REQUEST FOR ADMISSION NO. 3:

Admit that the federal government failed to provide evidence of alleged gang affiliation with respect to A.H. and J.G., the two UNDOCUMENTED TEENAGERS sent to YOLO who are named in the AMENDED COMPLAINT, within 30 days of their arrival at YOLO.

ORIGINAL RESPONSE:

Defendant admits this request in part and denies it in part, as follows. The federal government provided some information on A.H.'s alleged gang affiliation on July 3, 2017, 20 days after his arrival at YOLO. The information is contained in documents that will be produced concurrently with the service of these responses (Bates Nos. 0762-67). Defendant takes no position as to whether the information provided on July 3, 2017 is sufficient to establish the alleged gang affiliation of A.H.

SUPPLEMENTAL (CORRECTED) RESPONSE:

Defendant admits this request as to J.G. With respect to A.H., Defendant responds that the federal government provided some information on A.H.'s alleged gang affiliation on July 3, 2017, 20 days after his arrival at YOLO. The information is contained in documents produced concurrently with the service of Defendant's original response to Plaintiff's First Set of Requests for Admission (Bates Nos. 0762-67). Defendant takes no position as to whether the information provided on July 3, 2017 is sufficient to establish the alleged gang affiliation of A.H.

Dated: September 21, 2017

By _____
PHILIP J. POGLEDICH
County Counsel, County of Yolo
Attorneys for Defendant Brent Cardall

Exhibit 55

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am 17 years old. I am currently being held in ORR custody detained at the Bokenkamp Children's Shelter. I arrived here on January 22, 2017.

3. My mother passed away when I was only nine months old. Before she died, she did not officially register my birth so I never had an official birth certificate. I never knew my father. I was raised by my maternal grandparents and an aunt in El Salvador. My aunt told me that when my mother was in the hospital, before she passed away, she told them that if she died she wanted me to live with my aunt [redacted].

4. My mother wanted my aunt [redacted] to take care of me because aunt [redacted] had a very close relationship with my mother and always gave her good advice and took care of her. My mother considered my aunt to be very responsible because she would support me, enroll me in school, and have me go to church. My mother knew that aunt [redacted] could give me a better life than my grandparents or family in El Salvador could give me. My family in El Salvador have to work all the time and they often do not have enough money to buy food to eat.

Sponsorship Process

5. Since I arrived at this shelter, I have been asking to have my aunt [redacted] become my sponsor. My aunt started the application process to be my sponsor when I first arrived at the shelter. She has done everything that ORR has asked of her in order to be my sponsor – she has talked to my case worker, had her fingerprints taken, and submitted all the documents that they have requested. When she submitted all the documentation, she was told that she couldn't be my sponsor because I didn't have an official birth certificate. That's when she hired an attorney to help her.

6. My lawyer has been working hard to try and get me released from the shelter. My lawyer recently went to the immigration judge to ask why I haven't been released and ask for a bond hearing. The judge granted the request for a bond hearing. Before the bond hearing was scheduled to occur, ORR sent a letter to my lawyer and the judge saying that they did not consider me to be a danger to the community or a flight risk.

7. In March 2018, I had a bond hearing before the immigration judge. The judge decided that I was not a danger to myself, others, or the community, and that I was not a flight risk. The judge issued a bond order saying this. The hearing happened a few weeks ago, but I still haven't been released.

8. My case worker told me that the only reason that I haven't been released to my aunt [redacted] is because I don't have an official birth certificate from El Salvador. My mother died before she could register me for an official birth certificate.

9. Since I have never had an official birth certificate, my lawyer has worked hard to submit other documentation to ORR to prove my relationship with my aunt [redacted]. My lawyer provided ORR with an official certificate from the hospital where I was born in El Salvador. She also provided ORR with a DNA test that shows that my aunt [redacted] and I are family, with a 61% DNA match. My whole family is trying to help show that I am who I say I am. My grandparents and aunt have scheduled a hearing in front of a judge in El Salvador to say that they were witnesses to my birth and plead my case so that the judge can make an order stating that I was born in El Salvador. That hearing is supposed to take place on April 9th, 2018.

10. I don't know what other documents I could provide to prove my relationship with my aunt. My case worker once told me that my case was "perfect" and that I was "golden" to get released, but I'm still here.

11. I never received a letter or notification from ORR telling me that my aunt [redacted] was no longer under consideration as my sponsor or that I could appeal that decision.

12. The shelter is not considering releasing me to any other sponsors. I do not have any other family members in the United States that could be my sponsor.

13. I don't know what I can do or what the next step can be for me to try and get out of the shelter if ORR does not allow me to live with my aunt [redacted].

Relationship with Aunt

14. My aunt [redacted] would be a good sponsor for me because I know that she loves me and cares about my future. I know that she will do all the things that my mother would do if she were alive – like supporting my education, taking me to the doctor if I am sick, helping me learn how to cook, and teaching me how to be a good person. My aunt [redacted] has always supported me emotionally and financially. Whenever I call and talk to her, she gives me good advice and tells me that I need to study and behave well. She worries about me and will take good care of me. My aunt doesn't have to take care of me but she wants to. I love her very much.

15. My aunt [redacted] has been able to visit me three times since I have been detained. When she visits, she always brings me clothes, shoes, and food that she knows I enjoy – like pupusas and quesadillas.

16. Education is very important to me. I know that I want to go to school and graduate. I know my aunt [redacted] will enroll me in school and support my education. When I was little, I wanted to grow up to be a flight attendant. Now my dream is to be a lawyer for an organization like RAICES. My lawyer has really helped me to learn about my rights and has supported me in times where I have been very afraid. I want to help other children like my lawyer has helped me. No one in my family has ever graduated from school, and I want to be different.

17. I know that my aunt [redacted] will take me to my court hearings and meetings with my lawyer. She knows that if I do not attend my hearings I can be deported because I am not being responsible with my immigration case. We both take these court hearings very seriously. She will help make sure that I am doing everything correctly, like updating the court with a new address if we move and keeping in contact with my lawyer.

18. I am only allowed two calls per week. Sometimes I talk to my aunt [redacted] and sometimes I talk to my aunt in El Salvador who helped take care of me when I was little. When I talk to my aunt [redacted] on the phone, I sometimes get so sad that I can't help but cry. She is very supportive and tells me that I need to be patient because I will eventually be released and go to live with her. My aunt encourages me to learn English and gives me hope that I will be able to go to school when I am released.

19. I try to stay as positive as I can while being detained at the shelter. I am very excited to be learning English. I also like to participate in the church services when we have them. If the pastor cannot come to the church services, then I help to preach to the younger kids. I enjoy preaching because I think that the word of God is very important and will help give strength to the younger children who are detained here.

20. I have been detained at Bokenkamp Children's Shelter for about a year and three months. It is very hard to be here, because I know that my aunt [redacted] wants to care for me and is ready for me to come and live with her. I have seen many other children come and go, which makes me sad. I just want to live with my aunt.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 3rd day of April 2018, at Corpus Christi, Texas.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Itzel Almazan and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 4/3/2018



Itzel Almazan

Exhibit 56

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

01/09/2018

Patient Profile - Active Medications

Client: [redacted] **Teaching Home:** WOOD HOUSE

Physician: JAVIER RUIZ-NAZARIO, MD

Allergies: IBUPROFEN;SPICY FOODS , FISH , SOUR CREAM

Rx #	Medication	Instructions	Start Date
		*** Psychotropic Medications ***	
56169	BUPROPION TAB 100MG SR	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	12/19/2017
56100	GABAPENTIN CAP 100MG	TAKE 1 CAPSULE BY MOUTH 3 TIMES DAILY at 8:00 AM, 2:00 PM and 8:00 PM	12/05/2017
		*** Non-Psychotropic Medications ***	
56127	CALCIUM PLUS	TAKE 2 TABLETS BY MOUTH DAILY at 8:00 PM	12/06/2017
56126	COREPLEX WITH IRON	TAKE 2 TABLETS BY MOUTH WITH BREAKFAST DAILY at 8:00 AM	12/06/2017
56124	OMEGAFLEX	TAKE 1 CAPSULE BY MOUTH WITH BREAKFAST AND DINNER TWICE A DAY at 8:00 AM and 4:00 PM	12/06/2017
56125	PROBIOTIC RESTORE ULTRA	TAKE 1 CAPSULE BY MOUTH WITH BREAKFAST DAILY at 8:00 AM	12/06/2017

Exhibit 57

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

11/27/2017

Patient Profile - Active Medications

Client: [redacted] **Teaching Home:** 58-A
Physician: JAVIER RUIZ-NAZARIO, MD
Allergies: NKDA

Rx #	Medication	Instructions	Start Date
	*** Psychotropic Medications ***		
56042	CLONIDINE TAB 0.1MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	11/21/2017
56007	ESCITALOPRAM TAB 20MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	11/14/2017
56009	QUETIAPINE TAB 100MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	11/14/2017
56043	QUETIAPINE TAB 50MG	TAKE 1 TABLET BY MOUTH (TAKE WITH THE 100MG TABLET TO MAKE 150MG DOSE) DAILY at 8:00 PM	11/21/2017
	*** Non-Psychotropic Medications ***		
55904	CALCIUM PLUS	TAKE 2 TABLETS BY MOUTH DAILY at 8:00 PM	10/18/2017
55903	CORRELEX	TAKE 2 TABLETS BY MOUTH DAILY WITH BREAKFAST at 8:00 AM	10/18/2017
55901	OMEGAPLEX	TAKE 1 CAPSULE BY MOUTH TWICE A DAY WITH BREAKFAST AND DINNER at 8:00 AM and 4:00 PM	10/18/2017
55902	PROBIOTIC RESTORE ULTRA	TAKE 1 CAPSULE BY MOUTH DAILY WITH BREAKFAST at 8:00 AM	10/18/2017
56011	DIPHENHYDRAM INJ 50MG/ML	INJECT 25MG INTRAMUSCULARLY EVERY 6 HOURS AS NEEDED FOR AGITATION/ANXIETY (USE WITH ATIVAN)	11/14/2017
56010	LORAZEPAM INJ 2MG/ML	INJECT 0.5ML INTRAMUSCULARLY EVERY 6 HOURS AS NEEDED FOR AGITATION/ANXIETY (USE WITH BENADRYL)	11/14/2017

11/28/17

Exhibit 58

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

07/31/2017

Patient Profile - Active Medications

Client: [redacted]

Teaching Home: 58-C

Physician: JAVIER RUIZ-NAZARIO, MD

Allergies: No Known Drug Allergy

Rx #	Medication	Instructions	Start Date
		*** Psychotropic Medications ***	
55501	ARIPIPRAZOLE TAB 10MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	07/18/2017
55353	BENZTROPINE TAB 1MG	TAKE 1 TABLET BY MOUTH TWICE A DAY at 8:00 AM and 8:00 PM	06/07/2017
55522	CHLORPROMAZ TAB 25MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 PM	07/25/2017
55354	DESMOPRESSIN TAB 0.2MG	TAKE 2 TABLETS BY MOUTH DAILY at 8:00 PM	06/07/2017
55503	ESCITALOPRAM TAB 20MG	TAKE 1 TABLET BY MOUTH DAILY at 8:00 AM	07/18/2017
55524	LAMOTRIGINE TAB 25MG	TAKE 2 TABLETS BY MOUTH DAILY FOR 7 DAYS, THEN INCREASE at 8:00 PM ON this dose started 7-30	07/25/2017
55525	LAMOTRIGINE TAB 25MG	TAKE 3 TABLETS BY MOUTH (75MG) DAILY FOR 7 DAYS, THEN INCREASE. BEGIN LITHIUM DECREASE. at 8:00 PM	07/25/2017
55526	LAMOTRIGINE TAB 25MG	TAKE 4 TABLETS BY MOUTH (100MG) DAILY at 8:00 PM	07/25/2017
55504	LITHIUM CARB CAP 300MG	TAKE 1 CAPSULE AFTER TWICE A DAY at 8:00 AM and 8:00 PM	07/18/2017
55527	LITHIUM CARB CAP 300MG	TAKE 1 CAPSULE BY MOUTH DAILY FOR 7 DAYS THEN D/C (BEGIN DECREASE ON 3RD WEEK OF LAMOTRIGINE) at 8:00 PM	07/25/2017
		*** PRN Psychotropic Medications ***	
55428	ARIPIPRAZOLE TAB 5MG	TAKE 1 TABLET BY MOUTH EVERY 8 HOURS AS NEEDED HALLUCINATIONS	06/28/2017
55505	TRAZODONE TAB 50MG	TAKE 1 TABLET BY MOUTH DAILY AS NEEDED FOR SLEEP at 8:00 PM	07/18/2017
		*** Non-Psychotropic Medications ***	
55351	DOK CAP 100MG	TAKE 1 CAPSULE BY MOUTH DAILY at 8:00 AM	06/07/2017
55430	BANOPHEN CAP 50MG	TAKE 1 CAPSULE BY MOUTH EVERY 8 HOURS AS NEEDED	06/28/2017
55357	BANOPHEN CRE 2-0.1%	APPLY TO AFFECTED AREA EVERY 8 HOURS AS NEEDED	06/07/2017

8/1/17

Exhibit 59

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Shiloh Treatment Center, Inc.
Admission Packet

Office of Refugee Resettlement

Medication Information and Reconciliation

Include all medication the client is currently prescribed.

[redacted] — Client Name

9-28-17 — Date of Completion

Tabatha Ratner — Form Completed By

Source of Medication Information: *Check All That Apply*

☒ Pharmacy Label ☐ Parent or Client ☐ Physician Prescription
☒ Discharge Summary/Records From Transferring Facility Facility: _____
☐ Other: _____

Medication at Admission										For Use by Clinic Staff			
Name of Medication	Dose	Frequency	Route	Prescriber	Date Prescribed	Target Symptoms	Last Dose Date	Last Dose Time	Quantity Provided at Admit	Quantity Received at Admit	Order on Admit	Change on Admit	Discontinue on Admit
Topiramate	200mg	BID	PO	Villalobos	8-19-17	Seizure	9/28	AM	66	66	Y	N	N
Levetiracetam	1000mg	BID	PO	Villalobos	8-19-17	Seizure	9/28	AM	31	31	Y	N	N
Divalproex ER	500mg	BID	PO	Villalobos	8-19-17	Seizure	9/28	AM	67	67	Y	N	N
Oxcarbazepine	150mg	BID	PO	Torres	9-15-17	Mood Stability	9/28	AM	33	33	Y	N	N
Sertraline	50mg	daily	PO	Torres	9-15-17	Depression	9/28	AM	17	17	Y	N	N
Pro-Air HFA	90mcg	2puff q 4hr PRN		Shortness of Breath		Asthma	unk	—	1	1	Y	N	N
Diastat Acudial	10mg	PRN	Rectal	~~Hussein Bizzell~~	8-28-17	Seizure	unk	—	1	1	Y	N	N

Tabatha Ratner — Parent, Guardian, or Conservator

9-28-17 — Date

For Use by Clinic Staff

Review of Medication Conducted By: Sheri Pitts Date: 9-28-17 Time: 3:50 PM

Physician Approving Medication: ☐ Rafael Guerrero, MD ☐ Victor Oderinde, MD ☒ Javier Ruiz, MD ☐ Vernon Walling, MD

Change in Medication: NONE

Over-the-Counter (OTC) Medication Release

Client Name: [redacted]

The following non-prescription (OTC) medications may be administered to your child/ward for the designated reason for use without a written order from a Shiloh physician.

Check box if you do not wish to be treated with any of the medications listed.

Do Not Use	Medication	Reason for Use
☐	Acetaminophen 325mg Tablet (ages 12 and over)	Fever > 100° Minor aches and pains Headache
☐	Acetaminophen Liquid (ages 2 – 11 years)	Fever > 100° Minor aches and pains
☒	Ibuprofen 200mg Tablet (ages 12 and over) Allergy	Mild pain Menstrual cramps
☐	Hibiclens (Liquid)	Minor cuts, scrapes and abrasions
☐	Insect Repellant (Aerosol)	Prevent insect bites
☐	Triple Antibiotic Ointment	Minor cuts scrapes abrasions
☐	Milk of Magnesia (Liquid)	Constipation
☐	Pepto Bismol	Upset stomach
☐	Swimmer's Ear (Solution)	Prevent infection from swimming
Off-site Day Campuses Only		
☐	Benadryl	Allergic Reaction EPS Symptoms

Isabella Ketner RN

Parent, Guardian, or Conservator

9-29-17

Date

Exhibit 60

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

DOB [redacted]-00

Shiloh Treatment Center, Inc.
Admission Packet

Office of Refugee Resettlement
[redacted]

Medication Information and Reconciliation

...ail medication the client is currently prescribed.

[redacted] 9-7-17 Sheri Pitts

Client Name | Date of Completion | Form Completed By

Source of Medication Information: *Check All That Apply*

☒ Pharmacy Label ☐ Parent or Client ☐ Physician Prescription

☒ Discharge Summary/Records From Transferring Facility Facility: _____

☐ Other: _____

Medication at Admission									For Use by Clinic Staff			
Name of Medication	Dose	Frequency	Route	Prescriber	Date Prescribed	Target Symptoms	Last Dose Date	Last Dose Time	Quantity Provided at Admit	Quantity Received at Admit	Order on Admit	Change on Admit	Discontinue on Admit
Fluoxetine	20mg	÷ 9pm	PO	PA, Petrus	8/14/17	depression	9/6	HS	38	38	Y	N	N
(OTC) Melatonin	3mg	÷ QHS	PO			sleep	9/6	HS	486	486	Y	N	N

Isabella Pelton RN — Parent, Guardian, or Conservator

9-7-17 — Date

For Use by Clinic Staff

Review of Medication Conducted By: Sheri Pitts Date: 9-7-17 Time: 1:00 PM

Physician Approving Medication: ☐ Rafael Guerrero, MD ☐ Victor Oderinde, MD ☑ Javier Ruiz, MD ☐ Vernon Walling, MD

Change in Medication: _____

Rev. 09/10

Copy to Medical Chart and Copy Completed Form to Pharmacy

R-1

Exhibit 60
Page 407

Exhibit 61

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Shiloh Treatment Center, Inc.
Admission Packet

Office of Refugee Resettlement

Medication Information and Reconciliation

Include all medication the client is currently prescribed.

[redacted]
Client Name

9-18-17
Date of Completion

Tabatha Kestner RN
Form Completed By

Source of Medication Information: *Check All That Apply*
☒ Pharmacy Label ☐ Parent or Client ☒ Physician Prescription
☒ Discharge Summary/Records From Transferring Facility Facility: _____
☐ Other: _____

Medication at Admission										For Use by Clinic Staff			
Name of Medication	Dose	Frequency	Route	Prescriber	Date Prescribed	Target Symptoms	Last Dose Date	Last Dose Time	Quantity Provided at Admit	Quantity Received at Admit	Order on Admit	Change on Admit	Discontinue on Admit
Hydroxyzine HCL	(PRN) 25mg	q4hr	PO	Koshes	9-1-17	anxiety	unk	unk	188	188			
Fluoxetine HCL	20mg	daily	PO	Koshes	9-1-17	depression	9/18	AM	13	13	Y	N	N

Tabatha Kestner RN
Parent, Guardian, or Conservator

9-18-17
Date

For Use by Clinic Staff
Review of Medication Conducted By: Sherri Pitts Date: 9-18-17 Time: 3:00pm
Physician Approving Medication: ☐ Rafael Guerrero, MD ☐ Victor Oderinde, MD ☒ Javier Ruiz, MD ☐ Vernon Walling, MD
Change in Medication: _____

Rev. 09/10

Copy to Medical Chart and Copy Completed Form to Pharmacy

R-1

Exhibit 61
Page 409

Exhibit 62

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

YOLO COUNTY JUVENILE DETENTION FACILITY
PARENTAL MEDICAL AUTHORIZATION

DATE OF BOOKING: 12.14.16 TIME OF BOOKING: 1525 Hours

[redacted]	16	[redacted]/2000	M	Guatemala	[redacted]
MINOR'S NAME	AGE	BIRTH DATE	GENDER	ETHNICITY	ALIEN NUMBER

PARENT'S NAME: F. Ray Simmons, Institutional Services Director, Guardian SOCIAL SECURITY #: Not Applicable

WORK PHONE: (530) 406-4706 HOME PHONE: Not Applicable CELLULAR PHONE: (530) 383-4518

NAME AND NUMBER OF INSURANCE CARRIER: Office of Refugee Resettlement / Div of Unaccompanied Children's Services (ORR/DUCS), Washington, DC

MEDICAL STATUS: ☒ NO ☐ YES POE NUMBER: N/A

DATES OF IMMUNIZATION TO CHILDHOOD DISEASES:

POLIO _____ DPT _____ MMR _____ TETANUS BOOSTER _____

I, *F. RAY SIMMONS, INSTITUTIONAL SERVICES DIRECTOR FOR YOLO COUNTY AND* GUARDIAN FOR THE ABOVE NAMED MINOR, GIVE MY PERMISSION FOR THIS CHILD TO BE EXAMINED, IMMUNIZED, OR TO RECEIVE ANY ROUTINE MEDICAL OR DENTAL CARE RECOMMENDED AND PROVIDED BY A LICENSED PHYSICIAN, NURSE PRACTITIONER OR PHYSICIAN'S ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, PSYCHIATRIST OR DENTIST DURING THE TIME THIS CHILD IS IN CUSTODY AT THE YOLO COUNTY JUVENILE DETENTION FACILITY. I UNDERSTAND THAT EVERY EFFORT WILL BE MADE TO CONTACT ME IF ANYTHING OTHER THAN ROUTINE TREATMENT BECOMES NECESSARY. I UNDERSTAND THAT I AM PERSONALLY RESPONSIBLE FOR ALL MEDICAL EXPENSES INCURRED BY THIS CHILD WHILE IN CUSTODY. I UNDERSTAND THAT I MAY ARRANGE FOR THIS CHILD TO BE SEEN BY A PRIVATE PHYSICIAN OR DENTIST.

1. MEDICATIONS: *Depakote ER 500mgs-3500 mgs*, *Klonopin 2mgs*, *Cogentin 1mg*, *Duloxetine 60mg*, *Guanfacine 1mg – 3mg*, *Latuda 80mgs*
2. SPECIAL MEDICAL NEEDS: None
3. PAST MEDICAL OR PSYCHOLOGICAL CONDITIONS:
4. ALLERGY INFORMATION: NKDA

AUTHORIZATION TO PASS OUT TYLENOL (ACETAMINOPHEN) DATE AND TIME: 12.14.16 @1720

TYPE OF MEDICAL CONSENT RECEIVED ☐ TELEPHONE CONSENT DATE/TIME
☒ WRITTEN CONSENT DATE/TIME 12.14.16 @1720

WRITTEN MEDICAL CONSENT MUST BE OBTAINED UPON THE FIRST VISIT OF THE PARENT OR GUARDIAN TO THE JUVENILE DETENTION FACILITY OR PROBATION DEPARTMENT. THE WRITTEN CONSENT SUPERSEDES THE VERBAL CONSENT.

DETENTION OFFICER RECEIVING TELEPHONE CONSENT:	
PARENT'S/GUARDIAN'S SIGNATURE CONSENT:	F Ray Simmons by proxy 12.15.2016
SIGNATURE CONSENT WITNESS (DETENTION OFFICER):	

JH604 PARENTAL MEDICAL AUTHORIZATION
WHITE - MEDICAL STAFF / PINK - MINOR'S FILE

Exhibit 63

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

12/12/2016

Patient Profile - Active Medications

Client: [redacted] **Teaching Home:** 58-A

Physician: JAVIER RUIZ-NAZARIO, MD

Allergies:

Rx #	Medication		Instructions	Start Date
			*** Psychotropic Medications ***	
53713	BENZTROPINE	TAB 1MG	TAKE 1 TABLET BY MOUTH DAILY at 9:00 PM	07/05/2016
54435	CLONAZEPAM	TAB 2MG	TAKE 1 TABLET BY MOUTH TWICE A DAY at 7:45 AM and 9:00 PM	12/12/2016
54434	DIVALPROEX	TAB 500MG ER	TAKE 1 TABLET BY MOUTH TWICE A DAY at 7:45 AM and 9:00 PM	12/12/2016
53974	DULOXETINE	CAP 60MG	TAKE 1 CAPSULE BY MOUTH DAILY at 7:45 AM	09/14/2016
54427	GUANFACINE	TAB 2MG ER	TAKE 1 TABLET BY MOUTH DAILY at 7:45 AM	12/06/2016
54384	LATUDA	TAB 120MG	TAKE 1 TABLET BY MOUTH DAILY FOR 4 DAYS THEN INC at 9:00 PM	11/29/2016
54385	LATUDA	TAB 40MG	TAKE 1 TABLET BY MOUTH DAILY (TAKE ALONG WITH 160MG AFTER BEING ON 120MG 4 DAYS) at 9:00 PM	11/29/2016
			*** PRN Psychotropic Medications ***	
53580	GEODON	INJ 20MG	INJECT 20MG INTRAMUSCULARLY EVERY 8 HOURS AS NEEDED FOR AGGRESSIVE BEHAVIOR	06/02/2016
53997	OLANZAPINE	INJ 10MG	INJECT 10MG INTRAMUSCULARLY EVERY 6 HOURS AS NEEDED SEVERE AGITATION, PHSICAL AGRESSION	09/20/2016
53998	OLANZAPINE	TAB 10MG ODT	DISSOLVE 1 TABLET BY MOUTH EVERY 6 HOURS AS NEEDED FOR AGITATION AND AGGRESSION	09/20/2016
			*** Non-Psychotropic Medications ***	
54399	MEAL REPLACEMENT SHAKE		GIVE 1 SHAKE 3 TIMES DAILY (OFFER TO REPLACE A MEAL) at 7:45 AM, 12:00 PM and 6:00 PM	11/30/2016

12/13/16

Exhibit 64

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

I, [redacted] declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. My name is [redacted] and I was born on [redacted] 2000 in Agua Blanca, Jutiapa, Guatemala. I speak Spanish and am unable to fluently speak, or read English. I began my journey to the United States around January 6, 2016 to escape child abuse, forced child labor, and forced recruitment from gangs in Guatemala. I was only 15 years old when I began my journey. My father severely beat me from the time that I was a young child, and I wanted to find safety, hope, and a new life in the United States. The journey up through Mexico took about 10 days. I traveled on buses all the way to the U.S. border. I was scared, but I hoped to seek safety and a better life in the U.S.

3. On January 16, 2016, the U.S. Border Patrol apprehended me as I crossed the Rio Grande along the Texas border. I spent one night in the custody of Border Patrol (CBP). The following day, the Office of Refugee Resettlement ("ORR") picked me up in Houston, Texas. I was detained in a place called "Southwest Key," which is located in Houston, Texas.

4. I have been in custody for almost two years. During that time I have been forced to take medication that I do not want to take, handcuffed, and experienced long delays in the reunification process.

Southwest Key

5. I spent approximately 6 months at Southwest Key. This was the first time in my life I was ever detained. It was a completely new experience. I felt so desperate to get out. I could not sleep at night because I thought about getting out, and I thought about my family and how they were doing. After approximately 1 month of detention, I spoke with my brother and told him that I was going to ask for deportation because I was desperate to get out of detention. My brother told me to stay strong and that the process is not easy

to get out of detention. I took my brother's advice to heart. I decided to stay and fight for my case.

6. On [redacted] 2016, I had my birthday in the detention center. It was very sad to be alone. Some of my family called me from Guatemala and sang to me for my birthday. I wanted so bad to cry but the Southwest Key staff was watching me on the phone and I tried to hold back my tears.

7. Around May 2016, a counselor informed me that my mother was seriously sick back in Guatemala. Because my mom has cholesterol and heart problems I believed that my mom suffered a heart attack. In reaction to the news, I fainted and had a breakdown, to the point where I urinated on myself. I became conscious at a hospital and did not have any idea how I got there. At the hospital, a staff person from Southwest Key told me that my reaction to my mom's illness was not normal. When she said my reaction was not normal I felt confused. I was worried about my mom. I asked her to not tell my mom about my hospitalization because I was afraid that the news would worsen my mother's illness. Someone told my mom that I was hospitalized and I talked with her over the phone. My mom cried during our phone call.

8. A Southwest Key staff member stayed with me at the hospital day and night. The Southwest Key staff member translated for the doctor. Unfortunately, I do not recall what the doctor told me. I felt scared and confused because I did not understand what was happening to me. I spent approximately one week at the hospital, which was located in Texas. My blood pressure was checked and I was connected to an IV drip - which I was told contained a saline solution. I recall seeing the hospital staff inject substances into the IV drip but I didn't know what they were.

9. I was placed in a wheelchair and transferred to another location by ambulance. A Southwest Key staff member was with me and I asked them why I was being transferred but the person told me they didn't know why I was being transferred. There were American children and I saw many with cuts on their wrists. I was sad because this was

the first time I was detained and surrounded by strangers. I missed my family. I usually sat on the sofa and listened to the radio. I could not tell if it was night or day.

10. I asked the staff at the psychiatry center why I was moved there, but they did not give me an answer. Instead they told me that I was at a psychiatry hospital. My case manager, Pedro, informed me that I would return to Southwest Key. Instead, I was taken to Shiloh in the city of Manvel, in Texas. I later learned that Shiloh is a residential treatment center.

Shiloh

11. I hated being at Shiloh, it was an awful place. I wanted to return to Southwest Key. Instead, I remained at Shiloh for approximately 6 months and there I became more depressed and anxious. I was forced to take medication that I did not want to take. The staff was very aggressive. On one of the most awful occasions, they threw me down to the ground, held me down for approximately 30 minutes, and injured my elbow.

12. When I arrived at Shiloh I was told to sign a document. No one explained the document and I did not understand what I signed.

13. Shiloh was different from Southwest Key, because it seemed like it was just kids who were being medicated. It included houses for males and females. Each house had 4 rooms; each room had approximately 8 beds. All the children at Shiloh received medication. All of us were angry because the staff forced us to take medication.

14. We were told that the medication consisted of vitamins and that we had to take them in order to grow. Staff said that we would not develop normally if we did not take them.

15. In my case, I was forced to take medication twice a day – in the morning and in the afternoon. Most days I received 4 pills and sometimes more. The staff threatened to throw me on the ground and force me to take the medication. I also saw staff throw another youth to the ground, pry his mouth open and force him to take the medicine.

16. They told me that if I did not take the medicine I could not leave, that the only way I could get out of Shiloh was if I took the pills. I only took the medication because I

wanted to leave the facility. I understood them to mean that I may be detained there forever if I didn't obey them. I never knew exactly what the pills were and was only told they were "vitamins" but I was sure this was not true.

17. My throat hurt from the daily intake of pills. On one occasion, I refused to take the daily dose of medication. That day, the staff forced my mouth open to get me to take the medication. On other occasions, the staff indicated that if I did not take the medication, they would force my mouth open like they did that time. I felt like I had no one to help me and no option but to take the daily medication.

18. After taking the medication, I was more tired, I felt sad and my eyes got teary. I thought more about my family and I felt alone. I felt depressed and stressed. I began to gain a lot of weight. At the beginning of my stay in Shiloh, I weighed 140 pounds. In approximately 60 days, I gained 45 pounds. I noticed that my shirts were tighter. In an attempt to lose weight, I ran frequently. However, that did not help and it is my belief that the medication I was being given caused my drastic weight gain.

19. I talked to a clinician at Shiloh about my feelings of sadness but she did not help. When I asked her why I was being forced to take the medication, she said that she could not answer my questions because she was not a doctor.

20. About once a week a doctor came to Shiloh. I tried to ask him why I was being forced to take the medications but he would ignore my questions ask to move on to the next youth he needed to meet with. I wasn't told of any way that I could challenge the decision to be on the medications. As far as I know, no judge or anyone else ever reviewed the decision to have me on the medications.

21. Even outside of forcing us to take medication, the staff at Shiloh was very aggressive. For example, there was one staff person in particular who forcibly denied us access to water. There was water located in the living room and the staff person would not allow us to go there; he said we had to stay up front where we could be seen. If we attempted to leave the area to go and get water, the staff person pushed us.

22. On one occasion, I was inside my room and I wanted water. The water was located outside my room so I asked a staff member if I could go get some water but he said no. I attempted to leave my room three times. Each time he pushed me back inside my room. The third time I held my ground and in response he grabbed me, threw me on the ground, and held me down. While he held me down another staff member came and he put his foot on my face. When the first staff member threw me on the ground I scrapped my elbow very badly and bled a lot. The staff members called a nurse so that she could inject me, because according to them, I needed to calm down. The nurse arrived thirty minutes later and during that time I was held down. After she injected me, I didn't receive treatment for my elbow. After I was injected I went to the bathroom. A staff member pushed the bathroom door open and as I quickly pulled my pants up I hit my elbow on the door. This aggravated my injury. The injury on my elbow left a scar, and whenever I see it, the scar reminds me of this incident.

23. Another example of the aggressiveness of the staff members occurred when a phone call I had with my parents went over my allotted time. I think the phone call went over my allotted time for about 3 minutes. A staff member told me to hang up the phone. The staff member grabbed the phone so roughly that the phone broke.

24. I even saw a staff member once push a 12-year-old so hard that the plaster on the walls cracked. That happened on the last day that the 12-year-old was at Shiloh. I washed a power drink bottle and used it to hold water. The 12-year-old was asking for water so I gave him my bottle.

25. In addition, the Shiloh staff used crude and offensive language when they addressed me and the other children. The staff said to us "fuck you bitch." The staff told me that they would marry my mother and have sexual relations with her. One of these occasions occurred when I found out my mother was ill. I became angry because of the emotions I was feeling from my mother's illness and confronted the staff.

26. I had many concerns and complaints against staff at Shiloh but I was not aware of a mechanism, such as a confidential locked box, at Shiloh for us to file complaints against the staff.

Yolo

27. I arrived at the Yolo County Juvenile Detention Center in December 2016 and have been detained here ever since. It has been 11 months of misery. My experience at Yolo County Detention Center is even worse than Shiloh. Yolo County Detention is a juvenile jail where we are kept in cells, forced to wear uniforms and treated like criminals. The detention center makes me feel like an animal.

28. The conditions at the detention center are terrible. The food is bad and it is not uncommon to find hair in the food. When we take showers, the water runs too hot and burns us. If we run out of toilet paper and request more, the staff frequently ignores us or takes a couple of hours to give us the toilet paper. If we request medication for headaches, or other injuries, we are ignored.

29. I sleep in a locked jail cell. The beds are thin mattresses on top of a block of cement and we don't get pillows. I have a make-shift pillow that I make out of my sweaters or other clothes. When I am sitting at the tables in the common areas I am required to ask permission before I can stand up.

30. We are allowed outside to see the sun one hour per day, in the morning from approximately 8:00 a.m. to 9:00 a.m. The teachers arrive around 12:15 p.m. School is then in session until approximately 3:00 p.m. Then we spend about half an hour in our rooms until dinner. There is a recess that is supposed to occur at 6:15 p.m, however, frequently the recess is pushed until 7:30 p.m. or 8:00 p.m. The guards rob us of our recess time.

31. The guards also push us, pepper spray us, and place the handcuffs excessively tight – to the point that wrist injuries frequently occur. If we do not want to go into our rooms, the guards push us into our rooms. I asked the guards why they use pepper spray and I was told that it is for their protection. Although the guards have not used pepper spray on

me, the other children that experienced it tell me that they would rather die than experience the burning in their eyes. I live in constant fear that I will be pepper sprayed, especially because I saw the severe effect it has on other children at the detention center.

32. On three different occasions, the guards handcuffed me. My hands were handcuffed behind my back. The guards pushed me down without the opportunity to break my fall. On one occasion, I asked for water. I stretched my leg and the guard pushed me. I banged my head on my way down to the ground. On a different occasion the guards injured my elbow and then handcuffed me despite my injury. I have a scar from this incident and whenever I see it, the scar reminds me of the incident.

33. I and the other children are given $25 per week to place phone calls. I use my allotted money to speak with my brother and my mother. The phone calls are extremely important to me because I derive my strength from my family. I want to eventually work and help my mom.

34. When I speak with my brother on the phone I feel comfortable telling him about my detention conditions. Usually I can only call my brother at 8:00 p.m., however, because my brother is in New York, that is 11:00 p.m. for my brother. I feel bad when I call my brother at 8:00 p.m. because my brother wakes up early to go to work. I asked the guards if I can call my brother at an earlier time, but the guards have not accommodated me.

35. In contrast, when I speak with my mother I am both happy and sad. I am happy to speak with her because my mother raised me and so I feel more trust with her. I feel sad because I miss her. I do not tell her about my detention conditions. I lie to my mother and tell her that everything is okay because I do not want to worry her. My mother always cries and tells me that she does not believe me. I want to work and in turn help my mother. My dream is to study and become an attorney. I want to help children that are also in juvenile detention.

36. In [redacted] 2017, I turned 17 years of age. It was my second birthday that I celebrated while in detention. I mentioned in passing my birthday to a friend that is also detained

with me. My friend remembered my birthday and told the teacher. To celebrate my birthday my teacher then brought pizza for everyone. I received two slices of pizza and everyone else received one slice of pizza. I thanked my teacher, especially because not everyone would do something like this for me. I was also happy because I had not had pizza in a long time. Although the pizza and celebration was nice, it was still hard for me to have another birthday away from my family.

37. The guards frequently yell "cover" which indicates to the rest of us that we have to get on the ground face down with our hands on our heads. The number of times the guards yell "cover" varies on each day, and there were times when the guards yelled "cover" twice in one day.

38. One "cover" incident occurred in the last week of August 2017. The guards also use the chokehold on one of the children. The other children and I laid on the floor face down. We complained, but we could not do much because we feared the use of pepper spray. The guards stated that the use of the chokehold was to keep the child calm.

39. I witnessed another scary "cover" incident that occurred in first week of September 2017. A child was getting books when the guard asked the child to go to his room. The incident escalated to the point that the child received injuries on his elbow and on one of his eyes. The rest of us heard the screams of the child. This incident contributed to my fear and the feeling that I will also be thrown down and that the guards will use force against me.

Court Process

40. Throughout the 6 months that I spent at Southwest Key, I never saw a judge. I was not permitted to attend the one hearing I did have, scheduled for May 23, 2016, because I was hospitalized after my counselor informed me that my mom was seriously ill. My hearing was then rescheduled for approximately 3 months later. Although I entered into ORR custody in January 2016, it was not until August 2016 – after approximately seven months of detention passed – that I first saw an immigration judge.

41. Although I told the Yolo County Juvenile Detention Center staff that I wanted to see a judge, it was not until after I spent approximately 3 months at the detention center that I appeared before an Immigration Judge in San Francisco. So, since the Border Patrol apprehended me in January 2016, I appeared before an Immigration Judge a handful of times.

42. While I have been detained at Yolo County Juvenile detention center, the ORR has not provided me with the opportunity to review my detention classifications every 30 days as provided by law and they have not allowed my lawyer to participate. At the beginning of my detention, I went two months without a report. I speak with my ORR case manager about why I am here, but I have never gone to a more formal proceeding regarding my detention classification. I have never been told why I am here, had a chance to present any evidence on why I should not be here, or been given any notice of any classification review. Any 30-day review afforded on the basis of Flores Settlement or law has not and is not provided in any way, shape, or form to me.

43. In total, my detention constitutes approximately 1 year and 11 months. During that time: I appeared before an Immigration Judge a handful of times, I had 3 attorneys, I celebrated two birthdays and one Christmas away from my family.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 13 day of November, 2017, at Woodland, California.

[redacted]

CERTIFICATE OF TRANSLATION

I, Gladys Hernandez, certify that I am fluent in the Spanish and English languages and hereby certify that the above information is a true, complete and accurate translation of [redacted] Declaration.

Dated: 11/13/2017

Gladys Hernandez

Exhibit 65

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted], declaro y digo lo siguiente:

1. Yo soy la hermana de [redacted] Tengo 29 años de edad. Vivíamos juntas [redacted] y yo en Honduras por los primeros 11 años de su vida. Como soy mayor de [redacted] de unos 15 años, [redacted] siempre me ha considerado como segunda madre. Nuestra mamá murió en enero del año pasado, y el papá de [redacted] dejó de verla cuando estaba pequeña. Yo soy la única familiar que tiene [redacted] en los Estados Unidos.

2. A principios de agosto de 2017, me enteré que la inmigración la tenía a [redacted] detenida en un albergue en McAllen, Texas, que se llama la Casa Antigua. Inmediatamente después de saber que la habían detenida a mi hermana, me comuniqué con la inmigración para pedir el custodio de [redacted]. Me mandaron unos formularios. Los rellené y se los regresé a la inmigración dentro de tres días de recibirlos. En una semana más me dieron cita para sacar huellas digitales en Philadelphia, cerca de donde vivo yo durante los últimos cinco años. El 25 y el 27 de septiembre llegó una investigadora de casas, una mujer joven, de unos 27 años. Estuvo ella como una hora y media en mi casa el 25, y unas dos horas el día 27. Me hizo ella muchas preguntas, revisó toda la casa: baño, cocina, recámaras, todo. Tomó fotos de mí y de la casa. Me dijo que todo estaba bien, que tenía una casa amplia, y con buena ubicación con escuela para [redacted]. A la semana, me llamó para decirme que había salido positivo el estudio de casa. [redacted] todavía estaba en el albergue Casa Antigua.

4. A fin de cuentas, se me rehusaron el custodio de [redacted]. El primero de noviembre de 2017, me llamó Daniel, el supervisor de la Casa Antigua. Me informó que como tenía mi hija, Marta, 10 años de edad, un caso abierto de abuso infantil, y que me acusan de no protegerla de

mi ex-pareja, que no sería yo una custodia adecuada para [redacted]. No me dieron ninguna oportunidad de explicarles que la persona que golpeó a mi hija ya no vivía conmigo o que como resultado del caso de mi hija, aprendí ser mejor madre y que nada pasaría a [redacted] si me la permiten cuidar. No me dieron ninguna opción ni nada.

5. Actualmente [redacted] está detenida en Shiloh RTC, Texas, donde la mandaron como en diciembre de año pasado. Cuando [redacted] estaba en la Casa Antigua nos comunicábamos por teléfono dos días por semana. Pero no me han permitido hablar con [redacted] desde que la mandaron a Shiloh. Una persona de Shiloh le informó a mi hermana en Honduras que no me iban a permitir llamadas telefónicas con [redacted] porque mi hija Marta tiene el caso abierto, pero a mí nadie de Shiloh ni del gobierno me ha dicho nada.

6. Cuando nos permitían comunicarnos, noté que [redacted] andaba más y más triste y deprimida a causa de la detención prolongada. Me expresó una desesperación con su condición de presa. Tengo entendido que la mandaron a [redacted] para Shiloh porque tras meses de detención necesitaba atención psicológica. En Honduras [redacted] había presenciado el asesinato de nuestro hermano, y es verdad que sufrió un golpe fuerte en ese entonces. Sin embargo, en Honduras [redacted] seguía siendo una muchacha tranquila, aunque muy alejada de las personas. Como a las 13 años, empezó [redacted] a asistir a la iglesia con su mamá, y se puso mejor y más abierta, hasta que murió nuestra mamá, y entonces se cayó mucho en la depresión.

7. [redacted] abandonó a Honduras para México como en marzo del año pasado. No me dijo nada, hasta que alguien me llamó para informe que habían secuestrado a [redacted] en Guerrero, y exigiéndome mil dólares para no matarla a mi hermana y para moverla para Monterrey, México. Yo no tenía tanto dinero, y tuve que pedir ayuda de la iglesia. Ellos de la

iglesia me ayudaron, y logré mandarles el dinero a los secuestradores. Luego me exigieron más dinero para entregármela a la frontera con McAllen, y otra vez la iglesia me ayudó en juntar el dinero.

8. En enero, poco después que me habían negado el custodio de [redacted], Oscar, el ayudante del pastor de mi iglesia, se ofreció como custodio para [redacted]. Todavía no han tomado la decisión, y resulta que [redacted] sigue detenida en Shiloh sin poder comunicarse conmigo. Obviamente, [redacted] ha sufrido demasiado, y solo deseo que el gobierno la libere pronto y que por fin tenga mi hermana una vida saludable y normal.

Declaro bajo protesta de decir la verdad y pena de perjurio que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día ____ de mazo del año 2018, en Philadelphia, Pennsylvania.

[redacted]

///

DECLARATION OF [redacted]

I, [redacted], declare and say as follows:

1. I am [redacted] sister. I am 29 years old. [redacted] and I lived together in Honduras during the first 11 years of her life. Inasmuch as I am some 15 years older than [redacted], [redacted] has always thought of me as a second mother. Our mother died in January of last year, and [redacted] father stopped seeing her when she was small. I am the only family [redacted] has in the United States.

2. In early August of 2017, I learned that Immigration was detaining [redacted] in a shelter in McAllen, Texas, called Casa Antigua. Immediately after I learned that they had detained my sister, I contacted Immigration to ask for [redacted] custody. They sent me some forms. I filled those out and returned them to Immigration with three days of receipt. A week later, they gave me an appointment to take fingerprints in Philadelphia, near to where I've lived for the past five years. A home investigator, a young woman about 27 years old, came to my home on the 25 and 27 of September. She was here about an hour and a half on the 25th, and about two hours on the 27th. She asked me many questions, inspected the whole house: bathroom, kitchen, bedrooms, everything. She took photographs of me and my home. She told me that everything was fine, that I had ample house, with a good location with school for [redacted]. A week later, the investigator called me to say that everything on the home study had come out positively. [redacted] was then still at the Casa Antigua shelter.

4. In the end, they refused me [redacted] custody. The first of November of 2017, Daniel, the supervisor at Casa Antigua called me. He informed me that because my daughter, Marta, who is 10 years old, had an open child-abuse case, and that they were accusing me of not protecting her from my ex-boyfriend, that I would not be an adequate custodian for [redacted]. They didn't give me any

opportunity to explain to them that the person who hit my daughter no longer lived with me or that as a result of my daughter's case I had learned to be a better mother and that nothing would happen to [redacted] if they would let me take care of her. They gave me no option or anything.

5. [redacted] is now detained at Shiloh RTC, in Texas, where the sent her around December of last year. When [redacted] was at Casa Antigua we spoke over the telephone twice a week. But they haven't allowed me to talk to [redacted] since they sent her to Shiloh. Someone from Shiloh told my sister in Honduras that they weren't going to permit me telephone calls with [redacted] because my daughter Marta had an open case, but nobody from Shiloh or the government has told me anything.

6. When they did allow us to talk, I noted that [redacted] was more and more sad and depressed because of the prolonged detention. She told me she felt desperate over being a prisoner. I understand that they sent [redacted] to Shiloh because after months of detention she needed psychological care. In Honduras [redacted] had witnessed our brother's murder, and it is true that she suffered a strong blow at that time. Nonetheless, in Honduras [redacted] remained a calm girl, although very distant from others. When she was about 13, [redacted] started attending church with our mother, and she got better and more open, until our mother died, and then she suffered from much depression.

7. [redacted] left Honduras for Mexico in about March of last year. She didn't tell me anything, until someone called me to say they had kidnapped [redacted] in Guerrero, and demanded one thousand dollars in order not to kill my sister and to move her to Monterrey, Mexico. I didn't have that much money, and I had to ask for help at my church. The people from the church helped me, and I managed to send the kidnappers the money. The later demanded more money in order to send [redacted] to the border near McAllen, and again, the church helped me gather up the money.

8. In January, a little time after they had refused me [redacted] custody, Oscar, the assistant pastor of my church, offered himself as custodian for [redacted]. They still haven't made a decision, and as a result [redacted] is still detained at Shiloh without the ability to communicate with me. Obviously, [redacted] has suffered too much, and I only wish the government would free her soon and that my sister would at last have a healthy and normal life.

I declare under duty to tell the truth and penalty of perjury that all the information that I have provided here is correct and complete, being aware of the legal consequences of declaring falsely before the authorities.

Done this ___ day of March, 2018, in Philadelphia, Pennsylvania.

_____/s/_____
[redacted]

* * * * *

DECLARATION OF TRANSLATOR

I, Carlos Holguín, declare and say as follows:

1. I am fluent in English and Spanish.

2. On this day, I translated the foregoing declaration of [redacted] from Spanish into English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of March, 2018, at Santa Clarita, California.

_____
Carlos Holguín

Exhibit 66

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

DECLARACIÓN DE [redacted]

Yo, [redacted] declaro y digo lo siguiente:

1. Yo soy ciudadano de los Estados Unidos. Soy participante y ayudante del pastor de la iglesia Seventh Day Adventist, donde también participa [redacted] la hermana de [redacted]. Tengo 50 años de edad.

2. Vivo con mi esposa y con mi hija, de 17 años, en Philadelphia. Trabajo como terapista en el departamento de psicología en la clínica de salud mental del condado en Philadelphia. Cuento con entrada adecuada para toda necesidades de [redacted]. Tengo una casa con tres recamaras, y contamos con una recámara libre para [redacted]. Ni a mi esposa ni a mi jamás nos han arrestado, ni hemos tenido problemas con la policía nunca.

3. En enero del año presente, poco después de que el gobierno se había rehusado a [redacted] cuidar a su hermana, inicié el proceso de pedir el custodio de [redacted]. Nos presentamos mi esposa y yo en Philadelphia el 2 de marzo para tomar huellas digitales. El viernes pasado, el 9 de marzo, tuve una entrevista telefónica con una trabajadora social. Me hizo ella muchas preguntas, desde que entré a los Estados Unidos hasta la presente. Al terminar la entrevista, me informó ella que todo parecía bien, y que el único problema que pueda existir es que no conocemos a [redacted]. Yo le comenté que me parecía extraño, porque nadie en los Estados Unidos, aparte de su hermana, conoce a [redacted]. No me dio ninguna idea de cuando harían una decisión en cuanto el custodio de [redacted].

Declaro bajo protesta de decir la verdad y pena de perjurio que toda la información que aquí he proporcionado es correcta y completa, consciente de las consecuencias legales de declarar con falsedad ante la autoridad.

Hecho el día 13 de mazo del año 2018, en Philadelphia, Pennsylvania.

[redacted]

DECLARATION OF [redacted]

I, [redacted] declare and say as follows:

1. I am a citizen of the United States. I am member of and assistant to the pastor of the Seventh Day Adventist church, where [redacted], the sister of [redacted], is also a member. I am 50 years old.

2. I live with my wife and my daughter, 17 years old, in Philadelphia. I work as a therapist in the psychology department of a mental health clinic in the county of Philadelphia. My income is sufficient to cover all of [redacted] needs. I have a house with three bedrooms, and we have an empty bedroom from [redacted]. Neither my wife nor I have ever been arrested, nor have we ever had problems with the police.

3. In January of this year, a little after the government had refused to let [redacted] take care of her sister, I initiated the process of asking for [redacted] custody. My wife and I went to Philadelphia on March 2 to take fingerprints. Last Friday, March 9, I had a telephonic interview with a social worker. She asked me many questions covering when I first entered the United States to the present. When the interview was over, she informed me that everything looked fine, but that that only problem that might exist is that we don't know [redacted]. I commented to her that this seemed strange, because nobody in the United States, apart from her sister, knows [redacted]. She didn't give me any idea about when they would make a decision regarding [redacted] custody.

I declare under duty to tell the truth and penalty of perjury that all the information that I have provided here is correct and complete, being aware of the legal consequences of declaring falsely before the authorities.

Done this 13th day of March, 2018, in Philadelphia, Pennsylvania.

_____/s/_____
[redacted]

* * * * *

DECLARATION OF TRANSLATOR

I, Carlos Holguín, declare and say as follows:

1. I am fluent in English and Spanish.

2. On this day, I translated the foregoing declaration of [redacted] from Spanish into English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of March, 2018, at Santa Clarita, California.

Carlos Holguín

Exhibit 67

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

I, [redacted], declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am the grandfather of [redacted], who is currently detained at Shiloh Residential Treatment Center.

3. I am currently living in a duplex apartment in Oakland, California. I live in the apartment by myself and have two bedrooms. I work every day as a food vendor.

4. I want to be [redacted] sponsor because she is my granddaughter and I am her grandfather. We have a very close relationship. I spent a lot of time with [redacted] when we both lived in El Salvador. I came to the United States when she was five years old, and have helped to financially support [redacted] and her mother ever since. I think I would be a good sponsor for [redacted] because I want to take care of her and am able to do so.

5. I have talked with [redacted] mom about applying to be [redacted] sponsor. She is very supportive of me being [redacted] sponsor because I am her grandfather and would take good care of her.

6. I talk to [redacted] on the phone for 15 minutes every Friday. I tell her that I hope I will see her soon, that she should behave herself, and not to despair or get upset. She is always happy to talk to me on the phone. Because Texas is very far away from California, I have not been able to go and visit [redacted] in person. However, sometimes [redacted] social worker helps to set up video calls so that I can see [redacted] when we talk.

7. I have never been arrested or charged with a crime in the United States. I have lived here since 2004. When I lived in El Salvador, I was wrongfully arrested by the police and spent two years in jail. I had gone to a house with some friends without knowing that there was a person inside the house who was being held hostage. While we were inside, the police surrounded the house and arrested everyone inside. Even though I

explained that I had just gotten there and had nothing to do with the kidnapping, the police still arrested me. I waited in jail while my lawyer gathered evidence to support my release. After two years, I appeared in front of a judge and he let me go. I was never convicted of any crime. My lawyer obtained a "carta de libertad" and I was released.

8. I don't remember exactly when I initially applied to be [redacted] sponsor. In the fall of 2017 I tried to submit my fingerprints. However, ORR told me that I needed to submit documentation (the "carta de libertad") from El Salvador that explained my time in prison. I requested the documentation from El Salvador, and it arrived one month and eight days later. I immediately submitted it to ORR, and ORR told me to go and get my fingerprints taken again. I submitted my second set of fingerprints in January 2018. After I submitted my second set of fingerprints, ORR sent me a lot of information and scheduled a home study visit.

9. In February 2018, a home investigator came to my house to conduct a home study. She asked me a lot of questions and had me fill out a lot of paperwork. I don't think that the home study went very well, mainly because the home investigator asked me a lot of detailed questions about finances that I wasn't sure how to answer. I got the impression that the home investigator didn't think I made enough money to be able to support [redacted] and myself. I know I don't make a lot of money, but I make enough to take care of [redacted] She is my granddaughter, and everything I have I will give to her.

10. The home investigator also asked if I would make [redacted] go to school. I support [redacted] going to school and getting an education. If she comes to live with me I will take her to school and I will bring her home from school. I will help her with what she needs.

11. When I asked the home investigator what was going to happen after the home study, she said that I was required to complete an orientation before [redacted] could be released. The home investigator didn't give me any information about how to complete the orientation. I contacted ORR to ask for orientation information and completed the

orientation last month. I have not heard anything from ORR since then. I have never received the results of the home study.

12. When I reached out to [redacted] social worker at Shiloh, she told me that ORR threw out my application and that they are going to transfer [redacted] somewhere else. ORR has never officially told me that they are looking at other sponsors or that my application has been rejected.

13. I believe that I would be the best sponsor for [redacted] [redacted] has uncles and aunts from her father's side of the family who live in Los Angeles. [redacted] father died when she was very young. These uncles and aunts have not spoken with [redacted] since her father died and do not want to take care of her. I do not think that they would be good sponsors for [redacted]

14. [redacted] did not take any medications when she lived in El Salvador, and she did not have any mental health problems. Before the home investigator came to do the home study, [redacted] social worker texted me to ask if I could afford to buy certain medications if [redacted] was released to my care. She said that it would be my responsibility to buy them for her and make sure that she took them. The medications were "Adderall, 20 mg" and "Prozac, 20 mg." [redacted] counselor told me that [redacted] has to take the medications, otherwise she gets agitated.

15. Up until last week (March 9, 2018), I had never heard [redacted] get agitated during any of our weekly phone conversations. I think that being locked up for several months has made her be more anxious and upset. The last time that we talked, she told me that she was starting to feel desperate. I told her not to lose hope and that we are just waiting to see what the government says about me.

16. I have not been contacted by ORR to give permission for [redacted] to be given medication.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 15th day of March, 2018, at Oakland, California.

[redacted]

CERTIFICATE OF TRANSLATION

My name is Rebecca Gudeman and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: March 15th 2018

Rebecca Gudeman

Exhibit 68

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
1901 SOUTH BELL STREET, SUITE 200
ARLINGTON, VA 22202

IN THE MATTER OF: [redacted]

FILE: [redacted]

Docket: ARLINGTON, VA

RESPONDENT

IN REMOVAL PROCEEDINGS

CUSTODY ORDER OF THE IMMIGRATION JUDGE

Request having been made for a change in the custody status of the respondent pursuant to 8 C.F.R. 236.1(c) and having considered the representations of the Department of Health and Human Services/ORR and the respondent, it is HEREBY ORDERED that:

_____ No Action _____

_____ ORDERED No Jurisdiction _____

_____ ORDERED that the request for a change in custody status be denied.

_____ ORDERED that the request be granted and that respondent be released from custody under bond of $_____

✓ OTHER R is to "stepped down" to a less Restrictive Facility as rec by the staff

JOHN M. BRYANT
Immigration Judge

Date: 2/10/18

Appeal: WAIVED / RESERVED (A / H / B)
Appeal Due By: Respt at his request

2) R is not a danger to the community

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P) FAX (F)
TO: [ ] ALIEN [P] ALIEN c/o Custodial Officer [P] Alien's ATT/REP [P] HHS/ORR
DATE: 2/12/18 BY: COURT STAFF

Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [X] Other

Exhibit 69

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ARLINGTON, VA

FILE: [redacted]

IN THE MATTER OF:

[redacted]

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE
WITH RESPECT TO CUSTODY

Request having been made for a change in the custody status of respondent pursuant to 8 CFR 236.1(c), and full consideration having been given to the representations of the Department of Homeland Security and the respondent, it is hereby

_____ ORDERED that the request for a change in custody status be denied.

__✓__ ORDERED that the request be granted and that respondent be:

_____ released from custody on his own recognizance

__✓__ released from custody under bond of $ 1,500

_____ OTHER _____

Copy of this decision has been served on the respondent and the Department of Homeland Security.

APPEAL: waived -- reserved

ARLINGTON -- ARLINGTON DETAINED LOCATION

Date: Mar 20, 2018

KAREN DONOSO-STEVENS
Immigration Judge

XS

NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT
1901 S. BELL STREET, SUITE 200
ARLINGTON, VA 22202

RE: [redacted] [redacted]
FILE: [redacted]

DATE: Mar 20, 2018

TO:
[redacted] [redacted]
DHS/ICE/FARMVILLE
P.O BOX N
FARMVILLE, VA 23901

Please take notice that the above captioned case has been scheduled for a VIDEO hearing before the Immigration Judge on Apr 11, 2018 at 08:30 A.M.. The alien will be present via tele/video. All other parties and witnesses should report to:

1901 S. BELL STREET, 4th FLOOR, COURTROOM 15
ARLINGTON, VA 22202

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is accredited to represent persons before an Immigration Judge. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that you or your attorney have been provided this notice and you are removable.

IN THE EVENT YOU ARE RELEASED FROM CUSTODY, WITHIN FIVE DAYS OF YOUR RELEASE, YOU MUST PROVIDE TO THIS IMMIGRATION COURT A WRITTEN NOTICE/EOIR-33 OF THE ADDRESS AND TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 240-314-1500.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN's ATT/REP [ ] DHS
DATE: _____ BY: COURT STAFF _____
Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

VW

Exhibit 70

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Becky Wolozin

From: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>
Sent: Friday, February 23, 2018 5:59 PM
To: Becky Wolozin
Cc: Rachel Nadas; Mansilla, Jessie (ACF)
Subject: FW: [redacted] Follow Up

Ms. Wolozin:

Please be aware that the *Flores v. Sessions* decision only applies to the question of dangerousness as it applies to release. An immigration judge's order may be taken under advisement when making a placement decision but is not binding on ORR as it would be on the issue of release. See, ORR Policy Guide, section 2.9 Bond Hearings for Unaccompanied Children:

> "….ORR also takes into consideration the immigration judge's decision in the bond hearing about the youth's level of danger when assessing the youth's placement and conditions of placement.[12]"

For a more thorough legal analysis of this issue please review Section IV of ORR's Pre-Hearing Brief in this case.

At this time ORR does not plan to change [redacted] placement.

Thank you,

Toby

Toby R. M. Biswas, ESQ.
Unaccompanied Alien Children Policy Supervisor

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Office of the Director – Division of Policy and Procedures

(202) 205-4440 (O)
(301) 356-5470 (C)
(202) 401-1022 (F)

From: Becky Wolozin [mailto:becky@justice4all.org]
Sent: Friday, February 23, 2018 5:31 PM
To: Mansilla, Jessie (ACF) <Jessie.Mansilla@acf.hhs.gov>
Cc: Rachel Nadas <rnadas@justice4all.org>
Subject: [redacted] Follow Up

Hi Ms. Mansilla,

I left you a couple of messages following up on a case regarding a child, [redacted], in Shenandoah Valley Juvenile Center who recently won his Flores bond hearing. The judge determined he was not a danger to the community, thus invalidating any authority to hold him in a secure setting. I am cc'ing my colleague, Rachel Nadas, who will be following up about [redacted]s prompt step down next week while I am out of town. Please keep us informed about any development in his transfer to a less secure setting.

Thank you,

Becky Wolozin
Attorney
Immigrant Advocacy Program
Legal Aid Justice Center
6066 Leesburg Pike, Suite 520
Falls Church, VA 22041
Ph: (703) 720-5606
Cell: (571) 373-0518
Fax: (703) 778-3454
becky@justice4all.org

Exhibit 71

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Case Review

UAC Basic Information

First Name: [redacted]

Last Name: [redacted]

AKA:

Status:	ADMITTED		
Date of Birth:	[redacted]/2000	**Gender:**	M
A No.:	[redacted]	**LOS:**	68
Age:	17	**Current Program:**	Shenandoah Valley Juvenile Center
Country of Birth:	Guatemala	**Admitted Date:**	11/29/2017

(•) 30 day Case Review ( ) Discharge ( ) Transfer Are there any changes?: ( ) Yes (•) No

Previous Placement:

SWK Montezuma 11/20/17 to 11/29/17

Religious Affiliation:

None

Case Manager:

Emily Twigg

Clinician:

Melissa Cook

Document any new information regarding the UAC not indicated in the UAC Assessment and/or the previous case summary below

Medical

List any allergies:

UC does not report any allergies.

Do you feel unwell?

( ) Yes (•) No

If yes, what are your symptoms?

N/A

Additional medical information:

UC was seen by Dr. Shapcott for an initial medical assessment on 11/30/17. No concerns were raised during this intake. UC received all necessary medical checks at SWK Montezuma. Immunizations received on 11/22/17. HIV testing completed on 11/22/17, results negative.

Medical History

Condition	Yes/NO	Date of Diagnosis/Clarification
Pregnant	( ) Yes (•) No	
Tuberculosis	(•) Yes ( ) No	Positive TB test. UC will not receive LTBI treatment since he will age out before treatment can be completed.
Varicella	( ) Yes (•) No	
Measles	( ) Yes (•) No	
Mumps	( ) Yes (•) No	
Rubella	( ) Yes (•) No	
Asthma	( ) Yes (•) No	
Diabetes	( ) Yes (•) No	
Cancer	( ) Yes (•) No	
Cardiac Issues	( ) Yes (•) No	
Sexually Transmitted Disease	( ) Yes (•) No	
Respiratory/Lung Disorder	( ) Yes (•) No	
Physical Disability	( ) Yes (•) No	

Medication History

Medication	Dosage	Timeframe	Medical Condition

Legal

Know Your Rights Presentation provided?	(•) Yes ( ) No
Date:	12/01/2017
Legal screening completed?	(•) Yes ( ) No
Date:	12/01/2017

Any possible legal relief identified? ○ Yes ◉ No

Specify: Pending further legal consults to determine legal eligibility.

Mental Health

Provide a short summary of the UAC's current functioning.

No SIRs this period.

MENTAL HEALTH UPDATE 12/29/18: Minor has been doing well. He is quiet and observant. He is slowly becoming more relaxed and participates in school and activities with a relish for learning. He recently participated in a school play where he sang songs in English. UC did very well and was proud of his accomplishments but shy for praise. UC stated he has not done anything like this since childhood. Youth continues to present as stable and well balanced. He does not present with any mental health concerns. He gets along well with others and is respectful to his peers and staff.

SIR: UC recanted previous disclosure of gang involvement. UC reported that he was told to say these things to have a better chance at winning a legal case to stay in the United States.

Mental Health Update 1/29/18
Minor continues to do well. He has exemplary behavior. Minor is beginning to show signs of stress and anxiety over his age out. He openly processes this with clinician and clings to hope and positivity as best he can. Minor battles cultural and language barriers on a daily basis. He is aware of this and is beginning to ask more questions and clarify when he does not understand something. This is compared to his early days at SVJC when he agreed with everything and nodded his head in agreement when he did not understand things due to language barriers. Minor works hard in school and is an exemplary young man who responds maturely to harassment or being picked on by peers.
Minor was given a psychological evaluation by Dr. Gustavo Rife. There are no concerns and the minor is not considered a risk after a full evaluation was completed.
Clinician highly recommends that the minor be stepped down as his behavior does not merit secure and his psychological evaluation does not consider him a risk to self or community .

Psychological Evaluation

Date of Evaluation: 1/4/2000

Evaluator: Dr. Gustavo Rife

Axis I:

Axis II:

Axis III:

Axis IV:

Axis V:

Summary of Recommendations:

The following Diagnostic Impression, Summary and Recommendations is taken from the Psychological Evaouation by Dr. Gustavo Rife

"DIAGNOSTIC IMPRESSION
The clinical interview did not find indications of any mental health problems at this time. [redacted] did not exhibit any antisocial or violent traits, instead was cooperative in his interviewer. It is my opinion within a reasonable degree of psychological certainty that the profile of symptoms present does not meet criteria for any DSM-5diagnosis at this time.
CONCLUDING SUMMARY AND RECOMMENDATIONS
[redacted] is 17-year-old, Hispanic, male, from Guatemala. Came to the U.S. to find work and, possibly, get an education. [redacted] acknowledged lying to Immigration Officers about past association with gangs and committing crimes in his country, and he appeared sincerely remorseful and truthful about such false statements. [redacted] is not at risk to harm others or engage in criminal behavior in the community. He is hoping to reunify with his aunt, [redacted] who lives in [redacted] Tennessee, before he ages out on [redacted] 2018.
In terms of his functioning, [redacted] does not present with significant mental health problems that might be of concern at this time. He may, or may not have, a problem with alcohol; however, his drinking does not appear significant as stated during the clinical interview. [redacted] scored in the Below Average Range of intelligence on a nonverbal intelligence measure. His IQ of 82 fell in the 12th percentile, indicating that he is performing better than 12% of his same-aged peers. [redacted]'s scores may be somewhat restricted given his personal background, upbringing, language limitations in Spanish. [redacted] appears to be functioning pretty well given and there is no reason to suspect that he has any specific mental health problem at this time. Given the results of this psychological evaluation, the following recommendations are made:
Placement and Risk: [redacted] will benefit from reunification with his aunt in [redacted]. He will need some initially transitional supportive services to help him transition into the U.S. culture and to assist with acculturation.
[redacted] does not appear to present a risk to himself or the community at this time."

Trafficking

Who planned/organized your journey?

UC planned his own journey.

What were you told about the arrangements before the journey?

His aunt lent him some money.

Did the arrangements change during the journey? ○ Yes ◉ No

If yes, how?

Does your family owe money to anyone for the journey? ○ Yes ◉ No

If yes, how much?

Whom is the money owed?

Who is expected to pay?

What do you expect to happen if payment is not made?

Coercion Indicators

Did anyone threaten your or your family? ○ Yes ◉ No

If yes, who made the threats?

Exhibit 72

ADMINISTRATION FOR CHILDREN & FAMILIES
330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

Information Memo

TO: Domestic Policy Council

FROM: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement

DATE: August 16, 2017

SUBJECT: Community Safety Initiative for the Unaccompanied Alien Children Program

ISSUE

This memorandum provides an overview of the Community Safety Initiative being undertaken by the Office of Refugee Resettlement to address concerns regarding gang involvement by former unaccompanied alien children.

This memo is for your information only and does not ask you to take any action.

BACKGROUND

The Office of Refugee Resettlement (ORR) is responsible for receiving in its custody all unaccompanied alien children (UAC) referred by the Department of Homeland Security (DHS) within 72 hours of referral, and providing each child received with care consistent with law. ORR is required by statute and the *Flores* Settlement Agreement to place each child in the least restrictive setting consistent with the child's individual requirements and, if possible, identify a responsible adult, or sponsor, to provide care for the child prior to the UAC's immigration court proceedings.

In recent months, there has been public and congressional concern with the Mara Salvatrucha, or MS-13, Central American street gang in American communities, and the involvement in that gang of some individuals who were previously in the ORR UAC Program. This followed outcry at murders committed by MS-13 members, particularly in the Suffolk County, Long Island, area, as well as other U.S. communities including the Washington, D.C., and Houston metropolitan areas. Rep. Peter King, whose district includes Suffolk County, has raised the issue of the number of MS-13 members on Long Island who entered the United States as UAC, and on July 28, the President gave a speech about MS-13 in Suffolk County. ORR has actively responded to this concern with policy and procedural changes aimed at reinforcing community-safety protections in the program.

UAC who are determined to pose a danger to themselves, to others in communities, or pose a flight risk are placed by ORR in secure or staff secure facilities. Secure facilities are ORR's most restrictive level of care, with staffing and infrastructure comparable to juvenile criminal justice facilities, and are in fact state or local juvenile halls to which ORR has awarded contracts or grants to provide secure UAC custody. Staff secure programs are programs with higher levels of staffing to manage UAC who for reasons of self-harm, disruptive behavior, criminal history, or flight risk are not suitable for residential shelter programs, but do not currently require secure-level care.

DISCUSSION

The great majority of UAC in ORR custody do not pose a safety risk to the public and are not affiliated with gangs. Many UAC come to the United States to escape violence and gangs in their home communities. On June 9, 2017, ORR reviewed of the UAC in its secure and staff secure facilities. From that review, ORR determined that of the 138 UAC in those facilities on June 9, 35 were voluntarily involved with gangs. Four additional UAC had reported that they had been forced into gang participation. In the context of the nearly 2,400 UAC in ORR custody on that date, this means that gang members were approximately 1.6% of all UAC in care.

However, while the proportion of UAC who have gang affiliation is small, ORR recognizes the importance of planning and programmatic interventions to manage that sub-population in a way that does not compromise the program and does not put American communities at risk.

Community Safety Initiative

In the current Administration, ORR has initiated a Community Safety Initiative, a comprehensive review of program policies and procedures from the lens of the safety of American communities into which UAC are reunified with sponsors.

As elements of the unfolding Community Safety Initiative, ORR has made a number of policy and procedure changes made to date. These include:

- **No current gang members are eligible for release to a sponsor from the program.** UAC with gang history upon attaining their 18th birthday are transferred to DHS Immigration and Customs Enforcement (ICE) for detention as adults. In some cases, such as Bond Hearings or habeas lawsuits, courts may order UAC released despite ORR decision to retain UAC in care.

- **All UAC identified as having current or past gang affiliation are placed in secure facilities**. There, further assessment occurs to verify the gang affiliation and determine the dangerousness of the UAC. UAC may be stepped down to staff secure or other level of care based on the evaluation in secure settings.

ADMINISTRATION FOR CHILDREN & FAMILIES
330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

- **ORR's Deputy Director for Children's Programs and the ORR Director now review and approve releases from secure or staff secure facilities.**

- **ORR is working on a Memorandum of Agreement (MOA) with DHS to improve existing processes of consultation on the suitability of releases from secure and staff secure facilities, and on the suitability of sponsors.** At present, 24 hours prior to release of a UAC from ORR custody, ORR notifies DHS of the sponsor's identity, location, and relationship to the child, and asks for DHS input regarding safety of the release for the child and the community. ORR again notifies DHS 24 hours after the minor's release. In the MOA discussions, ORR and DHS are reviewing how the two departments communicate to strengthen ORR's decision-making on releases of UAC at higher risk of violence or criminal activity in the community where they are placed with a sponsor.

- **ORR instituted a policy of notification to local authorities of release from secure and staff secure facilities.** Another goal of the Community Safety Initiative is increased coordination with and support for local authorities in communities in which UAC are released to sponsors. In July, ORR made a policy change to allow notification of local authorities when UAC from secure and staff secure facilities are released in their communities. ORR is currently working through requirements for implementation of this policy, which it expects to implement in the fall.

- **Programs are adding the GREAT gang prevention program to their curricula.** ORR is also focusing on interventions while minors are in ORR custody designed to help prevent later gang involvement post-release. A specific gang prevention program for youth recommended by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Gang Resistance Education and Training (GREAT) curriculum, is being piloted in facilities. ORR anticipates expansion of the GREAT program to other ORR residential care facilities based on lessons learned from the pilot.

- **Gang prevention resources are being added to post-release services.** ORR is also undertaking to increase the protections against gang involvement by UAC that can be incorporated into safe discharge and post-release services for those UAC who receive post-release services. ORR has partnered with DHS to deliver DHS-provided trainings to ORR's post-release services providers on how to identify MS-13 and other gang colors and signs, as well as whom to notify if providers become aware of gang activity.

- **ORR field staff is integrating with local anti-gang task forces.** Some ORR Federal Field Specialists have begun attending local and regional anti-gang task forces to strengthen partnerships with law enforcement and stay informed about MS-13 and other gang activity in their areas. ORR is actively participating in the interagency gang task force on Long Island, and is in the process of expanding this effort, including current

ADMINISTRATION FOR CHILDREN & FAMILIES
330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

outreach efforts to Northern Virginia and Texas gang task forces.

- **ORR is in direct contact with Suffolk County, NY, Police Commissioner Sini.** In the case of Suffolk County, New York, the ORR Director has been in personal contact with Suffolk County Police Commissioner Timothy Sini on a number of occasions. ORR has assisted Suffolk County police with their investigation of MS-13 members by providing information on who, among gang suspects identified by local police, have come through the ORR UAC Program. The Suffolk County Commissioner in turn has agreed to inform ORR whether gang involvement began before, during, or after time in ORR care, if that information surfaces during local investigations. ORR is working to inform Suffolk County of releases of UAC into that community. Following the President's speech about MS-13 at Suffolk County police academy on July 28, the Commissioner was quoted in a Fox News report describing response from ORR as "encouraging."

- **ORR is in the process of expanding its secure bed capacity**. At present, ORR has 58 secure beds nationwide, in two juvenile justice facilities: one operated by a regional criminal justice consortium in Virginia, and the other operated by a county in California. Due to increased numbers of domestic apprehensions, particularly from DHS enforcement operations targeting gang members, as well as ORR's new policies regarding initial designation to secure beds of all UAC with past or present gang affiliation, additional secure beds are required. ORR is in the process of obtaining additional secure beds by a new contract mechanism.

Exhibit 73

EXHIBIT 1

DECLARATION OF JOHN DOE 1

I, John Doe 1, declare and state the following:

1. I am 17 years old. I was born in Tamaulipas, Mexico.
2. I came to the United States right after I turned 15. I believe it was in August.
3. I was taken into custody by immigration authorities as soon as I crossed the border. I was sent to BCFS in San Antonio, Texas, and I stayed there for a few months until I was transferred to Mercy First, a treatment center in New York, for psychological issues.
4. After a short time in New York, I was transferred to NOVA, a staff secure facility in Virginia. Then I was sent to Shenandoah.
5. I was detained at Shenandoah for over a year and a half, from April 2016 to December 2017.
6. I have been diagnosed with depression and other disorders, and I take medications for them. I think they increased the dosage of my depression medication when I came to Shenandoah. At first it made my symptoms worse, and I didn't feel like getting out of bed or doing anything, but then I got used to it.
7. For most of my time at Shenandoah, I was placed in Alpha Pod. It is for kids who have misbehaved.
8. We would get points awarded for good behavior and points taken away for bad behavior. If you had all of your points at the end of the week, you could buy things like toothpaste and soap. I regularly got points taken away for things like not wanting to work on the mural in art class, complaining about a headache, or throwing a ball that hit the ceiling in the gym.
9. At Shenandoah, my room had a mattress, a sink, and a toilet. There is no wall or divider

in the room, and the staff could see into the rooms through a window in the door. The kids would sometimes put a piece of paper over this window so people couldn't see them using the toilet, but the staff would remove it. One time a staff member stood at my doorway and watched me use the bathroom.

10. While I was at Shenandoah, staff members would make fun of me on a daily basis. They would call me names such as "pendejo" and "onion head," and do things like drop my clean towel on the dirty floor in front of me. They were always trying to provoke me.

11. I once became so frustrated by a staff member's repeated mocking that I pushed the staff member. In response, four staff members shoved me to the floor and piled on top of me, and they began hitting me in my abdomen with their elbows. I had a lot bruises from this.

12. There are American and Latino kids at Shenandoah. The Latino kids are treated differently than the American kids.

13. Staff frequently refused to allow us to watch Spanish shows on the TV in our pods. They would tell us they didn't care what we wanted and didn't care that we were Latino.

14. On one occasion, I got into a fight with one of the American kids after he had taunted me and told me that he "hates Latinos". When staff broke up the fight, I was grabbed and thrown forcefully to the ground, but the other kid was just held by the arms and pulled away. I was then restrained, tied to a chair, and hit several times by staff members while I was tied to the chair. I was left tied to the chair in my room for four hours.

15. They tied me to a chair about five times while I was at Shenandoah. My hands, legs and chest were tied to the chair. On some occasions they put something over my head. It had small holes that I could see out of, but only a little.

16. I was assaulted by Shenandoah staff on many occasions while I was detained there, and

several times while I was tied to a chair. On one occasion, I was hit in the face and scratched by a staff member while I was restrained. I developed a black eye and bruising from this.

17. On another occasion, I asked to come inside during gym because I had a headache. Staff suspected, for no apparent reason, that I may have found a piece of glass outside. I was thrown to the ground and searched, and my clothes were shredded. Though they found nothing, staff transferred me to Alpha Pod after this incident.

18. I saw other kids being hit by staff too. I once tried to defend another kid when a staff member was hitting him. As a result, the other kid and I were both stabbed by the staff member with a pen.

19. Another time, a staff member entered my room when I didn't want him to and provoked a fight. The staff member hit me, and I bit the staff member. Thereafter, the staff member beat me, leaving me with bruises on my neck and arms. A supervisor took photographs of my injuries. I have asked for these photos repeatedly, but staff members have never given them to me.

20. After this incident, I was placed in cha-chas (handcuffs). I was forced to wear handcuffs on my wrists and shackles on my feet for approximately 10 days in a row. During this time, the handcuffs were only removed when I was sleeping or eating alone in my room.

21. The handcuffs are very tight, and they often left bruises and cuts on my wrists after they were taken off. I complained about this and showed my injuries to the staff, but they took no action.

22. At Shenandoah, I was also placed on restriction a lot. This happened whenever kids would act out or hit the staff, or if they hurt themselves. When you are restricted, you are largely

in your room and you can't leave. When you are outside your room, staff place you in handcuffs. I have been restricted in my room for several days at a time. I was only allowed to leave my room for classes.

23. Soon after I arrived at Shenandoah, I began to hurt myself. I would cut my wrists with a piece of glass or plastic, whatever I could find. I would sometimes bang my head against the wall or the floor because I was angry and sad.

24. Staff members saw the scars on my wrists and knew I was hurting myself. They told me they didn't care. Sometimes I would lose points or be placed on restriction for hurting myself.

25. One time I cut myself after I had gotten into a fight with staff. I filled the room with blood. This happened on a Friday, but it wasn't until Monday that they gave me a bandage or medicine for the pain.

26. I had never cut myself before I came to the United States. I learned this from other kids while I was detained.

27. On August 21, 2017, I tried to kill myself. I tied part of a curtain around my throat. Staff found me, and they responded by taking away all of my clothes and placing me on restriction for several days.

28. I was angry that I was at Shenandoah for so long, and I didn't want to be there anymore. I would throw food down the toilet because I couldn't eat it. I would feel sick and dizzy.

29. I had the urge to cut myself frequently, and expressed a desire to kill myself.

30. In December 2017, I was transferred back to NOVA. It's better here. I don't know how long I will be here or whether I will be transferred back to Shenandoah.

31. This statement has been prepared in English but it has been read to me in Spanish by a bilingual interpreter.

32. I declare, under penalty of perjury, that all the information I have provided here is true and correct to the best of my knowledge, and I am aware of the legal consequences of making a false declaration.

Executed this 17th day of January, 2018, in Alexandria, Virginia

_____

John Doe 1

Exhibit 74

EXHIBIT 2

DECLARATION OF JOHN DOE 2

I, John Doe 2 , declare and state the following:

1. I am 16 years old. I was born in Reynosa, Mexico.
2. I came to the United States when I was ten months old. I lived with my mom in Macallen, Texas until I was sixteen. While living in Macallen, I attended school. I was about to finish ninth grade when I was taken into custody by immigration authorities.
3. One day in 2017, I was driving with some friends. The driver of the car was pulled over, and the police searched our car. They asked for identification, and no one had any, so they called immigration.
4. I was then arrested, and taken to a shelter in Harlingen, Texas. I stayed at the shelter in Harlingen for approximately two months.
5. While I was staying at Harlingen, I tried to escape, but I did not succeed. I was then transferred to BCFS, a staff secure facility in San Antonio, Texas.
6. I felt safe at BCFS. I played soccer, was treated well by staff, and enjoyed visits from my family.
7. While I was staying at BCFS, I saw a doctor who told me I had ADHD, depression, and anger management issues. The doctor gave me Prozac, Trazodone, and two other medications, which I was told are used for my mood and concentration.
8. Sometimes I would get in trouble with the staff at BCFS because other kids would pick on me and I would defend myself. I got in verbal fights with other kids a few times, and once I tried to hit a kid. The staff restrained me, and took me to the floor.
9. I was feeling very angry and very sad during this time. I started to harm myself. I cut my wrists.

10. Because of my anger, I was taken to see a doctor at a hospital or a rehab place. I stayed there for about twenty days, before I was taken back to BCFS.

11. Shortly after I returned to BCFS, I was transferred to Shenandoah. I had been at BCFS for about three months. I was told I was "going to a better place," but I knew I was being transferred to juvenile.

12. I arrived at Shenandoah on September 30, 2017. I did not see a doctor when I arrived, but my medications came with me. I am still taking them.

13. Soon after I arrived at Shenandoah, I met my case manager, Emily. She told me I had been transferred to Shenandoah because of behavioral issues. She also told me that if I'm good for 30 days, they'll send a request for a transfer.

14. I was assigned to live in Alpha Pod. I was told by staff and other kids that people who behave badly go to Alpha Pod.

15. I feel very sad at Shenandoah. I do not have many privileges. A few months ago I cut myself again, but I haven't done it in a while.

16. I am not allowed outside of the building at all. I have not been outside since I've been here. We have gym class, but it is always indoors.

17. In addition to gym, I take math, science, and art. My favorite class is art. I don't like my other classes. They aren't interesting because they are too easy. The teachers teach things I learned in elementary and middle school. I never took a test here to measure my grade level.

18. Generally, they teach class in Spanish. Sometimes they teach in English. Spanish is my native language, but I understand English very well because I lived most of my life in Texas.

19. Some of the staff here are nice, they'll joke around with you. Some are all mean. They tell you do this, do that. Some of them are bilingual, but a lot of them are not.

20. I often overhear staff members insult me and other kids in English, thinking we cannot understand them. If you don't know Spanish, they will talk shit. They will say, "Hispanics, they don't know nothing, they just come to our country," and tell the kids they're stupid, make fun of them for not understanding English. I was the only one who understood what they were saying because I am the only federal kid who speaks English.

21. The staff will say things behind the kids' backs, but in a way that the kids can hear them. I became very frustrated, so I started to tell the other kids what the staff was saying about them in English. The staff got very mad at me for this and took away my points.

22. I have complained about the staff being racist. I submitted a report and Mr. K, the director, came to talk to me about it.

23. There are local kids and federals (immigrant kids) at Shenandoah. We don't interact with the local kids at all but we see them in the hallways and pass by the pods where they live. They have different privileges and they are treated differently. They can go outside more, staff is friendlier to them. They get Xboxes in their pods and they have computers in their classrooms. I have said things to the staff about it, but no changes have been made. We want to be treated equally, like the locals. They shouldn't look down on us for not having papers.

24. It feels bad to be here. I get really angry. I'm frustrated about being locked up, and I miss my family.

25. One time, about one or two months ago, I was mad and I said, "Fuck school and fuck this place" during class, and the staff removed me from the program. They took me to my

room. I told them I didn't want to go, and I was resisting it – I wasn't letting them grab me. They put the handcuffs on me. When I kept resisting, they drew me to the wall and put my face in the wall. Once I was inside my room, they took the handcuffs off. They kept me in my room for four hours and overnight.

26. After that I started to behave bad a lot. I got removed from the program a lot. I was placed on restriction for dumb things, like trying not to go to class, joking around with other kids, or for saying bad words to a teacher.

27. If you lose two points in a day, you don't go outside your room. During the night shift, you don't leave your room. So if you are placed on restriction you're in your room from the time when you are removed from the program, and through the night until the next day.

28. If you are behaving bad, resisting the staff when they try to remove you from the program, they will take everything in your room away – your mattress, blanket, everything. They will also take your clothes. Then they will leave you locked in there for a while. This has happened to me, ad I know it has happened to other kids too.

29. One time I was kept in my room for a day and a half. I had tried to swing at a staff member. I was pushing back, so they called a 1033 for backup. When the other staff came, they put me to the floor. They used force to push me inside my room, and then they put the handcuffs on me.

30. There's this chair, and they brought it outside my room. It has wheels on it so it can be moved. They put me in the chair, strapped my arms and legs down, and put something over my face. It's a white thing with small holes in it. You can see and breathe out of it. They told me they were putting it on so I couldn't spit, but I hadn't tried to spit.

31. When I was strapped to the chair, they took the handcuffs off and they brought the chair to another room. I don't know how long I stayed there, but it was maybe 30 or 40 minutes. After that I was brought back to my room. This was during the evening, and I was kept in my room for the next day and a half, until the morning of the day after. They took away my mattress, blanket, and shirt for the first few hours, and then they brought them back.

32. When I get frustrated sometimes I talk back to staff and insult them, and I get removed from the program. When this happens, the staff will sometimes use force to restrain me. They will grab my hands and put them behind my back so I can't move. Sometimes they will use pens to poke me in the ribs, sometimes they grab my jaw with their hands. They are bigger than me. Sometimes there will be three or four of them using force against me at the same time.

33. The force used by staff has left bruises on my wrists, on my ribs, and on my shoulder. The doctor here gave me ibuprofen for the pain.

34. I have been good for the past 44 days, and I haven't been removed from the program. They told me they sent a request for a transfer, and that it generally takes 60-90 days, but they didn't tell me why.

I declare, under penalty of perjury, that all of the information I have provided here is correct and complete to the best of my knowledge, and I am aware of the legal consequences of making a false declaration.

Executed this 5th day of January, 2018, in Staunton, Virginia

John Doe Z

Exhibit 75

EXHIBIT 3

DECLARATION OF JOHN DOE 3

I, John Doe 3, declare and state the following:

1. I am 15 years old. I was born in Honduras.
2. I left Honduras because I was being persecuted by the "18 gang" who threatened to kill me.
3. My girlfriend and I fled to Guatemala and then travelled to Mexico. My girlfriend wanted to go back to Honduras, but I told her that I couldn't, because the gang was going to kill me.
4. With a friend, I took buses and jumped on trains through Mexico to get to the United States. It took us something like 25 days to get to the US border from Mexico.
5. I was picked up by immigration right after I crossed the border. I was placed at a house in Texas and then moved to a house in San Antonio, where I stayed for about a month. I was then moved to a center called BCFS where I stayed for about two weeks. After that, I was moved to Shenandoah.
6. To get to Shenandoah, they put me on three planes. I kept asking where I was going but they never told me. It took a long time and put me in a bad mood.
7. They said the reason for the moves from place to place was because I was a member of MS-13. I told them I was not part of anything.
8. When we landed at the airport, a grey van was waiting to transport me to Shenandoah. They put cuffs on my hands that were connected to a belt around my waist and put cuffs on my feet. When I asked them why they put us in handcuffs, they said that everyone

who is transported here gets handcuffs. I threw a fit. I asked what was going on and kicked a chair. They put handcuffs on my hands and legs.

9. At Shenandoah, I was put in restriction for any little thing. I was put in restriction many times; more than 10. They restrict me when I get angry and send me back to the pod. I get angry because of the things they do.

10. On one occasion, going to art class, I held the door open so everyone could enter. A staff member yelled at me for doing this, and I asked him why he was yelling at me and bringing his anger here. In response, the staff member lunged towards me, and I crouched down to avoid him. He fell and then restrained me, putting my hands behind my back and slamming my face into the wall. I maneuvered my way out of the hold and asked, "what is happening"? Then two staff members slammed my body to the ground and, when they picked me back up, shoved me against the wall again.

11. After this, they put me in restriction in my room. They took away my mattress and my blanket and left me only in my boxers. I was left in my room all day without clothes and it was very cold. I did not get the mattress and blanket back until 9:00 that night. I did not get my clothes back until the next morning.

12. On another occasion, I moved the TV in the pod so that the light wouldn't hit it and we could see better. A staff member came over and took a point away from me for that and put me in restriction. Whenever I was put in restriction, they took away my mattress and blanket. They took my clothes away about 8 times.

13. About four times when they put me in restriction, staff put cuffs on my hands and my feet inside my room. The cuffs were very tight and left marks on my wrists. One night in

particular I couldn't sleep well because of the pain in my wrists. When I was cuffed, staff also hit me. They came into my room and started hitting me.

14. One time I got angry when staff sent me to my room. I hit the door with my fist and my hand started bleeding. Staff then they put cuffs on me and I was strapped to a chair with a belt. I was just in my boxers. I was there for definitely more than half an hour. I was crying. Staff said that they did it to calm me down. No one did anything for my bleeding hand.

15. Another time I put paper over the window in the door to my room for privacy. A lot of staff came into the room with plastic shields and swarmed over me. A large staff member put all his weight on me. I had scratches and bruises all over my arms.

16. Staff members take away points without telling me. When I ask how many points I have, they tell me 4 to 5 points less than I have. That makes me mad. I ask the supervisor why they do this and say that they are messing up. They don't give me an answer. I think they do things to make me angry so that I will hit them and then charges will be pressed and I will get a longer sentence.

17. Staff take away points for little things. They take away points when I don't want my food and give it to a friend. Some staff take away points when you don't raise your hand.

18. I feel like people here are racist. The American kids are treated differently. For example, an American kid asked for chapstick and got it immediately. I asked for Vaseline for my lips which were chapped and hurting. I got it eventually but not immediately.

19. The pods for the American kids are very different than the pods for the Hispanic youth. Bravo and Echo, the pods for the American youth, have soft chairs, X-boxes all week

and I-pods. The immigrant youth have steel chairs, no I-pods and have X-boxes one to three times a week.

20. We get special food, like Burger King and pizza, on Tuesdays. My Honduran friends who arrived this past Saturday did not get the special food on the following Tuesday, but the American kids who also arrived on that Saturday got the special food.

21. Staff is disrespectful to us. When I asked a friend to ask a staff member why the staff member was taking away so many points, the staff member said to my friend, "tell that Hispanic guy to tell me in English".

22. If something hurts, I can see a doctor. But I don't get medicine until much later than I ask for it. I get very strong headaches, that are so bad that they make me cry. Many times when I ask for medicine I have to wait a long time. When I had a stomach ache, I did not get medicine until a week after I asked for it. Then it was pointless.

23. We got six vaccinations at a clinic. I do not know what the shots were for. They had us in hand and leg cuffs the entire time we were in public. People stared at us.

24. I am taking medications for anger and to help me sleep. I would like calcium and iron supplements but they refused to give them to me.

25. I have been on good behavior for three months. I should have been stepped down after 30 days of good behavior. I am upset that I haven't been stepped down. I will talk to my case manager about that.

26. I want us to be treated as human beings.

This statement has been prepared in English but has been read to me in Spanish by a bilingual interpreter. I declare, under penalty of perjury, that all the information I have provided here is correct and complete to the best of my knowledge. I am aware of the legal consequences of making a false declaration.

Executed this 5 day of January, 2018, in Staunton, Virginia

JOHN DOE 3

Exhibit 76

EXHIBIT 5

DECLARATION OF D.M.

I, D.M., declare and state the following:

1. I am 20 years old. I currently live in San Antonio, Texas.
2. I was born in Honduras, and I came to the United States when I was 15. I was taken in by immigration authorities when I crossed the border, and then I was in ORR custody for about three years.
3. I arrived at Shenandoah in 2014, around the last week of May. I was at Shiloh Treatment Center before that.
4. At first the people transferring you don't tell you they're going to take you to jail – all they do is tell you you're going to another placement. But then they handcuff you, and put a big heavy bag on your right or left leg. Once you have the handcuffs and the big bag, you know you're going to jail.
5. I was told I was sent to Shenandoah because I was too aggressive, supposedly because I had had physical issues with staff more than three times in one week. But I never had a chance to dispute this, and I was only told the reason for the transfer after I arrived there.
6. When I was at Shenandoah, there was a lock-in (secure) part and a staff secure part of the facility. I was in the lock-in part for 8 months, and then I was stepped down to the staff secure part for about 3 months.
7. The rules at Shenandoah were really strict. There was one hour when you had to read a book. The guards had to see your eyes moving back and forth on the page, and if they didn't, they would put you on restriction in your cell.
8. One day, it was reading time, and there was this kid who was quiet but wasn't looking at his book like he was supposed to. This guard – I forgot his name, but he was a big guy,

he used to be an NFL player – he was really strict and he used to be mean to everyone. He asked the kid why he wasn't looking at his book. The kid responded and said he wasn't causing any trouble or anything. The guard told him to shut up. The kid got up and said, "I'm sorry, sir." And the guard grabbed him by the shirt and pushed him away. Then the kid felt disrespected, so he got mad and he punched the guard. In response, the guard grabbed the kid and tackled him, and slammed him to the floor. The guard put his whole weight on top of him. He had his elbow on the kid's chest and had his other arm pinning the kid down. He took his time calling a 1033 on his radio (for backup). There was a group of us watching this, and we didn't think it was necessary for the guard to treat the situation as he did.

9. It's easy for the guards to write incident reports – you did this, you did that, you disrespected me – but they never hear the kid's side of the story. My voice was never heard. They never came and talked to us about what was going on inside of us. A kid starts suffering as soon as Border Patrol gets them. They're all scared of being sent back home or being sent to jail.

10. I didn't feel like I belonged there. I never threatened staff members. I wasn't affiliated with a gang in my home country or anywhere else. I was terrified there.

11. There were both federals (immigrant kids) and local American kids at Shenandoah, and there were differences in the way they were treated. The locals were able to have a roommate, while federals have to have cells by themselves. The guards would joke with the local kids about the federals, telling them that the federals were in their cells alone because they raped someone or because they had sexual problems (HIV, stuff like that). I

overheard them talking like this in the gym, and I understood because I was the only one who spoke English. The guards are adults, and they were supposed to be there for us.

12. The guards at Shenandoah also put down the federals, calling them wetbacks. They used that word because they know it's insulting. Most of the kids don't even understand what's being said about them because the staff doesn't speak Spanish.

13. The guards would also mock us by trying to speak Spanish. They would say "Vamonos! Vamanos!" with a smirk on their faces.

14. Before I came to Shenandoah, I had been diagnosed with post-traumatic stress disorder, major depressive disorder, and bipolar disorder. I didn't meet with a psychologist until about a month and half after I had arrived there. I went in with medication from Shiloh, but I didn't receive any meds until a month and a half in, when I met with the psychologist. What did they do with my meds? What did they think, they I didn't need them in secure?

15. I had a lot of issues there because of my mental disorder. Whenever I was in crisis – if I was trying to hurt myself inside my cell, or saying things to someone no one could see – they would drag me out of my cell and put me in the restraint chair. All I could see was them running for the chair.

16. Whenever they used to restrain me and put me in the chair, they would handcuff me. Strapped me down all the way; from your feet all the way to your chest, you couldn't really move. Handcuffs would have been enough. Once you're strapped down, they have total control over you.

17. They also put a bag over your head. It has little holes; you can see through it. But you feel suffocated with the bag on.

18. When you're in a crisis, the bag is the least helpful thing – it's scary, you know. And they don't do it in a nice way. They don't explain what they are doing; they just grab the left side of your head and they force it over you. You can't move to resist. The first thing that came to my head when they put it on me was, "They are going to suffocate me. They are going to kill me."
19. They had me in that chair for a good hour, but they don't check the time. They don't check if blood is flowing through your veins. I feel like they should have to do a 20-minute check to make sure it's not too tight, it's not hurting you, or whatever. There is a guard there with you, but they never checked on me.
20. I saw two other cases, besides me, where kids had to be put in the chair. It was when the guards had break up a fight. I never had a fight in that place. I was placed in the chair when I was having a mental crisis.
21. Every time I was in crisis, they put me in the chair. The guards never did anything less extreme than that. They would call for help from a psychologist only after I was strapped down. They would wait for like 45 minutes or an hour to call though.

I declare, under penalty of perjury, that all the information I have provided here is correct and complete to the best of my knowledge, and I am aware of the legal consequences of making a false declaration.

Executed this 2nd day of January, 2018, in San Antonio, Texas

_____

D.M.

Exhibit 77

EXHIBIT 6

DECLARATION OF R.B.

I, R.B., declare and state the following:

1. I am 18 years old. I am currently living in Corpus Christi, Texas, with my mom.
2. I am originally from Guatemala, but I came to the United States with my mom when I was young.
3. When I was 13, I got picked up by immigration authorities. I had run away from home and I was living in Rio Grande City at the time.
4. I stayed in a sorting facility for one night, and then I was sent to Nueva Esperanza, a staff secure facility in Brownsville, Texas. From there I was moved to a juvenile facility in Newark, New Jersey. I stayed there for about two months, but I started losing it. I was sad because I hadn't seen my mom in a long time. I had a lot of anger problems, and it was really hard.
5. I told the guards I wanted to hurt myself, and they sent me to Sandy Pines, a hospital in West Palm Beach, Florida. The guards at Newark told me they were sending me away because I needed help, and they didn't have the right resources there.
6. A few months later, I was sent to Shenandoah because of behavioral problems. I lit a piece of toilet paper on fire using lead from a pencil. I burned it in the sink, right under the faucet, and I put it out in a matter of seconds. I wasn't trying to start something, I was just showing off. I also got into a fight with my roommate that night. Two or three days later, they told me I was being transferred. They didn't tell me where I was going. I was 14 at the time.
7. I was at Shenandoah for a little over three months. After being there for two months, I escaped while I was being transported to a doctor's office. I was so sad, I felt worthless

and I didn't feel like I had anything to live for. In Shenandoah, they locked me in a room that was 8x10, or maybe 8x16, for 23 hours a day, all by myself. It's not good for a person to be isolated that long. I started talking to myself.

8. I wasn't myself after that. When I left home I was just a little boy, but being there changed me. I'm not optimistic any more. Even now, my mom tells me that I changed a lot, that I'm not the same person. I rarely go out with friends. I just spend time with my family now.

9. When I was at Shenandoah, at least once a week, I had to fight – with a guard, another kid, or anybody who wanted to fight me – because I was so angry. They didn't tell me anything about what was going on with my case or when I was going to leave. Not knowing anything month after month drove me crazy.

10. When I got in fights, the guards at Shenandoah would grab my arms and put them behind my back. They would cross my elbows and put pressure on them. Then they would fold my knees and push me down. It hurt, so I fought back to relieve the pressure. I told them, "If you just let me go a little bit, I'll calm down," but they wouldn't do it.

11. When they couldn't get one of the kids to calm down, the guards would put us in a chair – a safety chair, I don't know what they call it – but they would just put us in there all day. This happened to me, and I saw it happen to others too. It was excessive.

12. At other detention facilities where I had been, the staff would treat us differently when we were angry. They would tell me to calm down and then slowly let me go, and then they would take me to my room so I could punch a wall or something. The guards at Shenandoah would say, "calm down, calm down" and I would say "I just got punched in the face, why you want me to calm down?" And then they would put me in the chair.

13. I was put in this chair 4-6 times I guess. The longest time I was in it was probably half a day, or two shifts. I was really mad that time. I was young, I had a lot of problems.

14. The chair is painful. Imagine a little rocking chair with straps for your head, elbows, legs, feet; you could turn your head a little from side to side, but you can barely move it in. It's a metal chair that has two little wheels in the back, so they can lean it back and transfer it, like a dolly.

15. This is embarrassing, but on one occasion, I had to pee, and they wouldn't let me, so I just went on myself. I know one or two other kids this happened to as well; they peed on themselves while they were in the chair.

16. One time they put a mask on my face because I spit on the guard when I was strapped down. I know now that was bad, but you have to understand there was nothing you could do, except move your head back and forth, while you were in the chair. The mask is like a white veil I guess, or a net for your hair – it has a million little holes in it. You can see through it and breathe through it.

17. I also got placed on room restriction a lot. If me and another minor got into a fight, they'd put us on room restriction for 3, 4, 5 days at a time. When you were on room restriction, when they woke you up at 6 or 7 am, they'd take your mattress away, and wouldn't give it back until room checks at the end of the day. They would leave you in your room with nothing but a book and a Bible, but no mattress – so you can't sleep, because you would just be laying on the concrete. I started talking to myself and banging my head against the wall. I felt like I was going crazy, and I would do anything to get the guard's attention.

18. The guards never picked fights with me, but I saw it happen with other kids. They would say things to them and challenge them until the kids got really mad and fought back. Then the kids would push the guard, and then the guard would grab both of the kid's arms and try to force them into a restraint. The guards were twice the size of the kids, who were 13 or 14 years old, but they would use their full weight to push them to the ground. Sometimes it was two guards doing this to a little kid.

19. Before I was at Shenandoah, I had been diagnosed with ADHD and prescribed medications for it, but that was it. When I came to Shenandoah, they told me I had bipolar disorder and PTSD. At first I didn't even take medicine, but they made me think I needed it – sleeping pills, Seroquel, and a bunch of others. They keep you drugged there.

20. Now I just take melatonin to help me sleep, nothing else. I don't need any anti-psychotic drugs.

21. I declare, under penalty of perjury, that all the information I have provided here is true and correct to the best of my knowledge, and I am aware of the legal consequences of making a false declaration.

Executed this 8th day of January, 2018, in Corpus Christi, Texas

_____

R.B.

Exhibit 78

P R O C E E D I N G S

OCTOBER 27, 2017 **12:56 P.M.**

---000---

THE COURT: All right. Ready to call your next witness?

MS. MURLEY: Yes, your Honor. Our next witness is Jonathan White from ORR.

MS. MASS: Just a question for the Court. Would you prefer that we reserve any objections and present them as Mr. Schenker did?

THE COURT: I think that worked out very well. Thank you.

MS. MASS: Thank you.

JONATHAN WHITE,

called as a witness for the defendants herein, having been duly sworn, testified as follows:

THE WITNESS: Yes, ma'am, I do.

THE CLERK: Please be seated.

Please state your name clearly and spell your name for the record.

THE WITNESS: My name is Commander Jonathan White. That's J-O-N-A-T-H-A-N, W-H-I-T-E.

DIRECT EXAMINATION

BY MS. MURLEY

Q. Good afternoon, Mr. White. Where are you currently

employed?

A. I'm an officer in the United States Public Health Service Commission Corps and I am stationed at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement.

Q. And in that, what is your current job title?

A. I'm posted as the Deputy Director for Children's Programs.

Q. And how long have you been in that position?

A. I've only been in that position since the 9th of January, although I have been at the Administration for Children and Families since 2010 and have worked on unaccompanied alien children issues for ACF since 2012.

Q. And in your current role, what are your current -- what are your day-to-day duties?

A. I'm the senior career, as opposed to political appointee, person for --

THE COURT: Can you pull the microphone a little bit farther away --

THE WITNESS: Sure.

THE COURT: -- from your face? Thank you.

THE WITNESS: Is that better?

THE COURT: Great. Thanks.

A. I'm the senior career person for the Unaccompanied Alien Children Program. I manage the three divisions under that program.

I ensure that the program has sufficient capacity to respond to the number of UAC referred every day by DHS and that all of the staff who work in the program have the resources they need to execute the policies of ORR.

Q. And you mentioned three divisions in that that you manage?

A. Correct.

Q. And what are those?

A. The first is the Division of Unaccompanied Children Operations, which oversees all of the different grant funded shelter and other programs nationwide.

The second is the Division of Health for Unaccompanied Children, which oversees public health and medical services for children in our care.

And the third is the Division of Planning and Logistics, which is the emergency management function of the program and plans for surge events.

Q. And what qualifications do you have that qualify you for your current job?

A. I'm a licensed clinical social worker. I'm an emergency manager. And my professional training and background is as an emergency manager specializing in the needs of children.

And I have a professional background in trauma informed human services for children and vulnerable populations.

Q. Are you familiar with the October 11th, 2017 letter from ORR Director E. Scott Lloyd to the mother of F.E., a plaintiff

in this case?

A. I am.

MS. MURLEY: Your Honor, I have copies of this document. Part of it was submitted in the record, but not the whole thing.

THE COURT: Okay.

MS. MURLEY: I don't have a properly redacted version. I'm going to meet-and-confer with plaintiff's counsel and get that on the record probably Monday.

THE COURT: Okay.

MS. MURLEY: And it's Defendants' Exhibit 7.

THE COURT: Okay.

(Defendants' Exhibit 7 marked for identification)

THE COURT: So this is everything that accompanied the letter that was to the mother?

MS. MURLEY: Yes, your Honor.

MS. MASS: Do you have one for yourself?

MS. MURLEY: I do. Give me one second.

(Brief pause.)

BY MS. MURLEY

Q. Mr. White, do you recognize this document?

A. I do.

Q. Is this the letter that was sent to F.E.'s mother by Director Lloyd?

A. Yes. This is the official Letter of Denial that was sent

to the mother of the child, who I understand in court we're referring to as F.E., and in our system this would be a Letter of Denial of Category 1 Sponsor.

Q. And what is your level of familiarity with that document?

A. I was involved in the decision-making process which resulted in the creation of this document and I assisted in the drafting of the document.

Q. And what is the information that Director Lloyd would have received in order to make this determination?

A. So the determination rests on a range of different sources of information. These include the school records from the high school that the UAC attended while he was living in the community. Also, court and police materials produced by -- provided to us by Suffolk County Police Department, as well as, of course, the record of his time in care with us since his referral by DHS.

Q. And specifically talking about referral, when a UAC such as F.E. is referred to ORR custody from DHS, what is the initial intake process?

A. So the initial intake process for any UAC would be that our intakes desk, which is staffed 24/7 365, would be contacted by the referring federal agency. That's typically Customs and Border Protection or Immigration and Customs Enforcement. Far more often the former than the latter.

The DHS referring agency then provides, typically

electronically, information referring the child to our care. Intakes receives that information and makes an initial recommendation as to the appropriate level of care in our system, which includes determinations about the level of restrictiveness of the setting.

That decision is -- is reviewed by a federal field specialist, which is a federal -- a federal official with a regional responsibility to confirm that in the case of those placements, such as that that would apply in the case of F.E., where that initial designation is to a more restrictive level of care than our standard shelter setting.

Q. And so ORR relies initially on information from DHS to make that initial placement?

A. We must rely on the information that we receive in that initial referral. I think -- I think it's well known in the context of this case that we have a 72-hour statutory time frame during which we must receive the child, but in practice the referral process must be very rapid. And we do rely on the information provided by the referring agency for initial designation.

I'm sure we'll talk about this more, but initial designation is only the first in a series of administrative decisions that ORR makes affecting the appropriate level for the child in care consistent with our legal requirement to have children in the least restrictive setting consistent with their

needs and the needs of the program with regard to the safety of other UAC in care.

Q. When you say "level of care," what does that mean?

A. We have a number of different types of residential facilities --

THE COURT: And I'll just interrupt and say that I'm familiar with the different grades of residential facilities and what they involve, so you can skip that.

BY MS. MURLEY

Q. So in this case, F.E. was placed in an initial -- a secure facility?

A. He was placed in a secure facility at his initial placement based on information that he had a current gang affiliation as provided by DHS and other potential indications of danger.

MS. MASS: Your Honor, I'm sorry to interrupt Ms. Murley, but just in the interests of time, my understanding was that this witness was being brought to testify about the supplemental information that was added just recently and so I -- I don't know what the scope is.

THE COURT: I don't have any objection to testifying to something beyond that, but what I do not want is what occurred on direct examination of the last witness, which is largely a repeat of what's already in the submissions.

MS. MURLEY: Okay. Understood.

THE COURT: All I want this to be the testimony adding to the information that's already been placed in the record.

MS. MURLEY: Okay. Thank you, your Honor. I understand, your Honor.

BY MS. MURLEY

Q. When in this process does ORR begin to identify a suitable sponsor?

A. For any UAC, whether they come in as a secure -- the very small percentage that come in with initial designation as secure or UACs at other levels of care, for every UAC the identification of a sponsor begins when they first arrive in our care and is a continuous process throughout the time that they spend in our care; that we identify a viable sponsor and proceed to the case management process for reunification wherever possible.

Q. Now, for a UAC that had previously been in ORR's care that had a sponsor fill out that information, why would his previous sponsor have to fill out a second reunification package if that was the identified sponsor?

A. Because the information may have changed. So let me -- let me just explain that for a minute. So consistent --

THE COURT: Sorry to interrupt. Can you ask the question again? I want to make sure I understood that question.

BY MS. MURLEY

Q. For a UAC in ORR custody, like F.E., who had previously been released from ORR custody, why would a -- his previous sponsor have to fill out a second reunification package?

A. So consistent with sort of the challenges of the child welfare work involved in the sponsor case management process, sponsor suitability is not a lifetime situation. That's not true -- that's true in our program. It's true in any child welfare context in the country. Individuals become more or less suitable to provide what in our case is a standard, which is to meet the emotional and financial needs to support the child. That is a -- that is a variable set of facts.

Now, we have some UAC who we've previously reunified where the sponsors come back to us. We call them re-referrals or second referrals. In most cases that is not a result of a criminal apprehension, in this case, but that is one of the ways that that can happen.

The reason that we are required to go through the reunification process, including the submission of the family reunification application by the sponsor, is because the facts may have changed with regard to suitability.

And, in fact, as a general rule, when a UAC comes back to us, something has happened. Most UAC don't come back to us. But those that do, it's generally because something has happened regarding the suitability of the sponsor. And in

the -- in terms of the child welfare realities of children in the care in the community, much may have changed.

Among the things, for example, that we have to reassess are the -- the household composition may have changed. We do vetting and background check of every adult in the household and it may that be there is a new adult living in the household who was not living in the household a year ago or two years ago or two-and-a-half years ago when we reunified the child. It may be that the employment circumstances for the adult has changed. It may be that the adult now is involved in a relationship with -- with someone else who poses a threat to the child. It may be that the adult has new and problematic behaviors that didn't exist there before.

So there are a whole host of reasons that we would not simply re-reunify a child.

We do work with sponsors that we've previously reunified a child with to facilitate their getting that application in. And there are certain elements of what they submit that are enduring facts, such as relationship verification. If we already determined you're the biological mother of a child, we don't need to reinvestigate that biological maternity.

But there are many facts which may have changed and we do have to go through the process.

Q. How often are -- after the initial placement in your care, are placement decisions made?

A. I'm sorry. Say it again?

Q. Once a UAC enters your care and say, like, F.E. ends up in a secure facility, how often are placement decisions made whether or not that individual needs to be stepped down or stepped up to different levels of care?

A. Sure. So for any UAC in our physical custody and care there is an ongoing process of evaluation about whether step-down is appropriate, if they are in a restrictive setting like secure or staff secure. We are required to do that within 30 days and we do that within 30 days.

Because due to the policy where we have -- we are now receiving more initial designations to secure on the basis of allegations of gang affiliation, we've determined internally that for those UAC, we really want our internal standard to be faster than the 30 days that's in the policy. Because if we determine that that child doesn't require secure, that's a long time in secure if they don't need secure.

So our internal aspirational goal is to do that as quickly as possible, and we strive to do that in five days. That's not a policy, but that's our analysis of the fastest, just logistically, that the processes can be done.

So for the staff that work on that in our grantee programs, we do strive to complete that evaluation to determine whether they should be stepped down in those initial days following the designation of secure.

Q. And is the placement decisions that are ongoing, is that a -- is that separate from the reunification --

A. Yes.

Q. -- process?

A. Yes. That's a separate decision-making process, although they weigh some of the same factors.

So there are multiple sort of decisions that we're talking about here. The first is the initial designation decision. That's made at the point of intakes. In that decision we have really generally access to the least information of all of the administrative determinations we're going to make. We have really in most cases what's in the referral.

Then we have for those who are referred to secure, our preliminary evaluation that we try to make within those first few days following placement in secure. We have more information for that.

For any UAC who is in secure, staff secure, we have a 30-day review. It's a recurring 30-day review to determine their current requirements.

And then, of course, separate from all of those is the decision regarding release. That is itself a decision with two different dimensions. For the vast majority of UAC and care the issue is only the suitability of a sponsor. For those UAC who are in secure or staff secure settings or have been in secure or staff secure settings, there is a second

determination about the safety issues to ensure that their release does not create a community safety hazard. But that is a separate decision from the decision about levels of care while in our system.

Q. As part of the reunification process, does ORR require a home study be done?

A. A home study is required in some cases. There are three triggers for a home study --

THE COURT: Sorry. Let me interrupt again.

THE WITNESS: Sorry.

THE COURT: If you could keep the microphone away, back from you a little bit?

THE WITNESS: Yes, sir.

A. Some UAC require a home study as a matter of statutory requirement under TVPRA. We call those TVPRA mandated. That, for example, includes UAC who have a disability or UAC who have -- who have experienced human trafficking, or UAC where there is some evidence of significant risk to safety of the child from the parents.

There are also UAC who require home study, who are what we call ORR policy mandated. These are certain populations that we have learned are at greater risk and so although it's not a TVPRA required home study, this includes, for example, UAC who are going to what we call a category three sponsor -- that's an unrelated adult or distant relative -- if that sponsor has ever

attempted to sponsor another UAC, because that's a potential trafficking flag.

And, third, in some cases we do discretionary home studies where the case manager and others working on the case determine that there are just some concerning elements that would require a home study.

Q. And how often does it -- what is the time frame for completing a home study?

A. It varies, but it's generally in the weeks. It really depends, in part, on the backlog awaiting home study based on how many referrals we have received, but a period of weeks is normal.

Q. And once a home study is complete, what is the next steps in the reunification process evaluation?

A. So when we have the completed FRA, which is the application submitted by the sponsor, have completed a home study, if required, have vetted the sponsors through the appropriate background checks, that would involve a CAN check -- so a check with the states where the sponsor has resided to see if they have any reports of child abuse and neglect -- a public records based background check, and for all by a few sponsors a fingerprint background check. We conduct an FBI fingerprint background check on every sponsor, except parents, if there are no other red flags. So all non-parent sponsors and any parent where there is any other red flag, we

would be required to do an FBI fingerprint background check.

When those processes are completed, if we have all of that information that's required to make that determination, the case manager, that is an employee of the sheltering facility where the child is housed, that would make an initial recommendation of that reunification. That then goes to a case coordinator. That's an employee of a third-party contract that we have that reviews those.

If it is approved at that level, it then goes to the federal field specialist. And I can probably go quickly through that because I know all about the role of federal field specialist from Jim De La Cruz. For those who have not been in secure or staff secure that then is the last hurdle.

Under our policy that went in effect on June 12th of this year, for those who have secure and staff secure as part of their history, they then go from that level to me. It's reviewed at my level and typically we often find at that point that additional information may be required.

When I have had a chance to review it, I then brief our Director on it. And release -- a final approval of a release for a UAC from secure or staff secure requires Director level approval.

Q. So I'd like to turn to the decision in front of you --

THE COURT: Before we get to that, can I have some follow-up questions?

THE WITNESS: Yes, sir.

THE COURT: You made reference to re-referrals and you said that -- you identified a few reasons why a re-referral might occur, some change in -- a variety of different potential changes in circumstances.

First of all, re-referral, is that a term that you all regularly use in doing your jobs or is that just your way of describing this?

THE WITNESS: Yes, your Honor. That's a term of art that we use. It's not in policy, but we talk about it informally in the workplace. We generally talk about re-referrals or second referrals.

THE COURT: Okay. And can you give me a sense of how common it is for there to be re-referrals?

THE WITNESS: So I don't have statistics on it. I would describe it as not uncommon.

Certainly, it's a minority case, but it's not uncommon and it is generally the result of some family systems problem. It most commonly occurs when either the UAC runs away from the sponsors and -- or the sponsors themselves either have domestic legal sort of criminal justice involvements or may -- or may have removal issues, or it happens because through the child welfare system of the state, for example, a sponsor has been involved in abuse of the child. The child is harmed in some other way. And then if that child then gets back sort of on

DHS's federal radar, then they can be returned to our care.

THE COURT: Okay. So I'm going to ask this question generally and it may be not amenable to a general answer, so please don't hesitate to tell me that.

How do these -- how does the potential need for a -- how does the -- how does the re-referral generally come to your attention, or how does the potential need to revisit the sponsorship or the placement typically come to your attention?

THE WITNESS: So ORR -- we don't go out and take reunified -- kids that we've reunified back into our care, for example. In that way we are -- in that way the parallelism for the state child welfare system isn't there.

Here is how this would happen. Intakes, when they received a referral and entered them in would be flagged and say: Hey, this kid -- looks like this kid has been with us before. And that would be -- it would be an initial designation, that we would identify it that way through our own administrative process.

THE COURT: So the only time that you will be revisiting the placement is if somehow somebody delivers the child to you again?

THE WITNESS: Yes, sir. That's right. And that would have to be a federal agency and it is almost always either Customs and Border Protection or ICE.

THE COURT: Okay. And so -- so it sounds like from

what you're saying -- please correct me if I'm wrong, but putting together what you've said so far, it sounds like what you're saying is that these federal agencies might bring you these kids based on allegations of criminal conduct or gang affiliation or allegations that they have been abused or that they have run away and that the -- and the feds have taken custody of them again, or you mentioned changed circumstances from -- with the -- the adult in the household. Like, how would that come to ORR's attention?

THE WITNESS: So, just so I'm clearer. Those are the reasons that we -- once those UAC are referred back to us, it's why we go through our whole process again. I understand that that seems, like, counterintuitive. Why would you do that? You've already looked at this once.

We have to look at it again because these -- we have to look at it again because the facts may have changed. Plenty of times it -- we re-reunify someone with the same sponsor, but we go back. We have to go back and do the -- and check on them. It cannot simply be that we go: Oh, we know who the sponsor is because it's the same one. It's the same one as in 2014.

That was how I understood that question.

THE COURT: No, that's helpful. But in each case it's because the child has been delivered to you again.

THE WITNESS: That's right, sir. We don't get to -- we really don't have a say in which kids come to us. And when

I'm giving sort of the five sentence version of what we do, I say are two -- the two requirements we have that regards -- that regard intakes in our program is, first, we have to take all the UAC who are referred to us and we must accept them into care within 72 hours of referral and place them in a setting consistent with their needs.

So, yes, they come -- they would come to us as a consequence of some other federal agency apprehending them again.

What -- the cases sort of in the class that the -- the UAC in the class that are talked about in this case, though, are not the whole universe or even the majority of the universe of re-referrals. Most re-referrals come to us because ICE may have apprehended a parent or something else may have happened or the UAC has run away and then gets re-apprehended that way.

So this Operation Matador environment, that's not in any way sort of the whole universe of re-referrals.

THE COURT: What -- does it ever happen that ORR comes to learn that there may be some problem in the household? So it's not -- not in a situation where the child is delivered to ORR's custody, but just, you know, you've placed a child somewhere and then you later learn that there is a problem in the household that may require the child to be removed from it. I mean, does that ever happen?

THE WITNESS: Yes, sir. That happens often. And if

I can sort of explain that process, it may be helpful to you.

THE COURT: Yes.

THE WITNESS: So because we have a National Call Center that every UAC and every sponsor -- every UAC formally in our care and every sponsor has access to and because -- and because some UAC also receive post-release services, we do sometimes have what we call notification of concern. And this is we learn after we've reunified a child with a sponsor, that something dangerous to the child is going on.

Depending on the nature of that danger, we then would notify either the Child Protective Services authority that has competent authority for the state where the child lives or ICE, HSI. So, for example, if we learn that the child is in a trafficking situation, we would notify HSI. If we learn that the child may be being abused by a parent and more sort of traditional family abuse, physical or sexual family abuse, then we would notify CPS.

THE COURT: And then to the extent you know -- I mean, I assume when you notify a local CPS, they go through whatever normal process they have to evaluate whether there is something that requires removal of the child from the household.

What about when you notify HSI of something that may be happening, an allegation of trafficking or, you know, there's, you know, a report that the -- the adult sponsor is engaged in

criminal activity or something like that. What do you know about what HSI does then in response to that?

THE WITNESS: I don't know a great deal about it because we're not a law enforcement agency, but from some cases where they do report back to us, you know, they would investigate that consistent with, you know, any report that they would get from other sources.

THE COURT: And so in a situation like that, you will never reinitiate the assessment of the propriety of the placement?

In other words, you only do that when a minor is delivered to your custody, but you -- you won't do a re-initiation of the assessment of the propriety of the placement merely upon being informed -- merely upon receiving a notification of concern?

THE WITNESS: We don't have the legal authority to take UAC back into care unilaterally. And that's something --

THE COURT: Are you saying that you don't have the authority to reinitiate on your own the, you know, home assessment or the -- revisit the determination that you made previously to place an unaccompanied minor in a particular household based simply on receiving a notification of concern?

THE WITNESS: That's right, sir. Once -- once we've reunified the child with a sponsor and it is -- this is something that HHS has opined -- had to opine to Congress about often, I will say. So the position that HHS has always taken

is it is our understanding that we do not have the legal authority to go out and take a child into custody ourselves.

We do have the authority and the mandated reporter responsibility to advise other entities, state and federal, if we learn of anything that is dangerous to a child we've reunified. And I take that responsibility very seriously. But we do not have the authority to take kids back into care on our own and we don't.

THE COURT: And so when you get these notifications of concern, do you ever investigate them or do you kind of pass them on to CPS or HSI?

THE WITNESS: It really depends on the circumstances. There are some circumstances where we might investigate them because they might affect the safety of other UAC in care.

But we're not an investigative authority. We're not a law enforcement agency. So we might investigate, for example, if -- if we believe that in some way someone had, for example, used fraudulent documents in our system. We would want to look into that in partnership with OIG and FBI and others to understand are there vulnerabilities in our system? Did someone make a mistake somewhere?

THE COURT: But I'm trying to see -- I understand the idea that you may not have the authority to go out and take a child after you've placed the child, but what would stop you from -- you know, we're talking about these -- I want to make

sure I get my terminology right -- home studies.

THE WITNESS: Sure.

THE COURT: So it sounds like sometimes you will place a child with a sponsor without conducting a home study.

THE WITNESS: The majority of cases it's without a home study.

THE COURT: So let's say, you know, you get this -- you get a notification of concern regarding what might be happening in the home of a child that you've placed. What -- what would stop you from -- I understand you can't go out -- maybe you can't go out and seize the child, but what would stop you from conducting a home study at that point, if you've been -- if you have cause for concern that it may no longer be appropriate for the child to be in that home? Anything that would stop you from doing that?

THE WITNESS: It's something that we don't do because once we have reunified the child, that is the state child welfare authority's -- that's their space to operate. And if we -- if we -- no, we don't do that.

And if someone sort of on my team, for example, were to suggest that as a great idea, I would be very opposed to that idea because I would worry that we would compromise the ability of child welfare authorities in communities, to keep kids safe in the communities. And that's -- that's their piece of the puzzle.

THE COURT: Thank you.

THE WITNESS: Yes, sir.

BY MS. MURLEY

Q. So back to the decision. Prior to this decision -- one second. Let me get my thoughts.

(Brief pause.)

Q. What was your role in this decision?

A. So my role in any secure or staff secure release review is that I take a -- the information that is provided to me by the federal field supervisor and signed off on by the federal field supervisor's -- excuse me, that's prepared by the federal field specialist and signed off on by the federal field supervisor. That comes to me. I review all of those documents and look to make recommendation to the Director.

Now, in this case, partly following the experience that we had in the prior A.H. case, this F.E. case came during a period of time where we had begun expanding, being more robust in how much we were willing to look into and behind information that we received.

So when this case came to me, I determined that we really did not have enough closer-to-the-ground information; that we needed to know more from the community where he had been living. So I directed --

THE COURT: Could I interrupt real quick? You're talking about A.H. now?

THE WITNESS: Now I'm talking about F.E.

THE COURT: Okay. Sorry.

A. I think for -- agency-wise A.H. was for us, among others things, an understanding that -- that we probably needed to intensify our efforts to dig into information having to do with gang affiliation as best we could, given that we're not a law enforcement entity.

So I tasked members of my team with ensuring that we had information from SCPD and from the schools to begin to look behind sort of DHS information, to get closer to the ground on that information.

I obtained that information and participated in the process of review, including a discussion, a multi-disciplinary discussion by members of our team. And then I prepared a set of recommendations for the Director and that went up then for his review. That, in turn, led to his decision, which is represented in this letter.

Q. And the final decision was the denial of family reunification?

A. That's correct. It was a denial, that's right. The denial based on -- based on two factors.

The first is that we determined that there was potential danger to the community based on indication of current voluntary gang affiliation, which -- which in our policy is danger by itself.

Second, we also determined that at this time the sponsor that he had had before, which was his mother, that she was not a suitable sponsor at this time because there was considerable evidence that despite being informed by school authorities and police authorities, she had been unable to prevent him from associating with gang members.

So those two bases inform the decision, first of all, to deny release on the basis of dangerousness; and, second, that at this time this sponsor is not a suitable sponsor.

Q. What level of care is F.E. currently in?

A. He's currently in our shelter level care, which is our most common level of care and which we do not consider a -- it is not in our spectrum considered a restrictive level of care.

Q. So F.E. is in a shelter level care?

A. Yes.

Q. But the finding is that he -- there is a dangerousness finding in this letter.

A. That's right. And that may sound counterintuitive, but let me explain it.

So level of care is based on our standard, our requirement that it is -- we must serve the best interest of the child by -- for every child we have in care, that child has to be in the least restrictive setting consistent with his or her needs, the safety of staff, the safety of other UAC and the safety of the public.

And as you know, as we have already discussed, and that's something for those who are in a restrictive level of care, like secure or staff secure, we must re-review essentially monthly. That is a separate standard from the standard for danger for release.

So it is our determination that F.E., on the basis of his behavior, should not be kept at a secure or staff secure level of care because his behavior does not warrant it. He's not dangerous to -- he has given us no reason to think he's dangerous to staff or to other UAC at those levels of care.

However, the evidence does support that at this time in the sponsor household there is -- that is not restrictive enough a setting to prevent him from having involvements with criminal justice authorities and association with gang members.

So, yes, he is -- he poses a danger in the community, at least in this setting, but he does not require secure level care. And I think it would be inappropriate, from a child welfare point of view, to have him at a secure and staff secure level of care given that his behavior is managed effectively at the lower level of care.

Q. And this denial letter contains a second finding with regard to suitability?

A. Correct.

Q. And how is that finding separate from the dangerousness finding?

A. So it's separate. So the -- the danger finding is based on -- we have a policy determination that current voluntary gang affiliation is dangerous and that there were sufficient indications of current voluntary gang affiliation.

Separate from that is the issue of whether a given sponsor can meet the set of needs under our sense of what's required from a sponsor. And one of those is a sufficiently effective supervisory and disciplinary environment for a child to prevent the child from being involved with gangs, to keep the child in school and attending class, to prevent the child from engaging in unlawful conduct, including unlawful employment without legal status.

And in this case at this time his mother has not demonstrated or provided us with a plan for how she would do that. School authorities specifically counseled her on the danger to this child of his maintaining social relationships with gang members and subsequent to that there were multiple law enforcement interactions with him in the presence of gang members.

She, I think understandably, sought from the records we have, to engage with police authorities, to ask them to cease speaking to him as if he were a gang member; but subsequent to that she still could not still prevent his association with gang members.

So there are concerns about her supervisory and

disciplinary capacity to keep him safe from gang recruitment and illegal involvement. That is something that -- as I think we tried to make plain here in the letter, if subsequently she can identify to us a coherent plan for how she would prevent him from being involved with gangs, that is something which could lead to a different determination on our part.

We don't view her as inherently or permanently unable to perform the duties as sponsor. She just has thus far not demonstrated her plan sufficiently to protect him from gang involvement.

Q. When you talk about gang involvement, you relied largely on the document from the Suffolk County?

A. Rely on the school report regarding his disciplinary behavior and the documents provided from Suffolk County.

MS. MURLEY: One second, your Honor.

(Discussion held off the record between defense counsel.)

MS. MURLEY: Just a few more questions.

BY MS. MURLEY

Q. This letter serves as the final agency decision. Is there a review process of this determination?

A. There is. There are two remedies that he, as the UAC, and his mother, as the parent who would wish to serve as his sponsor, have.

First of all, they have the bond hearing process to

challenge our determination that he dangerous in front of a third-party reviewer.

Within HHS she also has the opportunity -- the two of them have the opportunity to appeal the Director's decision to the Assistant Secretary of ACF, review both danger and suitability.

So she has two -- two different remedies that she could pursue.

Q. And if after a bond hearing an immigration judge were to find that F.E. was not a danger to the community, what impact would that have on HHS's findings?

A. At that point the issue then would become the ability either of the family to identify another sponsor or of the mother to provide us with -- to provide us with evidence or a plan to support that she is able to address the deficiencies in supervision and discipline that result in his gang involvement.

And it is not at all uncommon in our system for parentals -- for parent sponsors, what we call category one sponsors, who may be found unsuitable at one point to subsequently be found suitable, particularly if they can address deficiencies that underlie that decision.

MS. MURLEY: No further questions, your Honor.

THE COURT: Thank you.

Looks like we have about 15 minutes before the fire drill. I think we should use those 15 minutes.

CROSS EXAMINATION

BY MS. MASS

Q. Good afternoon, Mr. White. My name is Julia Mass. I'm going to be asking you some questions.

Let me just start out by finding out, did you have any direct communications with F.E.'s mother yourself?

A. I have not.

Q. Okay. And have you had any direct communications with F.E.?

A. I have not.

Q. And in terms of your understanding of the school incidents that informed the decision to deny reunification and, also, the police interactions, were you present for any of those incidents or interactions?

A. Oh, no. Definitely not.

Q. So your understanding of those is based on documents?

A. Yes.

Q. Okay.

MS. MASS: And so I would just like to lodge an objection to any characterizations of those incidents or at the school or with the police and the mother's response as outside the witness's personal knowledge and as relying on hearsay.

BY MS. MASS

Q. Okay. Let me ask you a little bit more about your background. Your a licensed clinical social worker?

A. I am.

Q. Before working with the federal government, did you ever work in a county children's services or child welfare agency?

A. No.

Q. Or any other kind of child welfare agencies outside of the federal government?

A. No.

Q. Do you consider ORR a child welfare agency? You mentioned it's not a law enforcement agency, but what do you think? How do you characterize it?

A. It's a bizarre thing. It's very difficult to actually say what the UAC program is with -- except with reference to itself.

I will say, however, that we use -- we use the body of social work practice and understanding that comes out primarily of a child welfare system's point of view to implement the requirement to pursue the best interests of the child.

Q. Okay. And the authority of ORR, is that based in the TVPRA, the trafficking victims reauthorization?

A. Our authority is based on the Homeland Security Act, TVPRA. You're quizzing my knowledge of law. I'm also not an attorney.

But, yes, primarily our role is defined by TVPRA, by the Homeland Security Act and, of course, by the terms of the *Flores* Settlement Agreement.

Q. And anything that's in the ***Flores*** Settlement Agreement, to your understanding, would that also help to define your obligations and what you're authorized to do?

A. Absolutely.

Q. Okay. So, and under the TVPRA, I think you mentioned that there are follow-up services sometimes when ORR provides release, is that right?

A. Yes.

Q. And so -- and is it also true that there is a statutory process to reunify undocumented immigrants with their -- children with their parents?

A. Absolutely.

Q. Okay. And you mentioned when a child comes into ORR custody after being referred by one of the DHS components, ORR conducts a review of that custody after the initial determination of where to place the person is made. I'm thinking about the step-down process.

A. Oh, sure.

Q. Okay.

A. Yes.

Q. And who conducts that review? What staff were involved?

A. That is conducted by staff of the sheltering program that receives the child, as well as federal staff, including the federal field specialist.

And typically it may also involve the federal field

supervisor, the senior federal field supervisor, and in some cases other members of the team, potentially the senior advisor for child well-being and safety. It would depend, in part, on the specific circumstances of that UAC's care.

Q. Okay. But, certainly, it would include contracted facilities like the Yolo facility and BFCS in Fairfield?

A. It would include employees of those grantees, yes.

Q. Okay. And I just want to back up for a second.

I understand there was a policy change that added gang affiliation as one of the considerations for placing a child in secure custody in June of this year, is that correct?

A. Gang affiliation had already been a factor. I would say that the June 12th policy change changed the -- the primary change was that it made that gang affiliation led to a required placement at secure as the initial designation.

Q. Okay. And so part of the review that the facilities would engage in in order to determine the step-down process would also be to look into gang affiliation and those allegations to see if they are correct, is that right?

A. Yes. To the extent they were able, that's right.

Q. Okay. And what standards does ORR use to determine gang affiliation?

A. So the -- the sort of domains that would be involved would, first of all, be disclosures by the child.

Second, there would be expressions by the child, which

could include also art or other things that they produce.

The -- then it would include available documents and records from other agencies.

Q. But I'm -- I guess what I mean is what are the criteria that you would -- what are the indicia of gang membership, other than just admission of being a gang member, that would deem a person a gang member in your eyes or in the eyes of ORR?

Is it the same -- for example, I think Mr. Pisciotta testified about the criteria that DHS uses. They include things like clothing and association.

Are those the same criteria or does ORR have separate criteria or different criteria?

A. I think we're looking at sort of the totality of what we know about -- about the child and that would primarily include sort of what they say about themselves, what they express, with whom they associate.

Q. Okay. So I think we were looking at Exhibit 7 from the defendants. If we could turn to a page here -- it's a large packet, but about five or so pages in there is a letter dated June 14, 2017 with the seal of the U.S. Department of Homeland Security. Maybe it's more like 10 pages in.

A. I found the one. This is -- it says "Memorandum for Alien File Regarding Gang Affiliation."

Q. That's right. And we'll just be careful not to use any names, but are you familiar with this letter?

A. I am familiar with the letter, although in making my recommendation up to the Director, I actually did not include this letter in my decision-making process.

This letter, however, I think was the -- this letter really, which represents DHS's determination that the child is a gang member, was very important for the initial designation to secure. However, this letter did not inform my recommendation to the Director.

Q. So did DHS's belief that this youth was a gang member influence your belief that he's a gang member in any way?

A. It informed the -- certainly informed the initial designation, but I -- I did not find this letter sufficient by itself to persuade me one way or another. It didn't seem like sufficiently actionable.

For me, what was much more informative was the information from the school and from SCPD.

Q. Okay. Do you know what date ORR received this letter?

A. I don't know the date that we received it.

Q. Do you have a sense over the last four months whether it was towards the early part of when he was brought into custody versus towards the end or more recently?

A. It must have been in hand prior to the -- it must have been in the earlier portion of his time in our care.

Q. And then looking at the very last page of the packet that is Exhibit 7, this is a letter dated September 27th to James

De La Cruz from Inspector Michael Romagnoli from the -- looks like Suffolk County Police Department.

Are you familiar with this letter?

A. Yes. This one I know.

Q. Did you rely on this letter to make your decision?

A. This letter did partially inform my decision, yes.

Q. Okay. And do you --

THE COURT: Sorry. I'm having trouble finding it. You said the very last page of this packet?

MS. MASS: Yes. Of the Exhibit 7 packet.

THE COURT: Not the last page of my packet that was handed up to me.

(Whereupon document was tendered to the Court.)

THE COURT: That looks like it. I'll just take a look at this and then give it back to you.

Okay. Go ahead. Sorry.

MS. MASS: Thank you.

BY MS. MASS

Q. Tell us how this influenced your decision or what -- what you relied on here?

A. So this represented -- would have been in contrast to anything we had seen before that. This actually provided details. And this -- I felt that this helped to establish that there had been association with gang members at moments when the UAC interacted with police.

There is a report in here of subject self-admission, but I thought what was most relevant was simply the number of distinct encounters with law enforcement in the presence of gang members.

Q. And did you ask for any of the underlying documentation to support the conclusions in this letter?

A. We asked for everything that we could get and this is the most that we could get.

Q. Okay.

A. In part, because we are not a law enforcement agency and law enforcement agencies, federal, local and state, will often not share with us information because we are not sworn law enforcement officials.

We are trying to look into things as deeply as we can and deeper than historically we -- we have attempted to, and this is as deep as we can get.

Q. Did you ever provide a copy of this letter to F.E. or to his mother so that they could respond to the allegations, the conclusions that are made here?

A. Yes. That's the packet that you're looking at.

Q. Ahh. Before reaching the decision to deny reunification, did you give them an opportunity to respond to this information?

A. No. I did not.

Q. Did anyone that you're aware of?

A. I'm not aware that ORR staff provided them with this letter. I do not think anyone did.

Q. Do you know if ORR staff spoke to F.E. or his mother about the concerns that you had that were the basis for denying the reunification request?

A. I think we had a fair amount of contact through the case management process with the family that included discussions of the gang concern and the -- and the legal counsel for the family made contact with all of us to advocate for his client.

Q. Which staff, in particular, spoke to F.E. or his mother about the -- about the gang allegations that were relevant to your decision?

A. I don't know.

Q. But you did mention that facility staff sometimes played the role of helping to look into the -- those underlying gang allegations, is that correct?

A. The primary role that facility staff have is looking at the expressions and behaviors and disclosures of the child client while he or she is in our care.

It is less their role to look into underlying documents, although there may be some cases where that happens also, particularly in secure settings, which have -- which have greater access to that kind of information.

THE COURT: Let me ask, do you have a rough estimate of how long, how much longer you have?

MS. MASS: Oh, maybe 20 minutes.

THE COURT: Okay. I think now is a good time to maybe take a break and get ready for the fire alarm. I will head back there. If it is louder --

(Interruption in the proceedings.)

THE COURT: I will go back there. If it's a lot louder in here, I'll come get you all and bring you back there, okay?

(Brief recess held in the proceedings.)

THE COURT: Go ahead.

MS. MASS: All right.

BY MS. MASS

Q. Turn back to the last page of Exhibit 7 we were looking at, the September 27th letter from the Suffolk County Police Department.

Do you know why this letter was being solicited at the end of September after -- after F.E. had already been in custody for three and a half months?

A. Yes. First of all, that wasn't when it was solicited. That's the date it was received.

Q. Okay.

A. We had been seeking additional information for some time.

Q. For how long?

A. Essentially from his -- from his apprehension.

Q. So for three and a half months you were waiting for the

Suffolk County Police Department to provide you the evidence to support the gang allegations which were the basis for you having him in custody, is that right?

A. We initially requested additional information from DHS. We then requested additional information from the school and from SCPD.

This level of information was not, however, necessary for the decision about his initial designation --

(Interruption in the proceedings.)

A. As I mentioned earlier, the issue was the information that we needed to determine whether he posed a danger by virtue of having current gang membership. That's a release decision. We did seek that information from a variety of sources.

The information we received from DHS was not sufficient. It was not specific enough for us to use.

Q. To continue to keep him in custody?

A. No. It wasn't specific enough for us to evaluate either way.

Q. All right.

A. We couldn't just take and -- this is the document we referred to earlier. This is the earlier letter. That was not sufficiently detailed for us to make conclusions from. Therefore, we needed more information.

We were following the process established following A.H.; that we not simply rely on what DHS says, but that we attempt

to get at the underlying information from local authorities, which we did.

Q. Okay. Looking at the second bullet point here that has -- it says:

"June 2017, subject self-admitted MS-13 association."

Are you aware -- there is no day there. Are you aware that this statement, that F.E. was a self-admitted gang member, had never been disclosed before to Department of Homeland Security or HHS?

A. No, I'm not aware that.

Q. Are you aware of any records prior to the date of this letter that include that information?

A. If we had those records, they would have been in the packet that was sent to the sponsor and, therefore, they would be in this exhibit. So, no.

THE COURT: Could I ask a clarification question on the dialogue you were just having with Ms. Mass?

When you said the information you received or the documentation you received from DHS was insufficient to make a determination, which determination are you talking about or which determinations are you talking about?

THE WITNESS: It didn't contain any real detail. It was clear that it referred to things that were known to local authorities.

Consistent with what we learned from the A.H. experience, we sought to find out what local authorities knew given that DHS was characterizing what they learned from local authorities. So we reached out to the school and the court and the police department.

THE COURT: Okay. And so -- but when you say that it was not sufficient for you to make a determination, were you referring to a determination about what level of care, what level of custody, or determination about whether he should be reunified with his mother or both?

THE WITNESS: Both.

THE COURT: Okay. Thank you.

BY MS. MASS

Q. So just so I'm perfectly clear. In terms of this letter, I believe it's your testimony so far that you relied on these conclusions without seeing or verifying -- seeing any records to support it or verifying by speaking to any of the Suffolk County police personnel, is that correct?

A. Yes. We relied upon this information.

THE COURT: Could I ask you another follow-up question?

THE WITNESS: Yes, sir.

THE COURT: This is a follow-up to the answer you just gave to me a second ago.

THE WITNESS: Yes, sir.

THE COURT: You said that based on our experience with A.H., where DHS had been characterizing the information they received from local law enforcement, we determined that we needed to reach out directly to local law enforcement and others to get further detail.

Did I -- did I restate your testimony accurately?

THE WITNESS: I think so. Prior to the A.H. case, we really would have, I think, generally viewed that what came from law enforcement officials at DHS was sufficient for our decisions. We learned from the A.H. experience that -- that that wasn't sufficient; that there was an expectation that we look behind that.

THE COURT: And can you tell me more about -- when you say, "We learned from the A.H. experience that that wasn't sufficient," can you tell me more about that? What you mean by that?

THE WITNESS: We were directed in that case to look behind what DHS said and to seek additional information from local authorities.

That's challenging for us because we're not a law enforcement authority ourselves. This is the -- this reflects what it looks like when we look behind those statements. We --

THE COURT: So -- sorry to interrupt, but so you're not saying, well, we concluded independently that we found something wrong with the information we received from DHS about

A.H. You're saying we learned that we were required to do more.

Is that -- is that your -- do I understand you correctly?

THE WITNESS: That's correct, sir.

THE COURT: Okay. Presumably in response to my ruling.

THE WITNESS: That's exactly right, sir.

THE COURT: All right. I just want to make sure I understood that.

BY MS. MASS

Q. Okay. And now I have marked as an exhibit an email dated August 4th, 2017.

(Plaintiff's Exhibit D marked for identification.)

Q. This is Exhibit D. It's an email from Jose Esquivel. Are you familiar with Mr. Esquivel? Do you know who he is?

A. I do.

Q. Have you ever seen this before, this email?

A. If you'll give me just a moment to read it?

Q. Sure.

(Brief pause.)

A. I can't recall whether I've seen this email or some of the subsequent products that it informed.

Q. Were you aware that Mr. Esquivel had stated that F.E. had denied any gang affiliation and that his statements were congruent with the facility's experience of having had him in

their care for -- for I can't remember how long, but some weeks at least?

A. Yes. I was aware that that had been part of the clinician's analysis.

Q. Okay. And we have another document, which would be Exhibit E.

(Plaintiff's Exhibit E marked for identification)

Q. This is a memo dated September 12, 2017. It's addressed to you. Have you seen this memo before?

A. Sure, yes. This one I know well.

Q. Okay. And this is a memo that is from an FFS supervisor and an FFS. Is that a federal field specialist and a federal field specialist supervisor?

A. That's right.

Q. And are those the ORR officials that were -- have the most kind of authority over this particular child, F.E.?

A. Yes. What you are seeing here, this memorandum is our internal memorandum that comes up to me in the release review process for secure and staff secure UAC that I discussed earlier. And this is the one including their recommendation for release.

Q. Yes. Is there anything you disagree with, other than the recommendation for release, that's in this memo?

A. In terms of disagreement --

Q. Disagreement with the facts presented?

A. I have to -- I have to review it quickly to identify specific pieces.

Q. All right.

A. This document came prior to the receipt of the school and SCPD documents. I don't think I'm likely to disagree. I have to review it to see if there is specific facts with which I disagree. I doubt there are.

It is that -- it does not have the full set of facts that were available to us by the time that it came through me to the Director.

Q. On the second page in the -- at the bottom of the second paragraph it says:

"A note in his school records indicate that F.E. may have been associating with people that, quote, may be gang affiliated."

Did you get other school records beyond those that you -- came in after September 12th?

A. Sorry. I'm looking for the passage. Where is it again?

Q. It's at the second paragraph of Page 2, at the end of the paragraph.

A. I see it now.

I don't know whether they had the same school records that I reviewed. That is in the school records I reviewed. There is additional material in the school records that are not represented in the memorandum.

It also important to note that our instruction to FFS is that they are to elevate -- if they think there is any basis for release, they are to elevate to me. In other words, they are to err on the side of recommending. Some of the more difficult decisions about denial happen higher up.

Q. Okay. If we could just focus on the question I asked, which was: Are you in disagreement with any of the facts that are presented in the memo?

A. Let me start from the beginning.

(Brief pause.)

Q. Mr. White, I appreciate your diligence, but I think in the interests of time, rather than make you read the whole thing --

A. Steer me to the facts and I'll answer "yes" or "no."

Q. -- I think I will steer you.

There was a mention in the memo of some photographs -- oh, shoot.

A. No. That's also in the second paragraph of Page 2.

Q. That's right. Do you know what those photos relate to? What that reference is?

A. I do. Those were photographs that I believe were provided to the program by DHS, which we were able to determine were not him.

Q. Okay.

A. So those did not inform my decision. We disregarded those photos.

Q. Do you have any disagreement with the statement that:

"Since his arrival in ORR custody on June 18th and in all subsequent placements, F.E. has maintained good behavior."

A. I have no reason to disagree with that. There are no SIRs to suggest otherwise. That's why he's in shelter level care.

Q. Great. Also, did you read the home study report that was prepared and is a part of this packet?

A. Yes. I read the home study.

Q. Are you aware that the social worker and her supervisor also recommended that F.E. be released to his mother?

A. Yes, absolutely. And, indeed, if they had not, it would have been unlikely it would have gotten as far as me.

Q. Okay. And they concluded that the sponsor could provide for him financially. Yes?

A. Yes.

Q. And that the sponsor had attended all of his criminal court and immigration court hearings?

A. Yes.

Q. And, also, concluded that F.E. feels safe and loved by the sponsor and his siblings?

A. Yes. I think all the evidence would support that.

Q. Okay.

A. We included that in our own letter, too; that we noted the loving relationship.

Q. So it sounds like on the other side of the balance then we had both the field specialist, federal field specialist, federal field specialist supervisor, the director of one of the facilities where F.E. stayed and also the home study all recommending release or generally avowing that F.E. was a good kid who didn't have any gang problems, as far as anyone could tell who had actually talked to him.

On the other side of that was, as I understand it, this letter, that's the last page in the packet, and the school records, is that correct?

A. That's correct.

Q. Is there anything else on the other side of it?

A. No, I don't think so.

Q. Okay. And so looking at the school records -- oh, first of all, you said that the gang allegations, just on their own, are evidence of dangerousness.

Is that -- is that why -- am I right in understanding that's why you made -- one of the reasons you made a determination that F.E. should say in ORR custody?

A. Yes. We have a -- there has been a policy decision made.

Q. Is there any other evidence, other than the conclusions you made about his gang affiliation, that support a finding of dangerousness?

A. There is the pending charge. However, that did not -- while that is a factor, it was not as significant to the

discussion as the other factors, but it is a factor.

Q. Okay. And is there any -- when you say a gang affiliation, does ORR distinguish between active gang membership, of the sort that Mr. Pisciotta testified about where a child might be doing work for the gang, versus having merely been on the same street corner or at the same deli and identified as -- in the same vicinity with or hanging out with what were considered known gang members?

A. We recognize that gang affiliation is a spectrum. That's true. The key issues for us are voluntary versus coerced and present versus past.

Q. And what was it that led you to believe that F.E. was voluntary as opposed to coerced? If you -- I mean, you came to a conclusion that he is a --

A. There is no evidence that was produced that it was coerced. And we have plenty of kids with a history of coerced involvement, especially in home country.

Q. Did you ask his mother to address the question of whether she thought he had ever been coerced to be in a gang or did anyone to your knowledge?

A. I don't know if others had. That is generally something that people volunteer on their own.

My understanding from what we had from her is she maintained he wasn't involved in a gang.

Q. Yeah. That's consistent with my understanding as well.

A. Right. Exactly. Yeah.

Q. Okay. And then the other -- the other factor, as I understand it, was that you were concerned about the mother at this time not having a plan for dealing with what you -- your conclusion that F.E. was gang affiliated, is that right?

A. We determined that she has not indicated how she would protect him from association with gang members. After the school specifically counseled her that he was at risk because of his association with gang members and after her own involvement with the police about it, he subsequently continued to have encounters in the presence of gang members.

Q. I understand. Did you -- did anyone from ORR, to your knowledge, ask her whether she spoke to him about -- after the school counseled her?

A. I did not. I don't know what others have.

Q. So you don't know if -- she might have, for example, spoken to her son, as recommended by the school, and then learned from him that the friend, who in the school record it says may be gang affiliated, she could have heard from her son that, in fact, he doesn't believe that his friend is gang affiliated. You have not ruled out that possibility, have you?

A. We have not ruled out that possibility. He had three subsequent encounters, all of who were in the presence of gang members --

Q. If you could -- we just only have a little amount of time,

so if you could just stick to the question, that would be really helpful.

And you mentioned there is a sponsorship agreement -- or, I guess, it's mentioned in the letter that there is a sponsorship agreement. So just -- if you could play this out with me so I can understand that sponsorship agreement and what the requirements are.

If she had been counseled by the school that her son was associated with someone who may be gang affiliated and she did, in fact, speak to him and he told her that, no, that's my friend who you know and who she knew and didn't think was gang affiliated, is it your contention that the sponsor agreement would then require her to nevertheless contact ORR about that?

She complied with the school's recommendation that she counsel her son and had done so and determined for herself that she didn't believe that that child was gang affiliated. She still had a duty to contact ORR?

A. A duty on that part of the sponsor agreement would be if, indeed, he had contact with gang members.

Q. Okay. And so she didn't know anything beyond that the school had told her that one of his friends may be gang related, and she had followed up on that, discovered she didn't think that was true. She wouldn't have a duty under the sponsorship agreement to notify ORR at that point, would she?

A. She would for each of the subsequent incidents where he

was with gang members.

Q. If she knew or believed that he was with gang members, right?

A. Right.

Q. That's right.

Okay. And then finally having determined that she's not a suitable sponsor, if F.E. were to seek a -- what's been called a bond hearing, which is kind of a misnomer because there is no bond involved, but under the ***Flores*** case a hearing in front of an immigration judge and the judge were to rule that he wasn't a danger and didn't pose a flight risk, ORR nevertheless wouldn't be able to release him because you don't have a suitable sponsor, is that correct?

A. At that time either a different sponsor could step forward or she could apply articulating a plan to protect him from gang involvement, as we spelled out in our letter.

Q. Okay.

A. Or she could also appeal our Director's decision through the due process channel of the Assistant Secretary specifically on the suitability question.

Q. Yeah. And also -- just to be clear, it's ORR's policy not to place anyone who is a gang member with a sponsor no matter how qualified the sponsor may be, is that right?

A. It is ORR's policy not to release those who are dangerous, and gang affiliation is an indication of danger.

Q. Is it like a per se indication at this point for ORR? Is that your policy? That gang affiliation of the sort that's listed in this letter from Suffolk County is a per se pretty much showing of dangerousness for ORR policy purposes?

A. When you say a per se indication of --

Q. Well, oh, sorry. So what I mean is just -- if a law enforcement agency says that we had three occasions in which we identified this person as affiliated with gang members or known gang members, that would be sufficient for ORR policy to conclude that the child is dangerous?

A. If that was persuasive to the Director.

Q. Okay. Is there any reason that you know of that that wouldn't be persuasive? I mean, this letter was persuasive, right?

A. Yes.

Q. Is that a "yes"?

A. Yes.

Q. Okay. All right. I...

(Brief pause.)

Q. And just so we're -- no, I think I've covered it.

Thank you.

THE COURT: Any redirect?

MS. MURLEY: Just briefly, your Honor.

REDIRECT EXAMINATION

BY MS. MURLEY

Q. I just want to clarify about the DHS information. What information did you receive from DHS for initial placement for F.E.?

A. For initial placement we have to actually look at the -- look at the intakes form that we received. It included, I believe, a description of him as a gang member and, I believe, a notation of a charge.

Q. And did you try to get more information before the initial placement?

A. No. We do not get additional information before the initial placement.

Q. And why is that?

A. Because a process requires us to immediately place.

Q. And did DHS provide information later?

A. It provided additional information later.

Q. And what was that?

A. That included the -- the letter, the memorandum of association and there may have been additional documentation. I'm not certain what was provided at what time because we asked them for additional information subsequently.

Q. And did DHS give you the Suffolk County Police Department records?

A. No. We had to obtain those.

Q. And would receiving that information faster improve HHS's ability to complete the review process in a shorter time period?

A. It would.

MS. MURLEY: That's all.

THE COURT: All done? All right. You can step down. Thank you.

THE WITNESS: These materials, who do I give these to?

THE COURT: You can leave them there. The lawyers will deal with them.

THE WITNESS: Okay.

(Witness excused.)

THE COURT: Okay. It's 10 minutes to 3:00. I'm trying to decide whether argument would be more productive now or at a later time.

Does anybody have any thoughts about that?

MR. SCHENKER: Your Honor, we would -- plaintiffs would very much like to proceed with argument now.

If your Honor has more questions down the road after you've reviewed the papers more, we could come back for specific follow-up.

But we feel strongly that -- and the record shows your Honor said you're familiar with the declarations. We think these children are suffering greatly and the duration of their

Exhibit 79

No. 18-15114

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ILSA SARAVIA, et. al.,

Plaintiffs-Appellees,

versus

JEFFERSON B. SESSIONS, III,
Attorney General of the United States, et. al.,

Defendants-Appellants.

On Appeal From the United States District Court
for the Northern District of California
The Honorable Judge Vince Chhabria
District Court Case No. 3:17-cv-03615-VC

EXHIBIT 1 TO
APPELLEES' REQUEST
FOR JUDICIAL NOTICE

CHAD A. READLER
Principal Deputy Assistant Attorney General
WILLIAM C. PEACHEY
Director
WILLIAM C. SILVIS
Assistant Director
SARAH B. FABIAN
Senior Litigation Counsel
NICOLE MURLEY
Trial Attorney

U.S. Department of Justice
Office of Immigration Litigation
District Court Section
Box 868, Ben Franklin Station
Washington, DC 20442
Telephone: (202) 532-4824
Fax: (202) 616-8962
E-mail: Sarah.B.Fabian@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Lorenza Gomez, as next friend for J.G., a minor, and on her own behalf; Ilsa Saravia, as next friend for A.H., a minor, and on her behalf; and Wilfredo Velasques, as next friend F.E., a minor, and on his own behalf, Plaintiff/Plaintiff, vs. Jefferson B. Sessions III, U.S. Attorney General, et al., Respondents/Defendants.	Case No.: 3:17-cv-03615 Notice Attaching Chart of *Saravia* Hearings for Class Members Honorable Vince Chhabria

On December 12, 2017, the parties participated in a telephonic status conference with the Court in the above-captioned case. During that conference, the Court requested that Defendants provide the Court with information regarding the outcomes of the *Saravia* hearings for existing class members. To comply with the Court's request, Defendants provide the attached chart.

DATED: December 22, 2017

Respectfully submitted,

CHAD A. READLER
Principal Deputy Assistant Attorney General

WILLIAM C. PEACHEY
Director

WILLIAM C. SILVIS
Assistant Director

By: */s/ Sarah B. Fabian*
SARAH B. FABIAN
Senior Litigation Counsel
NICOLE MURLEY
Trial Attorney
Office of Immigration Litigation
Civil Division, U.S. Department of Justice
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824
(202) 616-8962 (facsimile)
sarah.b.fabian@usdoj.gov
nicole.murley@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and attachment filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

DATED: December 22, 2017

/s/ Sarah B. Fabian
Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation
Civil Division, U.S. Department of Justice

Name of current program	First Name	Last Name	Next Hearing date and time
Released	[redacted]	[redacted]	Saravia hearing completed on 12/5. Release ordered.
Released	[redacted]	[redacted]	Saravia Hearing Completed by NYC Immigration Ct: Ordered Released
Released	[redacted]	[redacted]	Saravia hearing completed on 12/13. Release ordered.
Released	[redacted]	[redacted]	Saravia hearing completed on 12/20/17. Release ordered.
Released	[redacted]	[redacted]	Saravia hearing completed 12/13/17. Re-arrest not warranted, release ordered.
Children's Village Staff Secure	[redacted]	[redacted]	Saravia hearings held on 11/28, 12/6 in VA, and on 12/13 in Newark. R/S at UACs request to 1/2/18.
Aged out on 11/27. Not in ORR custody on date of hearing	[redacted]	[redacted]	Saravia Hearing conducted on 11/28 in San Francisco, on 12/13 in Newark. R/S: At UACs request to 1/4/18.
Released	[redacted]	[redacted]	Saravia hearing held on 11/28 at San Francisco Immigration Ct.: Minor Ordered Released
Released	[redacted]	[redacted]	Saravia Hearing completed on 12/20. Minor Ordered Released.
Released	[redacted]	[redacted]	Saravia Hearing Completed on 12/19. Minor ordered released.
Yolo County Juvenile Detention	[redacted]	[redacted]	Saravia Hearing Completed on 12/19. DHS prevailed. Re-arrest was warranted, UAC did not rebut dangerousness. Minor to be detained
BCFS San Antonio Staff Secure	[redacted]	[redacted]	Saravia hearing completed on 12/7. IJ Finds no jurisdiction to order change in custody as outlined in Saravia. Minor to cont to be detained.
Selma Carson Home	[redacted]	[redacted]	Saravia hearing on 11/28 continued to 12/12 at Seattle Immigration Ct: Minor has final order but pending MTR, Saravia hearing continued to 1/9/18, unless motion to reopen is granted prior to that date.
Released	[redacted]	[redacted]	Saravia hearing 11/28: Ordered Released
Released	[redacted]	[redacted]	Saravia Hearing 11/29: Ordered Released
Released	[redacted]	[redacted]	Saravia hearing 11/28: Ordered Released
Released	[redacted]	[redacted]	Saravia Hearing 12/7: Ordered Released.

Childrens Village SS	K[redacted]	C[redacted] D[redacted]	Saravia Hearing 12/7. UAC is subject to final order thus re-arrest was warranted. MTR remains pending.
Released	A[redacted]	V[redacted]	Saravia Hearing held 11/28: Ordered Released
Released	D[redacted]	B[redacted]	Saravia Hearing Completed on 12/8. Ordered Released.
Released	O[redacted] A[redacted]	G[redacted] M[redacted]	Saravia and Flores hearing held 11/21 at NYC Imm Ct: Prevailed on Flores hearing and D.Ct. ordered release.
Released	J[redacted] V[redacted]	F[redacted] M[redacted]	Saravia hearing 29, 2017, San Francisco Imm Ct: Ordered Released
Released	L[redacted] J[redacted]	V[redacted] R[redacted]	Saravia hearing cancelled: D.Ct. order granting release.
Released	B[redacted] A[redacted]	R[redacted] S[redacted]	Saravia hearing cancelled: Released by ORR pursuant to Flores v. Sessions.
Released	J[redacted] O[redacted]	A[redacted] S[redacted]	Saravia hearing cancelled: D.Ct. order granting release.
Released	M[redacted] J[redacted]	Z[redacted] S[redacted]	Saravia Hearing 11/29: Ordered Released
Children's Village Staff Secure	B[redacted] A[redacted]	C[redacted] G[redacted]	Saravia hearing held 11/28 at NYC Immigration Ct: continued to 12/7 and 12/12 at request of minor's counsel: IJ found DHS meet its burden at 12/12 hearing
Ordered Removed. No longer in ORR Custody.	N[redacted] S[redacted]	G[redacted] A[redacted]	Saravia hearing cancelled
Released	J[redacted] J[redacted]	G[redacted] C[redacted]	Saravia hearing held 11/28 continued to 12/8 at NYC Immigration Court: Ordered Released
Released	A[redacted] W[redacted]	H[redacted] S[redacted]	DHS prevailed in Saravia hearing 11/28 and 12/5
Released	J[redacted] M[redacted]	G[redacted] R[redacted]	Saravia hearing cancelled: D.Ct. order granting release.
Released	J[redacted] A[redacted]	V[redacted] G[redacted]	Saravia hearing held 11/28 at Houston Immigration Court: transferred to NYC Imm Ct at request of minor hearing held on 12/11: Ordered Released.
Released	D[redacted] A[redacted]	B[redacted]-P[redacted]	Saravia hearing held 11/28: Ordered Released

Exhibit 80

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JENNY LISETTE FLORES, et al, Plaintiffs

v.

JANET RENO, Attorney General of the United States, et al., Defendants

Case No. CV 85-4544-RJK(Px)

STIPULATED SETTLEMENT AGREEMENT

WHEREAS, Plaintiffs have filed this action against Defendants, challenging, *inter alia*, the constitutionality of Defendants' policies, practices and regulations regarding the detention and release of unaccompanied minors taken into the custody of the Immigration and Naturalization Service (INS) in the Western Region; and

WHEREAS, the district court has certified this case as a class action on behalf of all minors apprehended by the INS in the Western Region of the United States; and

WHEREAS, this litigation has been pending for nine (9) years, all parties have conducted extensive discovery, and the United States Supreme Court has upheld the constitutionality of the challenged INS regulations on their face and has remanded for further proceedings consistent with its opinion; and

WHEREAS, on November 30, 1987, the parties reached a settlement agreement requiring that minors in INS custody in the Western Region be housed in facilities meeting certain standards, including state standards for the housing and care of dependent children, and Plaintiffs' motion to enforce compliance with that settlement is currently pending before the court; and

WHEREAS, a trial in this case would be complex, lengthy and costly to all parties concerned, and the decision of the district court would be subject to appeal by the losing parties with the final outcome uncertain; and

WHEREAS, the parties believe that settlement of this action is in their best interests and best serves the interests of justice by avoiding a complex, lengthy and costly trial, and subsequent appeals which could last several more years;

NOW, THEREFORE, Plaintiffs and Defendants enter into this Stipulated Settlement Agreement (the Agreement), stipulate that it constitutes a full and complete resolution of the issues raised in this action, and agree to the following:

I DEFINITIONS

As used throughout this Agreement the following definitions shall apply:

1. The term "party" or "parties" shall apply to Defendants and Plaintiffs. As the term applies to Defendants, it shall include their agents, employees, contractors and/or successors in office. As the term applies to Plaintiffs, it shall include all class members.

2. The term "Plaintiff" or "Plaintiffs" shall apply to the named plaintiffs and all class members.

3. The term "class member" or "class members" shall apply to the persons defined in Paragraph 10 below.

4. The term "minor" shall apply to any person under the age of eighteen (18) years who is detained in the legal custody of the INS. This Agreement shall cease to apply to any person who has reached the age of eighteen years. The term "minor" shall not include an emancipated minor or an individual who has been incarcerated due to a conviction for a criminal offense as an adult. The INS shall treat all persons who are under the age of eighteen but not included within the definition of "minor" as adults for all purposes, including release on bond or recognizance.

5. The term "emancipated minor" shall refer to any minor who has been determined to be emancipated in an appropriate state judicial proceeding.

6. The term "licensed program" shall refer to any program, agency or organization that is licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children, including a program operating group homes, foster homes, or facilities for special needs minors. A licensed program must also meet those standards for licensed programs set forth in Exhibit 1 attached hereto. All homes and facilities operated by licensed programs, including facilities for special needs minors, shall be non-secure as required under state law; provided, however, that a facility for special needs minors may maintain that level of security permitted under state law which is necessary for the protection of a minor or others in appropriate circumstances, *e.g.*, cases in which a minor has drug or alcohol problems or is mentally ill. The INS shall make reasonable efforts to provide licensed placements in those geographical areas where the majority of minors are apprehended, such as southern California, southeast Texas, southern Florida and the northeast corridor.

7. The term "special needs minor" shall refer to a minor whose mental and/or physical condition requires special services and treatment by staff. A minor may have special needs due to drug or alcohol abuse, serious emotional disturbance, mental illness or retardation, or a physical condition or chronic illness that requires special services or treatment. A minor who has suffered serious neglect or abuse may be considered a minor with special needs if the minor requires special services or treatment as a result of the neglect or abuse. The INS shall assess minors to determine if they have special needs and, if so, shall place such minors, whenever possible, in licensed programs in which the INS places children without special needs, but which provide services and treatment for such special needs.

8. The term "medium security facility" shall refer to a facility that is operated by a program, agency or organization licensed by an appropriate State agency and that meets those standards set forth in Exhibit 1 attached hereto. A medium security facility is designed for minors who require close supervision but do not need placement in juvenile correctional facilities. It provides 24-hour awake supervision, custody, care, and treatment. It maintains stricter security measures, such as intensive staff supervision, than a facility operated by a licensed program in order to control problem behavior and to prevent escape. Such a facility may have a secure perimeter but shall not be equipped internally with major restraining construction or procedures typically associated with correctional facilities.

II SCOPE OF SETTLEMENT, EFFECTIVE DATE, AND PUBLICATION

9. This Agreement sets out nationwide policy for the detention, release, and treatment of minors in the custody of the INS and shall supersede all previous INS policies that are inconsistent with the terms of this Agreement. This Agreement shall become effective upon final court approval, except that those terms of this Agreement regarding placement pursuant to Paragraph 19 shall not become effective until all contracts under the Program Announcement referenced in Paragraph 20 below are negotiated and implemented. The INS shall make its best efforts to execute these contracts within 120 days after the court's final approval of this Agreement. However, the INS will make reasonable efforts to comply with Paragraph 19 prior to full implementation of all such contracts. Once all contracts under the Program Announcement referenced in Paragraph 20 have been implemented, this Agreement shall supersede the agreement entitled Memorandum of Understanding Re Compromise of Class Action: Conditions of Detention (hereinafter "MOU"), entered into by and between the Plaintiffs and Defendants and filed with the United States District Court for the Central District of California on November 30, 1987, and the MOU shall thereafter be null and void. However, Plaintiffs shall not institute any legal action for enforcement of the MOU for a six (6) month period commencing with the final district court approval of this Agreement, except that Plaintiffs may institute enforcement proceedings if the Defendants have engaged in serious violations of the MOU that have caused irreparable harm to a class member for which injunctive relief would be appropriate. Within 120 days of the final district court approval of this Agreement, the INS shall

initiate action to publish the relevant and substantive terms of this Agreement as a Service regulation. The final regulations shall not be inconsistent with the terms of this Agreement. Within 30 days of final court approval of this Agreement, the INS shall distribute to all INS field offices and sub-offices instructions regarding the processing, treatment, and placement of juveniles. Those instructions shall include, but may not be limited to, the provisions summarizing the terms of the Agreement attached hereto as Exhibit 2.

III CLASS DEFINITION

10. The certified class in this action shall be defined as follows: "All minors who are detained in the legal custody of the INS."

IV STATEMENTS OF GENERAL APPLICABILITY

11. The INS treats, and shall continue to treat, all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors. The INS shall place each detained minor in the least restrictive setting appropriate to the minor's age and special needs, provided that such setting is consistent with its interests to ensure the minor's timely appearance before the INS and the immigration courts and to protect the minor's well-being and that of others. Nothing herein shall require the INS to release a minor to any person or agency whom the INS has reason to believe may harm or neglect the minor or fail to present him or her before the INS or the immigration courts when requested to do so.

V PROCEDURES AND TEMPORARY PLACEMENT FOLLOWING ARREST

12. Whenever the INS takes a minor into custody, it shall expeditiously process the minor and shall provide the minor with a notice of rights, including the right to a bond redetermination hearing if applicable. Following arrest, the INS shall hold minors in facilities that are safe and sanitary and that are consistent with the INS's concern for the particular vulnerability of minors. Facilities will provide access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services, adequate temperature control and ventilation, adequate supervision to protect minors from others, and contact with family members who were arrested with the minor. The INS will segregate unaccompanied minors from unrelated adults. Where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours. If there is no one to whom the INS may release the minor pursuant to Paragraph 14, and no appropriate licensed program is immediately available for placement pursuant to Paragraph 19, the minor may be placed in an INS detention facility, or other INS-contracted facility, having separate accommodations for minors, or a State or county juvenile detention facility. However, minors shall be separated from delinquent offenders. Every effort must be taken to ensure that the safety and well-being of the minors detained in these facilities are satisfactorily provided for by the staff. The INS will transfer a minor from a placement under this paragraph to a placement under Paragraph 19 (i) within three (3) days, if the minor

was apprehended in an INS district in which a licensed program is located and has space available; or (ii) within five (5) days in all other cases; except:

1. as otherwise provided under Paragraph 13 or Paragraph 21;

2. as otherwise required by any court decree or court-approved settlement;

3. in the event of an emergency or influx of minors into the United States, in which case the INS shall place all minors pursuant to Paragraph 19 as expeditiously as possible; or

4. where individuals must be transported from remote areas for processing or speak unusual languages such that the INS must locate interpreters in order to complete processing, in which case the INS shall place all such minors pursuant to Paragraph 19 within five (5) business days.

B. For purposes of this Paragraph, the term "emergency" shall be defined as any act or event that prevents the placement of minors pursuant to Paragraph 19 within the time frame provided. Such emergencies include natural disasters (e.g., earthquakes, hurricanes, etc.), facility fires, civil disturbances, and medical emergencies (e.g., a chicken pox epidemic among a group of minors). The term "influx of minors into the United States" shall be defined as those circumstances where the INS has, at any given time, more than 130 minors eligible for placement in a licensed program under Paragraph 19, including those who have been so placed or are awaiting such placement.

C. In preparation for an "emergency" or "influx," as described in Subparagraph B, the INS shall have a written plan that describes the reasonable efforts that it will take to place all minors as expeditiously as possible. This plan shall include the identification of 80 beds that are potentially available for INS placements and that are licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children. The plan, without identification of the additional beds available, is attached as Exhibit 3. The INS shall not be obligated to fund these additional beds on an ongoing basis. The INS shall update this listing of additional beds on a quarterly basis and provide Plaintiffs' counsel with a copy of this listing.

13. If a reasonable person would conclude that an alien detained by the INS is an adult despite his claims to be a minor, the INS shall treat the person as an adult for all purposes, including confinement and release on bond or recognizance. The INS may require the alien to submit to a medical or dental examination conducted by a medical professional or to submit to other appropriate procedures to verify his or her age. If the INS subsequently determines that such an individual is a minor, he or she will be treated as a minor in accordance with this Agreement for all purposes.

VI GENERAL POLICY FAVORING RELEASE

14. Where the INS determines that the detention of the minor is not required either to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that of others, the INS shall release a minor from its custody without unnecessary delay, in the following order of preference, to:

A. a parent;
B. a legal guardian;
C. an adult relative (brother, sister, aunt, uncle, or grandparent);
D. an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being in (i) a declaration signed under penalty of perjury before an immigration or consular officer or (ii) such other document(s) that establish(es) to the satisfaction of the INS, in its discretion, the affiant's paternity or guardianship;
E. a licensed program willing to accept legal custody; or
F. an adult individual or entity seeking custody, in the discretion of the INS, when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility.

15. Before a minor is released from INS custody pursuant to Paragraph 14 above, the custodian must execute an Affidavit of Support (Form I-134) and an agreement to:

A. provide for the minor's physical, mental, and financial well-being;

B. ensure the minor's presence at all future proceedings before the INS and the immigration court;

C. notify the INS of any change of address within five (5) days following a move;

D. in the case of custodians other than parents or legal guardians, not transfer custody of the minor to another party without the prior written permission of the District Director;

E. notify the INS at least five days prior to the custodian's departing the United States of such departure, whether the departure is voluntary or pursuant to a grant of voluntary departure or order of deportation; and

F. if dependency proceedings involving the minor are initiated, notify the INS of the initiation of a such proceedings and the dependency court of any immigration proceedings pending against the minor.

In the event of an emergency, a custodian may transfer temporary physical custody of a minor prior to securing permission from the INS but shall notify the INS of the transfer as soon as is practicable thereafter, but in all cases within 72 hours. For purposes of this Paragraph, examples of an "emergency" shall include the serious illness of the custodian, destruction of the home, etc. In all cases where the custodian in writing seeks written permission for a transfer, the District Director shall promptly respond to the request.

16. The INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement required under Paragraph 15. The INS, however, shall not terminate the custody arrangements for minor violations of that part of the custodial agreement outlined at Subparagraph 15.C above.

17. A positive suitability assessment may be required prior to release to any individual or program pursuant to Paragraph 14. A suitability assessment may include such components as an investigation of the living conditions in which the minor would be placed and the standard of care he would receive, verification of identity and employment of the individuals offering support, interviews of members of the household, and a home visit. Any such assessment should also take into consideration the wishes and concerns of the minor.

18. Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, shall make and record the prompt and continuous efforts on its part toward family reunification and the release of the minor pursuant to Paragraph 14 above. Such efforts at family reunification shall continue so long as the minor is in INS custody.

VII INS CUSTODY

19. In any case in which the INS does not release a minor pursuant to Paragraph 14, the minor shall remain in INS legal custody. Except as provided in Paragraphs 12 or 21, such minor shall be placed temporarily in a licensed program until such time as release can be effected in accordance with Paragraph 14 above or until the minor's immigration proceedings are concluded, whichever occurs earlier. All minors placed in such a licensed program remain in the legal custody of the INS and may only be transferred or released under the authority of the INS; provided, however, that in the event of an emergency a licensed program may transfer temporary physical custody of a minor prior to securing permission from the INS but shall notify the INS of the transfer as soon as is practicable thereafter, but in all cases within 8 hours.

20. Within 60 days of final court approval of this Agreement, the INS shall authorize the United States Department of Justice Community Relations Service to publish in the Commerce Business Daily and/or

the Federal Register a Program Announcement to solicit proposals for the care of 100 minors in licensed programs.

21. A minor may be held in or transferred to a suitable State or county juvenile detention facility or a secure INS detention facility, or INS-contracted facility, having separate accommodations for minors whenever the District Director or Chief Patrol Agent determines that the minor:

A. has been charged with, is chargeable, or has been convicted of a crime, or is the subject of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act; provided, however, that this provision shall not apply to any minor whose offense(s) fall(s) within either of the following categories:

i. Isolated offenses that (1) were not within a pattern or practice of criminal activity and (2) did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc. This list is not exhaustive.);

ii. Petty offenses, which are not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc. This list is not exhaustive.);

As used in this paragraph, "chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense;

B. has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself or others) while in INS legal custody or while in the presence of an INS officer;

C. has engaged, while in a licensed program, in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others, as determined by the staff of the licensed program (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc. This list is not exhaustive.);

D. is an escape-risk; or

E. must be held in a secure facility for his or her own safety, such as when the INS has reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

22. The term "escape-risk" means that there is a serious risk that the minor will attempt to escape from custody. Factors to consider when determining whether a minor is an escape-risk or not include, but are not limited to, whether:

A. the minor is currently under a final order of deportation or exclusion;

B. the minor's immigration history includes: a prior breach of a bond; a failure to appear before the INS or the immigration court; evidence that the minor is indebted to organized smugglers for his transport; or a voluntary departure or a previous removal from the United States pursuant to a final order of deportation or exclusion;

C. the minor has previously absconded or attempted to abscond from INS custody.

23. The INS will not place a minor in a secure facility pursuant to Paragraph 21 if there are less restrictive alternatives that are available and appropriate in the circumstances, such as transfer to (a) a medium security facility which would provide intensive staff supervision and counseling services or (b) another licensed program. All determinations to place a minor in a secure facility will be reviewed and approved by the regional juvenile coordinator.

24A. A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates on the Notice of Custody Determination form that he or she refuses such a hearing.

B. Any minor who disagrees with the INS's determination to place that minor in a particular type of facility, or who asserts that the licensed program in which he or she has been placed does not comply with the standards set forth in Exhibit 1 attached hereto, may seek judicial review in any United States District Court with jurisdiction and venue over the matter to challenge that placement determination or to allege noncompliance with the standards set forth in Exhibit 1. In such an action, the United States District Court shall be limited to entering an order solely affecting the individual claims of the minor bringing the action.

C. In order to permit judicial review of Defendants' placement decisions as provided in this Agreement, Defendants shall provide minors not placed in licensed programs with a notice of the reasons for housing the minor in a detention or medium security facility. With respect to placement decisions reviewed under this paragraph, the standard of review for the INS's exercise of its discretion shall be the abuse of discretion standard of review. With respect to all other matters for which this paragraph provides judicial review, the standard of review shall be *de novo* review.

D. The INS shall promptly provide each minor not released with (a) INS Form I-770; (b) an explanation of the right of judicial review as set out in Exhibit 6, and (c) the list of free legal services providers compiled pursuant to INS regulation (unless previously given to the minor).

E. Exhausting the procedures established in Paragraph 37 of this Agreement shall not be a precondition to the bringing of an action under this paragraph in any United District Court. Prior to initiating any such action, however, the minor and/or the minors' attorney shall confer telephonically or in person with the United States Attorney's office in the judicial district where the action is to be filed, in an effort to informally resolve the minor's complaints without the need of federal court intervention.

VIII TRANSPORTATION OF MINORS

25. Unaccompanied minors arrested or taken into custody by the INS should not be transported by the INS in vehicles with detained adults except

A. when being transported from the place of arrest or apprehension to an INS office, or

B. where separate transportation would be otherwise impractical.

When transported together pursuant to Clause (B) minors shall be separated from adults. The INS shall take necessary precautions for the protection of the well-being of such minors when transported with adults.

26. The INS shall assist without undue delay in making transportation arrangements to the INS office nearest the location of the person or facility to whom a minor is to be released pursuant to Paragraph 14. The INS may, in its discretion, provide transportation to minors.

IX TRANSFER OF MINORS

27. Whenever a minor is transferred from one placement to another, the minor shall be transferred with all of his or her possessions and legal papers; provided, however, that if the minor's possessions exceed the amount permitted normally by the carrier in use, the possessions will be shipped to the minor in a timely manner. No minor who is represented by counsel shall be transferred without advance notice to such counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived such notice, in which cases notice shall be provided to counsel within 24 hours following transfer.

X MONITORING AND REPORTS

28A. An INS Juvenile Coordinator in the Office of the Assistant Commissioner for Detention and Deportation shall monitor compliance with the terms of this Agreement and shall maintain an up-to-date

record of all minors who are placed in proceedings and remain in INS custody for longer than 72 hours. Statistical information on such minors shall be collected weekly from all INS district offices and Border Patrol stations. Statistical information will include at least the following: (1) biographical information such as each minor's name, date of birth, and country of birth, (2) date placed in INS custody, (3) each date placed, removed or released, (4) to whom and where placed, transferred, removed or released, (5) immigration status, and (6) hearing dates. The INS, through the Juvenile Coordinator, shall also collect information regarding the reasons for every placement of a minor in a detention facility or medium security facility.

B. Should Plaintiffs' counsel have reasonable cause to believe that a minor in INS legal custody should have been released pursuant to Paragraph 14, Plaintiffs' counsel may contact the Juvenile Coordinator to request that the Coordinator investigate the case and inform Plaintiffs' counsel of the reasons why the minor has not been released.

29. On a semi-annual basis, until two years after the court determines, pursuant to Paragraph 31, that the INS has achieved substantial compliance with the terms of this Agreement, the INS shall provide to Plaintiffs' counsel the information collected pursuant to Paragraph 28, as permitted by law, and each INS policy or instruction issued to INS employees regarding the implementation of this Agreement. In addition, Plaintiffs' counsel shall have the opportunity to submit questions, on a semi-annual basis, to the Juvenile Coordinator in the Office of the Assistant Commissioner for Detention and Deportation with regard to the implementation of this Agreement and the information provided to Plaintiffs' counsel during the preceding six-month period pursuant to Paragraph 28. Plaintiffs' counsel shall present such questions either orally or in writing, at the option of the Juvenile Coordinator. The Juvenile Coordinator shall furnish responses, either orally or in writing at the option of Plaintiffs' counsel, within 30 days of receipt.

30. On an annual basis, commencing one year after final court approval of this Agreement, the INS Juvenile Coordinator shall review, assess, and report to the court regarding compliance with the terms of this Agreement. The Coordinator shall file these reports with the court and provide copies to the parties, including the final report referenced in Paragraph 35, so that they can submit comments on the report to the court. In each report, the Coordinator shall state to the court whether or not the INS is in substantial compliance with the terms of this Agreement, and, if the INS is not in substantial compliance, explain the reasons for the lack of compliance. The Coordinator shall continue to report on an annual basis until three years after the court determines that the INS has achieved substantial compliance with the terms of this Agreement.

31. One year after the court's approval of this Agreement, the Defendants may ask the court to determine whether the INS has achieved substantial compliance with the terms of this Agreement.

XI ATTORNEY-CLIENT VISITS

32. A. Plaintiffs' counsel are entitled to attorney-client visits with class members even though they may not have the names of class members who are housed at a particular location. All visits shall occur in accordance with generally applicable policies and procedures relating to attorney-client visits at the facility in question. Upon Plaintiffs' counsel's arrival at a facility for attorney-client visits, the facility staff shall provide Plaintiffs' counsel with a list of names and alien registration numbers for the minors housed at that facility. In all instances, in order to memorialize any visit to a minor by Plaintiffs' counsel, Plaintiffs' counsel must file a notice of appearance with the INS prior to any attorney-client meeting. Plaintiffs' counsel may limit any such notice of appearance to representation of the minor in connection with this Agreement. Plaintiffs' counsel must submit a copy of the notice of appearance by hand or by mail to the local INS juvenile coordinator and a copy by hand to the staff of the facility.

B. Every six months, Plaintiffs' counsel shall provide the INS with a list of those attorneys who may make such attorney-client visits, as Plaintiffs' counsel, to minors during the following six month period. Attorney-client visits may also be conducted by any staff attorney employed by the Center for Human Rights & Constitutional Law in Los Angeles, California or the National Center for Youth Law in San Francisco, California, provided that such attorney presents credentials establishing his or her employment prior to any visit.

C. Agreements for the placement of minor in non-INS facilities shall permit attorney-client visits, including by class counsel in this case.

D. Nothing in Paragraph 32 shall affect a minor's right to refuse to meet with Plaintiffs' counsel. Further, the minor's parent or legal guardian may deny Plaintiffs' counsel permission to meet with the minor.

XII FACILITY VISITS

33. In addition to the attorney-client visits permitted pursuant to Paragraph 32, Plaintiffs' counsel may request access to any licensed program's facility in which a minor has been placed pursuant to Paragraph 19 or to any medium security facility or detention facility in which a minor has been placed pursuant to Paragraphs 21 or 23. Plaintiffs' counsel shall submit a request to visit a facility under this paragraph to the INS district juvenile coordinator who will provide reasonable assistance to Plaintiffs' counsel by conveying the request to the facility's staff and coordinating the visit. The rules and procedures to be followed in connection with any visit approved by a facility under this paragraph are set forth in Exhibit 4 attached, except as may be otherwise agreed by Plaintiffs' counsel and the facility's staff. In all visits to any facility pursuant to this Agreement, Plaintiffs' counsel and their associated experts shall treat minors and staff with courtesy and dignity and shall not disrupt the normal functioning of the facility.

XIII TRAINING

34. Within 120 days of final court approval of this Agreement, the INS shall provide appropriate guidance and training for designated INS employees regarding the terms of this Agreement. The INS shall develop written and/or audio or video materials for such training. Copies of such written and/or audio or video training materials shall be made available to Plaintiffs' counsel when such training materials are sent to the field, or to the extent practicable, prior to that time.

XIV DISMISSAL

35. After the court has determined that the INS is in substantial compliance with this Agreement and the Coordinator has filed a final report, the court, without further notice, shall dismiss this action. Until such dismissal, the court shall retain jurisdiction over this action.

XV RESERVATION OF RIGHTS

36. Nothing in this agreement shall limit the rights, if any, of individual class members to preserve issues for judicial review in the appeal of an individual case or for class members to exercise any independent rights they may otherwise have.

XVI NOTICE AND DISPUTE RESOLUTION

37. This paragraph provides for the enforcement, in this District Court, of the provisions of this Agreement except for claims brought under Paragraph 24. The parties shall meet telephonically or in person to discuss a complete or partial repudiation of this Agreement or any alleged non-compliance with the terms of the Agreement, prior to bringing any individual or class action to enforce this Agreement. Notice of a claim that defendants have violated the terms of this Agreement shall be served on plaintiffs addressed to:

CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW
Carlos Holguín
Peter A. Schey
256 South Occidental Boulevard
Los Angeles, CA 90057

NATIONAL CENTER FOR YOUTH LAW
Alice Bussiere
James Morales
114 Sansome Street, Suite 905
San Francisco, CA 94104

and on Defendants addressed to:

Michael Johnson
Assistant United States Attorney
300 N. Los Angeles St., Rm. 7516
Los Angeles, CA 90012

Allen Hausman
Office of Immigration Litigation
Civil Division
U.S. Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

XVII PUBLICITY

38. Plaintiffs and Defendants shall hold a joint press conference to announce this Agreement. The INS shall send copies of this Agreement to social service and voluntary agencies agreed upon by the parties, as set forth in Exhibit 5 attached. The parties shall pursue such other public dissemination of information regarding this Agreement as the parties shall agree.

XVIII ATTORNEYS FEES AND COSTS

39. Within 60 days of final court approval of this Agreement, Defendants shall pay to Plaintiffs the total sum of $_____, in full settlement of all attorneys' fees and costs in this case.

XIX TERMINATION

40. All terms of this Agreement shall terminate the earlier of five years from the date of final court approval of this Agreement or three years after the court determines that the INS is in substantial compliance with the Agreement, except the following: the INS shall continue to house the general population of minors in INS custody in facilities that are state-licensed for the care of dependent minors.

XX REPRESENTATIONS AND WARRANTY

41. Counsel for the respective parties, on behalf of themselves and their clients, represent that they know of nothing in this Agreement that exceeds the legal authority of the parties or is in violation of any law. Defendants' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Attorney General, the United States Department of Justice, and the Immigration and Naturalization Service, and acknowledge that Plaintiffs enter into this Agreement in reliance on such representation. Plaintiffs' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Plaintiffs, and acknowledge that Defendants enter into this Agreement in reliance on such representation. The undersigned, by their signatures on

behalf of the Plaintiffs and Defendants, warrant that upon execution of this Agreement in their representative capacities, their principals, agents, and successors of such principals and agents shall be fully and unequivocally bound hereunder to the full extent authorized by law.

EXHIBIT 1
Minimum Standards for Licensed Programs

A. Licensed programs shall comply with all applicable state child welfare laws and regulations and all state and local building, fire, health and safety codes and shall provide or arrange for the following services for each minor in its care:

1. Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal grooming items.

2. Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screening for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the minor was recently examined at another facility; appropriate immunizations in accordance with the U.S. Public Health Service (PHS), Center for Disease Control; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

3. An individualized needs assessment which shall include: (a) various initial intake forms; (b) essential data relating to the identification and history of the minor and family; (c) identification of the minors' special needs including any specific problem(s) which appear to require immediate intervention; (d) an educational assessment and plan; (e) an assessment of family relationships and interaction with adults, peers and authority figures; (f) a statement of religious preference and practice; (g) an assessment of the minor's personal goals, strengths and weaknesses; and (h) identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in family reunification.

4. Educational services appropriate to the minor's level of development, and communication skills in a structured classroom setting, Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training (ELT). The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program shall provide minors with

appropriate reading materials in languages other than English for use during the minor's leisure time.

5. Activities according to a recreation and leisure time plan which shall include daily outdoor activity, weather permitting, at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (this should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.

6. At least one (1) individual counseling session per week conducted by trained social work staff with the specific objectives of reviewing the minor's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each minor.

7. Group counseling sessions at least twice a week. This is usually an informal process and takes place with all the minors present. It is a time when new minors are given the opportunity to get acquainted with the staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational activities, etc. It is a time for staff and minors to discuss whatever is on their minds and to resolve problems.

8. Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

9. Upon admission, a comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.

10. Whenever possible, access to religious services of the minor's choice.

11. Visitation and contact with family members (regardless of their immigration status) which is structured to encourage such visitation. The staff shall respect the minor's privacy while reasonably preventing the unauthorized release of the minor.

12. A reasonable right to privacy, which shall include the right to: (a) wear his or her own clothes, when available; (b) retain a private space in the residential facility, group or foster home for the storage of personal belongings; (c) talk privately on the phone, as permitted by the house rules and regulations; (d) visit privately with guests, as permitted by the house rules and regulations; and (e) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.

13. Family reunification services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the minor.

14. Legal services information regarding the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a deportation or exclusion hearing before an immigration judge, the right to apply for political asylum or to request voluntary departure in lieu of deportation.

B. Service delivery is to be accomplished in a manner which is sensitive to the age, culture, native language and the complex needs of each minor.

C. Program rules and discipline standards shall be formulated with consideration for the range of ages and maturity in the program and shall be culturally sensitive to the needs of alien minors. Minors shall not be subjected to corporal punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping. Any sanctions employed shall not: (1) adversely affect either a minor's health, or physical or psychological well-being; or (2) deny minors regular meals, sufficient sleep, exercise, medical care, correspondence privileges, or legal assistance.

D. A comprehensive and realistic individual plan for the care of each minor must be developed in accordance with the minor's needs as determined by the individualized need assessment. Individual plans shall be implemented and closely coordinated through an operative case management system.

E. Programs shall develop, maintain and safeguard individual client case records. Agencies and organizations are required to develop a system of accountability which preserves the confidentiality of client information and protects the records from unauthorized use or disclosure.

F. Programs shall maintain adequate records and make regular reports as required by the INS that permit the INS to monitor and enforce this order and other requirements and standards as the INS may determine are in the best interests of the minors.

Exhibit 2
Instructions to Service Officers re:
Processing, Treatment, and Placement of Minors

These instructions are to advise Service officers of INS policy regarding the way in which minors in INS custody are processed, housed and released. These instructions are applicable nationwide and supersede all prior inconsistent instructions regarding minors.

(a) Minors. A minor is a person under the age of eighteen years. However, individuals who have been "emancipated" by a state court or convicted and incarcerated for a criminal offense as an adult are not considered minors. Such individuals must be treated as adults for all purposes, including confinement and release on bond.

Similarly, if a reasonable person would conclude that an individual is an adult despite his claims to be a minor, the INS shall treat such person as an adult for all purposes, including confinement and release on bond or recognizance. The INS may require such an individual to submit to a medical or dental examination conducted by a medical professional or to submit to other appropriate procedures to verify his or her age. If the INS subsequently determines that such an individual is a minor, he or she will be treated as a minor for all purposes.

(b) General policy. The INS treates and shall continued to treat minors with dignity, respect and special concern for their particular vulnerability. INS policy is to place each detained minor in the least restrictive setting appropriate to the minor's age and special needs, provided that such setting is consistent with the need to ensure the minor's timely appearance and to protect the minor's well-being and that of others. INS officers are not required to release a minor to any person or agency whom they have reason to believe may harm or neglect the minor or fail to present him or her before the INS or the immigration courts when requested to do so.

(c) Processing. The INS will expeditiously process minors and will provide them a Form I-770 notice of rights, including the right to a bond redetermination hearing, if applicable.

Following arrest, the INS will hold minors in a facility that is safe and sanitary and that is consistent with the INS's concern for the particular vulnerability of minors. Such facilities will have access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services, adequate temperature control and ventilation, adequate supervision to protect minors from others, and contact with family members who were arrested with the minor. The INS will separate unaccompanied minors from unrelated adults whenever possible. Where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for more than 24 hours.

If the minor cannot be immediately released, and no licensed program (described below) is available to care for him, he should be placed in an INS or INS-contract facility that has separate accommodations for minors, or in a State or county juvenile detention facility that separates minors in INS custody from delinquent offenders. The INS will make every effort to ensure the safety and well-being of juveniles placed in these facilities.

(d) Release. The INS will release minors from its custody without unnecessary delay, unless detention of a juvenile is required to secure her timely appearance or to ensure the minor's safety or that of others. Minors shall be released in the following order of preference, to:

(i) a parent;

(ii) a legal guardian;

(iii) an adult relative (brother, sister, aunt, uncle, or grandparent);

(iv) an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being in (i) a declaration signed under penalty of perjury before an immigration or consular officer, or (ii) such other documentation that establishes to the satisfaction of the INS, in its discretion, that the individual designating the individual or entity as the minor's custodian is in fact the minor's parent or guardian;

(v) a state-licensed juvenile shelter, group home, or foster home willing to accept legal custody; or

(vi) an adult individual or entity seeking custody, in the discretion of the INS, when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility.

(e) Certification of custodian. Before a minor is released, the custodian must execute an Affidavit of Support (Form I-134) and an agreement to:

(i) provide for the minor's physical, mental, and financial well-being;

(ii) ensure the minor's presence at all future proceedings before the INS and the immigration court;

(iii) notify the INS of any change of address within five (5) days following a move;

(iv) if the custodian is not a parent or legal guardian, not transfer custody of the minor to another party without the prior written permission of the District Director, except in the event of an emergency;

(v) notify the INS at least five days prior to the custodian's departing the United States of such departure, whether the departure is voluntary or pursuant to a grant of voluntary departure or order of deportation; and

(vi) if dependency proceedings involving the minor are initiated, notify the INS of the initiation of a such proceedings and the dependency court of any deportation proceedings pending against the minor.

In an emergency, a custodian may transfer temporary physical custody of a minor prior to securing permission from the INS, but must notify the INS of the transfer as soon as is practicable, and in all cases within 72 hours. Examples of an "emergency" include the serious illness of the custodian, destruction of the home, etc. In all cases where the custodian seeks written permission for a transfer, the District Director shall promptly respond to the request.

The INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement. However, custody arrangements will not be terminated for minor violations of the custodian's obligation to notify the INS of any change of address within five days following a move.

(f) Suitability assessment. An INS officer may require a positive suitability assessment prior to releasing a minor to any individual or program. A suitability assessment may include an investigation of the living conditions in which the minor is to be placed and the standard of care he would receive, verification of identity and employment of the individuals offering support, interviews of members of the household, and a home visit. The assessment will also take into consideration the wishes and concerns of the minor.

(g) Family reunification. Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, will promptly attempt to reunite the minor with his or her family to permit the release of the minor under Paragraph (d) above. Such efforts at family reunification will continue so long as the minor is in INS or licensed program custody and will be recorded by the INS or the licensed program in which the minor is placed.

(h) Placement in licensed programs. A "licensed program" is any program, agency or organization licensed by an appropriate state agency to provide residential group, or foster care services for dependent children, including a program operating group homes, foster homes or facilities for special needs minors. Exhibit 1 of the Flores v. Reno Settlement Agreement describes the standards required of licensed programs. Juveniles who remain in INS custody must be placed in a licensed program within three days if the minor was apprehended in an INS district in which a licensed program is located and has space available, or within five days in all other cases, except when:

(i) the minor is an escape risk or delinquent, as defined in Paragraph (l) below;

(ii) a court decree or court-approved settlement requires otherwise;

(iii) an emergency or influx of minors into the United States prevents compliance, in which case all minors should be placed in licensed programs as expeditiously as possible; or

(iv) where the minor must be transported from remote areas for processing or speaks an unusual language such that a special interpreter is required to process the minor, in which case the minor must be placed in a licensed program within five business days.

(i) Secure and supervised detention. A minor may be held in or transferred to a State or county juvenile detention facility or in a secure INS facility or INS-contracted facility having separate accommodations for minors, whenever the District Director or Chief Patrol Agent determines that the minor -

(i) has been charged with, is chargeable, or has been convicted of a crime, or is the subject of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act, unless the minor's offense is

(a) an isolated offense not within a pattern of criminal activity which did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc.); or

(b) a petty offense, which is not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc.);

(ii) has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself or others) while in INS legal custody or while in the presence of an INS officer;

(iii) has engaged, while in a licensed program, in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others, as determined by the staff of the licensed program (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc.);

(iv) is an escape-risk; or

(v) must be held in a secure facility for his or her own safety, such as when the INS has reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

"Chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense.

The term "escape-risk" means that there is a serious risk that the minor will attempt to escape from custody. Factors to consider when determining whether a minor is an escape-risk or not include, but are not limited to, whether:

(a) the minor is currently under a final order of deportation or exclusion;

(b) the minor's immigration history includes: a prior breach of a bond; a failure to appear before the INS or the immigration court; evidence that the minor is indebted to organized smugglers for his transport; or a voluntary departure or a previous removal from the United States pursuant to a final order of deportation or exclusion;

(c) the minor has previously absconded or attempted to abscond from INS custody.

The INS will not place a minor in a State or county juvenile detention facility, secure INS detention facility, or secure INS-contracted facility if less restrictive alternatives are available and appropriate in the circumstances, such as transfer to a medium security facility that provides intensive staff supervision and counseling services or transfer to another licensed program. All determinations to place a minor in a secure facility must be reviewed and approved by the regional Juvenile Coordinator.

(j) Notice of right to bond redetermination and judicial review of placement. A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case in which he either affirmatively requests, or fails to request or refuse, such a hearing on the Notice of Custody Determination. A juvenile who is not released or placed in a licensed placement shall be provided (1) a written explanation of the right of judicial review in the form attached, and (2) the list of free legal services providers compiled pursuant to 8 C.F.R. § 292a.

(k) Transportation and transfer. Unaccompanied minors should not be transported in vehicles with detained adults except when being transported from the place of arrest or apprehension to an INS office or where separate transportation would be otherwise impractical, in which case minors shall be separated from adults. INS officers shall take all necessary precautions for the protection of minors during transportation with adults.

When a minor is to be released, the INS will assist him or her in making transportation arrangements to the INS office nearest the location of the person or facility to whom a minor is to be released. The Service may, in its discretion, provide transportation to such minors.

Whenever a minor is transferred from one placement to another, she shall be transferred with all of her possessions and legal papers; provided, however, that if the minor's possessions exceed the amount permitted normally by the carrier in use, the possessions must be shipped to the minor in a timely manner. No minor who is represented by counsel should be transferred without advance notice to counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived notice, in which cases notice must be provided to counsel within 24 hours following transfer.

(l) Periodic reporting. All INS district offices and Border Patrol stations must report to the Juvenile Coordinator statistical information on minors placed in proceedings who remain in INS custody for longer than 72 hours. Information will include: (a) biographical information, including the minor's name, date of birth, and country of birth, (b) date placed in INS custody, (c) each date placed, removed or released, (d) to whom and where placed, transferred, removed or released, (e) immigration status, and (f) hearing dates. The Juvenile Coordinator must also be informed of the reasons for placing a minor in a medium security facility or detention facility as described in paragraph (i).

(m) Attorney-client visits by Plaintiffs' counsel. The INS will permit lawyers for the *Reno v. Flores* plaintiff class to visit minors even though they may not have the names of minors who are housed at a particular location. A list of Plaintiffs' counsel entitled to make attorney-client visits with minors is available from the district Juvenile Coordinator. Attorney-client visits may also be conducted by any staff attorney employed by the Center for Human Rights & Constitutional Law of Los Angeles, California, or the National Center for Youth Law of San Francisco, California, provided that such attorney presents credentials establishing his or her employment prior to any visit.

Visits must occur in accordance with generally applicable policies and procedures relating to attorney-client visits at the facility in question. Upon Plaintiffs' counsel's arrival at a facility for attorney-client visits, the facility staff must provide Plaintiffs' counsel with a list of names and alien registration numbers for the minors housed at that facility. In all instances, in order to memorialize any visit to a minor by Plaintiffs' counsel, Plaintiffs' counsel must file a notice of appearance with the INS prior to any attorney-client meeting. Plaintiffs' counsel may limit the notice of appearance to representation of the minor in connection with his placement or treatment during INS custody. Plaintiffs' counsel must submit a copy of the notice of appearance by hand or by mail to the local INS juvenile coordinator and a copy by hand to the staff of the facility.

A minor may refuse to meet with Plaintiffs' counsel. Further, the minor's parent or legal guardian may deny Plaintiffs' counsel permission to meet with the minor.

(n) Visits to licensed facilities. In addition to the attorney-client visits, Plaintiffs' counsel may request access to a licensed program's facility (described in paragraph (h)) or to a medium-security facility or detention facility (described in paragraph (i)) in which a minor has been placed. The district juvenile coordinator will convey the request to the facility's staff and coordinate the visit. The rules and procedures to be followed in connection with such visits are set out in Exhibit 4 of the *Flores v. Reno* Settlement Agreement,, unless Plaintiffs' counsel and the facility's staff agree otherwise. In all visits to any facility, Plaintiffs' counsel and their associated experts must treat minors and staff with courtesy and dignity and must not disrupt the normal functioning of the facility.

EXHIBIT 3
Contingency Plan

In the event of an emergency or influx that prevents the prompt placement of minors in licensed programs with which the Community Relations Service has contracted, INS policy is to make all reasonable efforts to place minors in licensed programs licensed by an appropriate state agency as expeditiously as possible. An emergency is an act or event, such as a natural disaster (e.g. earthquake, fire, hurricane), facility fire, civil disturbance, or medical emergency (e.g. a chicken pox epidemic among a group of minors) that prevents the prompt placement of minors in licensed facilities. An influx is defined as any situation in which there are more than 130 minors in the custody of the INS who are eligible for placement in licensed programs.

1. The Juvenile Coordinator will establish and maintain an Emergency Placement List of at least 80 beds at programs licensed by an appropriate state agency that are potentially available to accept emergency placements. These 80 placements would supplement the 130 placements that INS normally has available, and whenever possible, would meet all standards applicable to juvenile placements the INS normally uses. The Juvenile Coordinator may consult with child welfare specialists, group home operators, and others in developing the list. The Emergency Placement List will include the facility name; the number of beds at the facility; the name and telephone number of contact persons; the name and telephone number of contact persons for nights, holidays, and weekends if different; any restrictions on minors accepted (e.g. age); and any special services that are available.

2. The Juvenile Coordinator will maintain a list of minors affected by the emergency or influx, including (1) the minor's name, (2) date and country of birth, and (3) date placed in INS custody.

3. Within one business day of the emergency or influx the Juvenile Coordinator, or his or her designee will contact the programs on the Emergency Placement List to determine available placements. As soon as available placements are identified, the Juvenile Coordinator will advise appropriate INS staff of their

availability. To the extent practicable, the INS will attempt to locate emergency placements in geographic areas where culturally and linguistically appropriate community services are available.

4. In the event that the number of minors needing emergency placement exceeds the available appropriate placements on the Emergency Placement List, the Juvenile Coordinator will work with the Community Relations Service to locate additional placements through licensed programs, county social services departments, and foster family agencies.

5. Each year, the INS will reevaluate the number of regular placements needed for detained minors to determine whether the number of regular placements should be adjusted to accommodate an increased or decreased number of minors eligible for placement in licensed programs. However, any decision to increase the number of placements available shall be subject to the availability of INS resources. The Juvenile Coordinator shall promptly provide Plaintiffs' counsel with any reevaluation made by INS pursuant to this paragraph.

6. The Juvenile Coordinator shall provide to Plaintiffs' counsel copies of the Emergency Placement List within six months after the court's final approval of the Settlement Agreement.

EXHIBIT 4
Agreement Concerning Facility Visits Under Paragraph 33

The purpose of facility visits under paragraph 33 is to interview class members and staff and to observe conditions at the facility. Visits under paragraph 33 shall be conducted in accordance with the generally applicable policies and procedures of the facility to the extent that those policies and procedures are consistent with this Exhibit.

Visits authorized under paragraph 33 shall be scheduled no less than seven (7) business days in advance. The names, positions, credentials, and professional association (e.g., Center for Human Rights and Constitutional Law) of the visitors will be provided at that time.

All visits with class members shall take place during normal business hours.

No video recording equipment or cameras of any type shall be permitted. Audio recording equipment shall be limited to hand-held tape recorders.

The number of visitors will not exceed six (6) or, in the case of a family foster home, four (4), including interpreters, in any instance. Up to two (2) of the visitors may be non-attorney experts in juvenile justice and/or child welfare.

No visit will extend beyond three (3) hours per day in length. Visits shall minimize disruption to the routine that minors and staff follow.

Exhibit 5
List of Organizations to Receive Information re: Settlement Agreement

Eric Cohen, Immig. Legal Resource Center, 1663 Mission St. Suite 602, San Francisco, CA 94103

Cecilia Munoz, Nat'l Council Of La Raza, 810 1st St. NE Suite 300, Washington, D.C. 20002

Susan Alva, Immig. & Citiz. Proj Director, Coalition For Humane Immig Rights of LA, 1521 Wilshire Blvd., Los Angeles, CA 90017

Angela Cornell, Albuquerque Border Cities Proj., Box 35895, Albuquerque, NM 87176-5895

Beth Persky, Executive Director, Centro De Asuntos Migratorios, 1446 Front Street, Suite 305, San Diego, CA 92101

Dan, Kesselbrenner, , National Lawyers Guild, National Immigration Project, 14 Beacon St.,#503, Boston, MA 02108

Lynn Marcus , SWRRP, 64 E. Broadway, Tucson, AZ 85701-1720

Maria Jimenez, , American Friends Service Cmte., ILEMP, 3522 Polk Street, Houston, TX 77003-4844

Wendy Young, , U.S. Cath. Conf., 3211 4th St. NE, , Washington, DC, 20017-1194

Miriam Hayward , International Institute Of The East Bay, 297 Lee Street , Oakland, CA 94610

Emily Goldfarb, , Coalition For Immigrant & Refugee Rights, 995 Market Street, Suite 1108 , San Francisco, CA 94103

Jose De La Paz, Director, California Immigrant Workers Association, 515 S. Shatto Place , Los Angeles, CA, 90020

Annie Wilson, LIRS, 390 Park Avenue South, First Asylum Concerns, New York, NY 10016

Stewart Kwoh, Asian Pacific American Legal Center, 1010 S. Flower St., Suite 302, Los Angeles, CA 90015

Warren Leiden, Executive Director, AILA, 1400 Eye St., N.W., Ste. 1200, Washington, DC, 20005

Frank Sharry, Nat'l Immig Ref & Citiz Forum, 220 I Street N.E., Ste. 220, Washington, D.C. 20002

Reynaldo Guerrero, Executive Director, Center For Immigrant's Rights, 48 St. Marks Place , New York, NY 10003

Charles Wheeler , National Immigration Law Center, 1102 S. Crenshaw Blvd., Suite 101 , Los Angeles, CA 90019

Deborah A. Sanders, Asylum & Ref. Rts Law Project, Washington Lawyers Comm., 1300 19th Street, N.W., Suite 500 , Washington, D.C. 20036

Stanley Mark, Asian American Legal Def.& Ed.Fund, 99 Hudson St, 12th Floor, New York, NY 10013

Sid Mohn, Executive Director, Travelers & Immigrants Aid, 327 S. LaSalle Street, Suite 1500, Chicago, IL, 60604

Bruce Goldstein, Attornet At Law, Farmworker Justice Fund, Inc., 2001 S Street, N.W., Suite 210, Washington, DC 20009

Ninfa Krueger, Director, BARCA, 1701 N. 8th Street, Suite B-28, McAllen, TX 78501

John Goldstein, , Proyecto San Pablo, PO Box 4596,, Yuma, AZ 85364

Valerie Hink, Attorney At Law, Tucson Ecumenical Legal Assistance, P.O. Box 3007 , Tucson, AZ 85702

Pamela Mohr, Executive Director, Alliance For Children's Rights, 3708 Wilshire Blvd. Suite 720, Los Angeles, CA 90010

Pamela Day, Child Welfare League Of America, 440 1st St. N.W., , Washington, DC 20001

Susan Lydon, Esq., Immigrant Legal Resource Center, 1663 Mission St. Ste 602, San Francisco, CA 94103

Patrick Maher, Juvenile Project, Centro De Asuntos Migratorios, 1446 Front Street, # 305, San Diego, CA 92101

Lorena Munoz, Staff Attorney, Legal Aid Foundation of LA-IRO, 1102 Crenshaw Blvd., Los Angeles, CA 90019

Christina Zawisza, Staff Attorney, Legal Services of Greater Miami, 225 N.E. 34th Street, Suite 300, Miami, FL 33137

Miriam Wright Edelman, Executive Director, Children's Defense Fund, 122 C Street N.W. 4th Floor, Washington, DC 20001

Rogelio Nunez, Executive Director, Proyecto Libertad, 113 N. First St., Harlingen, TX 78550

Exhibit 6
Notice of Right to Judicial Review

"The INS usually houses persons under the age of 18 in an open setting, such as a foster or group home, and not in detention facilities. If you believe that you have not been properly placed or that you have been treated improperly, you may ask a federal judge to review your case. You may call a lawyer to help you do this. If you cannot afford a lawyer, you may call one from the list of free legal services given to you with this form."

Exhibit 81

DECLARATION OF JUSTIN MIXON

I, Justin Mixon, declare and say as follows:

1. I execute this declaration in support of plaintiffs' motion for an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(2)(A), at market rates. For the reasons I explain below, I am of the firm opinion that giving aggrieved class members a fair chance of prevailing on their motion to enforce the settlement in *Flores v. Sessions* required counsel with expertise not possessed by most lawyers, nor even members of the immigration bar.

2. I am an attorney admitted to practice in the state of Pennsylvania. Further details regarding my professional qualifications appear in my CV attached hereto.

3. I am currently a private practitioner in Pennsylvania specializing in immigration law. My immigration practice areas include immigration benefits for immigrant and refugee minors, including asylum and removal defense.

4. From April 2014 to June 2017, I served as an attorney with Hebrew Immigrant Aid Society (HIAS) of Pennsylvania. HIAS Pennsylvania is a non-profit, public interest organization that provides legal and supportive services to immigrants, refugees and asylum seekers from all backgrounds in order to assure their fair treatment and full integration into American society. During my tenure, the Vera Institute of Justice funded HIAS Pennsylvania via a master grant from the Office of Refugee Resettlement of the U.S. Department of Health and Human Services to provide free legal services to immigrant and refugee minors in ORR custody. These services consisted primarily of conducting "know your rights" presentations and assisting with applications for affirmative immigration benefits, such as Special Immigrant Juvenile status and asylum.

5. As part of my duties with HIAS, I regularly communicated with other lawyers and advocates for detained immigrant and refugee children and subscribed to the major list serves for practitioners who detained immigrant and refugee children. I thereby became aware of advocacy, including litigation, carried out nationwide, and not only in

Pennsylvania. Now in private practice, I continue to keep abreast of developments in the law impacting on my representing immigrant and refugee youth.

6. I am familiar with the work and reputation of Carlos Holguín, lead attorney for the *Flores* plaintiffs in their effort to compel ORR to grant juveniles in its custody bond redetermination hearings. In my opinion, Mr. Holguín possesses specialized knowledge regarding the rights of detained immigrant and refugee children, particularly the settlement in *Flores* and the potential for enforcing detained children's rights thereunder via class-wide litigation, that is not generally available. I am of the opinion that Mr. Holguín is among a very few advocates for immigrant children's rights in the country with the knowledge and experience needed to give the *Flores* class a fair chance of prevailing against ORR.

7. In my opinion, successfully enforcing the *Flores* settlement against ORR required specialized knowledge of poorly understood nooks and crannies of immigration law. The *Flores* settlement is now some 20 years old, yet it contains many protections for detained immigrant and refugee children found nowhere else. In other aspects, the *Flores* settlement contains provisions that precede and are now parallel to or analogous with other sources of law, particularly the 2002 Homeland Security Act and the 2008 William Wilberforce Trafficking Victims Protection Reauthorization Act. Understanding how these disparate sources of law potentially intersect to delimit ORR's authority to detain immigrant and refugee children without hearing is not commonplace amongst lawyers generally, nor even among members of the immigration bar.

8. I know relatively few immigration practitioners who specialize in the rights of immigrant and refugee children. Apart from Vera Institute-funded legal services providers, I know of only a handful of lawyers who are truly versed in the rights of immigrant and refugee minors in ORR custody. In my experience, private practitioners generally lack the resources to pursue federal litigation on behalf of their clients, and they therefore typically limit representation to advocacy before the relevant federal administrative agencies: U.S. Citizenship and Immigration Services, U.S. Customs and Immigration Enforcement, and the

Executive Office for Immigration Review. (Prior to the Ninth Circuit's affirming detained children's rights to bond hearings, practice before ORR consisted almost exclusively of filling out family reunification packets and supplicating informally on behalf of one's client.)

9. Lawyers whom the Vera Institute funds had, and continue to have, even less latitude in advocating for detained immigrant and refugee children. Although the TVPRA directs HHS to ensure that such children receive representation in "legal matters" to the greatest extent practicable, during my employment with HIAS Pennsylvania I was instructed that I could not assist detained children challenge ORR's release or placement decisions, no matter how arbitrary or otherwise unlawful ORR's decisions appeared. I know of no Vera-funded legal services provider who has ever represented a minor in federal court against ORR.

10. In sum, the members of the bar qualified and available to assist detained immigrant and refugee children seek redress against ORR in federal court are few, and the Vera Institute, at the behest of ORR, blocks the majority of those from representing children aggrieved by ORR's custody and placement decisions in any event. In my opinion, only attorneys with this distinctive mix of knowledge of immigrant and refugee children's rights and the skill and experience to bring federal litigation to enforce those rights could have enforced the *Flores* settlement against ORR. I must therefore conclude that aggrieved *Flores* class members would have had great difficulty retaining qualified counsel to seek class-wide relief against ORR were it not for Mr. Holguín and his colleagues.

11. *A fortiori*, I also believe that no other qualified lawyers could have been found to represent the plaintiff class against ORR at the inflation-adjusted EAJA rate. To begin, few members of the immigration bar regularly engage in federal court litigation; those who do, typically pursue cases on behalf of individual clients; and only a very small number are willing and able to prosecute class actions, or indeed, any federal litigation in which a favorable outcome is not reasonably assured with a minimal investment of time and money.

The steep learning curve required to develop adequate expertise in the law impacting *Flores* class members in this case would make finding qualified counsel at the statutory rate all but impossible.

I declare under penalty of perjury that foregoing is true and correct.

Executed this 19th day of October, 2017, at Jenkintown, Pennsylvania.



Justin Mixon

/ / /

Justin Mixon, Esq.
453 Johnson Street, Suite 201A
Jenkintown, PA 19046
(215) 692-2262
justinmixon@mixonlegal.net

EDUCATION

University of Minnesota Law School, Minneapolis, MN
J.D. – May 2002, Cum Laude
2002 Law School Public Service Award
Environmental Moot Court Director
National Competition Team Member 2001-2002

Trinity University, San Antonio, TX
B.A. in Religion (academic studies), May 1994

EXPERIENCE

HIAS Pennsylvania
Immigrant Youth Staff Attorney, 5/2014 – 6/2017

- Represent youth and young adults in child welfare, custody, asylum, Deferred Action, and U Visa cases.
- Manage and provide information and support for cases with pro bono attorneys at local law firms.
- Conduct presentations and CLE legal seminars to synagogues, law schools, lawyers, and other community groups regarding the humanitarian crisis in Central America and how they can assist immigrant families.
- Collaborate with community and advocacy groups to promote the rights of immigrant families detained at the Berks family detention center and federal government youth shelters.

Justin Mixon, Esquire, Jenkintown, PA
Solo Practice Attorney 2012 - present

- Represent clients in immigration, family, and housing cases in court and in administrative hearings.
- Provide legal advice and representation to clients through the Montgomery County Bar Association Legal Access Project.
- Complete transactional matters, such as wills, trusts, rental leases, deeds, and contracts.

Abington Friends School, Abington, PA
4th Grade Collaborating Teacher, 8/11 – 6/12

- Design and teach math, literacy, and social studies lessons in two 4th grade classrooms.
- Create and direct engaging classroom learning centers in four core subjects.
- Assistant coach for high school chess and ultimate frisbee teams.

Educational Advancement Alliance's Learning Lab, Philadelphia, PA
Science Teacher 7/10 – 4/11

- Created and taught fun, hands-on science lessons for 4th, 5th and 6th grade students on a mobile science lab bus visiting Philadelphia School District elementary schools.
- Organized professional development science trainings for teachers, including a new program to provide science materials and lessons to teachers.
- Collaborated with other non-profit organizations and the Philadelphia School District to conduct science fairs, summer programs, and other community events.

Philadelphia School District, Philadelphia, PA
Third Grade Teacher 7/08 – 6/10 (Laura Carnell Elementary School)
Fifth Grade Teacher 2/08 – 7/08 (William Cramp Elementary School)

- Taught 3rd grade students of diverse backgrounds, using the Literacy, Math, Science, and Social Studies Philadelphia curriculum.
- Designed engaging lessons that require students to learn and demonstrate skills on their own and in groups.

Justin Mixon, Esquire - Jenkintown, PA
Solo Practice Attorney 5/06 – 12/07

- Represented clients in employment, contracts, family law, and other cases in court and in administrative hearings.
- Provided free legal advice to dozens of clients through the Montgomery County Bar Association Legal Access Project.

Legal Aid Bureau, Inc. – Riverdale, MD
Staff Attorney 7/04 – 5/06

- Represented low-income clients in employment, housing, bankruptcy, and consumer cases in court and in administrative hearings.
- Performed outreach and legal rights presentations for community groups, including Spanish-speaking immigrant communities.

Equal Justice Works Fellowship - Virginia Justice Center, Falls Church, VA
Attorney / Equal Justice Works Fellow 9/02 – 7/04

- Organized low-wage immigrant workers to advocate for better working conditions in courts and with police, employers and government agencies.
- Conducted monthly clinics teaching workers how to represent themselves in small claims court and file complaints with state agencies to collect unpaid wages.

U.S. Peace Corps, Guatemala
Agricultural Diversification / Community Development Volunteer 10/95 – 1/98

- Provided technical assistance and project facilitation to improve crop production, family nutrition, and group organization in 5 villages with over 25 families.

Heifer Project International, Perryville, Arkansas
Educator for the International Learning and Livestock Center 9/94 - 8/95

Exhibit 82

Subject: RE: Correspondence re: legal representation for Flores class members
From: "Fabian, Sarah B (CIV)" <Sarah.B.Fabian@usdoj.gov>
Date: Fri, 23 Mar 2018 22:24:46 +0000
To: "crholguin@centerforhumanrights.org" <crholguin@centerforhumanrights.org>, Paola Midence <pmidence@catholiccharities.org>, "kchapman@catholiccharities.org" <kchapman@catholiccharities.org>, "Alsterberg, Cara E. (CIV)" <Cara.E.Alsterberg@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Murley, Nicole (CIV)" <Nicole.Murley@usdoj.gov>
CC: Leecia Welch <lwelch@youthlaw.org>, Crystal Adams <cadams@youthlaw.org>, Neha Desai <ndesai@youthlaw.org>, Poonam Juneja <pjuneja@youthlaw.org>, "Holly S Cooper" <hscooper@ucdavis.edu>, Schey Peter <pschey@centerforhumanrights.org>

Carlos:

This email responds to your March 12, 2018 letter. Your letter requests that "HHS, through its contractor, the Vera Institute of Justice, and its subcontractor, the St. Frances Cabrini Center for Immigrant Legal Assistance, provide [five UACs] legal representation in the legal matters enumerated above."

As an initial matter, your request appears to be based on your assertions regarding the requirements of the TVPRA. Any alleged compliance or non-compliance by Defendants with the TVPRA, enacted in 2009, is not relevant to the requirements of the *Flores* Settlement Agreement, and thus is outside the scope of your representation of class members in the *Flores* case.

Moreover, Defendants dispute that the provisions of the *Flores* Settlement Agreement and the TVPRA cited by you in your letter require that ORR provide representation in the manner requested in your letter.

Best,
Sarah

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section
(202) 532-4824

From: Carlos Holguin [mailto:crholguin@centerforhumanrights.org]
Sent: Monday, March 12, 2018 3:28 PM
To: Paola Midence <pmidence@catholiccharities.org>; kchapman@catholiccharities.org; Fabian, Sarah B (CIV) <sfabian@CIV.USDOJ.GOV>; Alsterberg, Cara E. (CIV) <caalster@CIV.USDOJ.GOV>; Silvis, William (CIV) <WSilvis@civ.usdoj.gov>
Cc: Leecia Welch <lwelch@youthlaw.org>; Crystal Adams <cadams@youthlaw.org>; Neha Desai <ndesai@youthlaw.org>; Poonam Juneja <pjuneja@youthlaw.org>; Holly S Cooper <hscooper@ucdavis.edu>; Schey Peter <pschey@centerforhumanrights.org>
Subject: Correspondence re: legal representation for Flores class members

Please see attached.

Thank you.
--

Exhibit 82
Page 593

Carlos Holguín
General Counsel
Center for Human Rights & Constitutional Law
256 S. Occidental Blvd.
Los Angeles, California 90057
213.388-8693 x.309 (v)
213.386.9484 (fax)
http://www.centerforhumanrights.org

Exhibit 83

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

ADMINISTRATION FOR
CHILDREN & FAMILIES
330 C Street, S.W., Washington, DC 20201 | www.acf.hhs.gov

April 2, 2018

Via email

Re: *Flores*, et. al., v. *Sessions*, et al., No. CV 8504544 DMG (C.D. Cal.)

Dear *Flores* Counsel:

We have reviewed your letter dated January 16, 2018 regarding the administration of psychotropic medications to unaccompanied alien children (UAC) in the custody of the Office of Refugee Resettlement (ORR) and placed at the Shiloh Residential Treatment Center (Shiloh RTC or Shiloh), including the specific cases that you highlighted ([redacted] and [redacted], with ORR. This letter responds to the concerns expressed therein.

Shiloh Residential Treatment Center

Shiloh RTC is a residential treatment center in Manvel, Texas that cares for children, including UAC in ORR's custody, with a very high level of needs, such as significant mental health problems or violent histories, which require specialized treatment and services. The facility has 44 beds in total, of which 32 are designated for UAC in ORR's custody. As of the date of today's letter, 26 UAC placed by ORR are being housed at Shiloh RTC, which has 4 staff members for every child placed there. Shiloh RTC's program is physically organized in a group of cottages and has a central building where a school is located. Notably, Shiloh RTC is not operated by DayStar Treatment Center (DayStar), which is mentioned in your letter. As of February 2011, Daystar is no longer in operation, and even when it was still in business the licensure of Daystar was completely separate from that of Shiloh.

Compliance with Texas State Licensing Standards & ORR Monitoring Visits

Shiloh RTC's operations are monitored closely during regular (announced and unannounced) licensing visits and inspections by the State of Texas each year. A licensing visit can cover any topic addressed in the governing Texas Department of Family and Protective Services (TDFPS) Licensing Division's Minimum Standards for General Residential Operations, including most saliently, policy, procedures, and practices concerning the use of psychotropic medication.[1] Shiloh RTC is required to

[1] *See generally* TDFPS' Minimum Standards for General Residential Operations, available at https://www.dfps.state.tx.us/Child_Care/documents/Standards_and_Regulations/748_GRO.pdf (last visited

follow strictly any recommendations for corrective action from Texas' licensure process concerning the care of UAC and other children who reside and receive treatment services there.[2] To ORR's knowledge, Texas state licensing officials have not reported any concerns regarding Shiloh RTC's compliance with state guidelines concerning the administration of psychotropic medications to UAC in ORR's custody.

In addition to complying with mandated state licensing requirements in Texas, Shiloh is also accredited by the Joint Commission on the Accreditation of Hospitals and Organizations (JCAHO), the world recognized leader in the accreditation of health care organizations. Shiloh's JCAHO accreditation was just renewed for another three-year period in January 2018. By adhering to JCAHO's heightened national standards, which address in relevant part the administration and use of psychotropic medication, Shiloh exceeds Texas state minimum licensing standards. Consistent with JCAHO's standard MM.01.01.05, Shiloh RTC developed formal monitoring processes, as well as specific written policies and procedures to monitor the use of psychotropic medications. These policies and procedures address the following issues, among others: guidelines for the prescription of emergency psychotropic medication; the use of multiple psychotropic agents in the same class; the use of high-dose pharmacotherapy; the prevention, identification, and management of side effects from the use of psychotropic medication, including tardive dyskinesia.

Further, it is Shiloh's policy that, in addition to monthly reviews of all their medication orders, on at least a quarterly basis, the board certified child and adolescent psychiatrists who contract with Shiloh to provide psychiatric care for UAC (and other residents) review current prescriptions of psychotropic medications using the best practice guidelines set forth in Texas' *Psychotropic Medication Utilization Parameters for Children and Youth in Foster Care*.[3] Consistent with these guidelines, Shiloh policy requires that psychiatrists treating UAC strive to use no more than four psychotropic medications concurrently, attempt a mono-therapy regimen for identified target symptoms before prescribing a multiple-therapy regimen, and avoid high-dose pharmacotherapy. The justification for any deviation from these standards must be clearly documented. Peer reviews may also be conducted to review a multiple-therapy regimen.

Over and above Shiloh's compliance with Texas State licensing and national JCAHO accreditation requirements, and the facility's own policies and procedures, ORR conducts routine Federal monitoring visits and medical reviews, and regularly participates in various treatment meetings concerning UAC placed at Shiloh. Specifically, biannual Federal monitoring visits are conducted by ORR's Division of Children's Services (DUCS) Monitoring Team, which includes monitoring of

---

March 8, 2018), at page 161 (use of psychotropic medication). These standards require that Texas state licensed residential facilities comply with Texas Administrative Code Chapter 748, Title 40, Social Services and Assistance, Part 19, Department of Family and Protective Services, Division 7, Use of Psychotropic Medication.

[2] *See* Minimum Standards for General Residential Operations, at page v (Introduction).

[3] *See* Psychotropic Medication Utilization Parameters for Children and Youth in Foster Care (5th Version) (March 2016), available at https://www.dfps.state.tx.us/Child_Protection/Medical_Services/ documents/reports/2016-03_Psychotropic_Medication_Utilization_Parameters_for_Foster_Children.pdf. The Medication Tables therein were updated in July 2016. This guidance was developed by the Texas Department of Family and Protective Services and the University of Texas at Austin College of Pharmacy with review and input provided by: the Federation of Texas Psychiatry, Texas Pediatric Society, Texas Academy of Family Physicians, the Texas Medical Association, and Rutgers University-Center for Education and Research on Mental Health Therapeutics.

Shiloh's procedures for documenting medication use and medical treatment of UAC. ORR's medical team from headquarters has likewise participated in quarterly conference calls regarding residential treatment centers, and has visited Shiloh, in order to monitor the provision of medical care to UAC by reviewing medical procedures and auditing charts. Shiloh also provides a spreadsheet for each UAC placed there which ORR uploads into its patient portal and includes all medications whether prescription, non-prescription or emergency PRN ("as needed"), as well as information about when medications are started or stopped and why, and increases/decreases/adjustments to medications. Additionally, the assigned ORR Federal Field Specialist (FFS), who is trained as a clinical social worker, often participates in weekly treatment team meetings at Shiloh where issues concerning medications such as a child's refusal to take medication may be discussed. During periodic medical reviews, the FFS will participate in clinical discussions with the attending psychiatrist and registered nurse for particularly complex cases. The FFS also conducts monthly meetings with Shiloh staff and local General Dynamics Information and Technology (GDIT) Case Coordinators (contracted case management staff who provide recommendations on transfers and release) to discuss specific UAC cases at Shiloh which may include a discussion of UAC's medical treatment and the prescription of medication. Finally, the FFS also conducts quarterly meetings with stakeholders to include ORR headquarter medical staff and the Senior Advisor for Child Well-being and Safety. Among other topics, these quarterly meetings involve a general review by medical doctors of medical treatment and services provided to UAC, including the prescription of psychotropic medications.[4]

Informed Consent & UAC Assent

Shiloh RTC follows applicable Texas state law concerning informed consent pertaining to the prescription of psychotropic medications to children in state residential treatment facilities. *See* Texas Administrative Code § 748.2253 (use of psychotropic medication). Under these procedures, if a UAC has a viable sponsor, Shiloh's policy is to inform the sponsor about any changes in medications prescribed for a particular child, including starting a new medication or increasing the dose of a current medication. Shiloh's policy specifies that informed consent must include an explanation of the following: benefits; risks; side effects; medical consequences of refusing the medication or recommendation for the medication; and contact information for the prescribing physician. However, there are emergency situations in which psychiatrists may prescribe psychotropic medications to UAC without such consent or court authorization when their extreme psychiatric symptoms render them a danger to themselves or others. *See* Texas Family Code § 266.009.

Specific Cases: [redacted] and [redacted]

Turning to the two individual cases mentioned in your letter -- [redacted] and [redacted] -- we discuss the specific concerns you highlighted with ORR below. Notably, neither of these cases raised any issues regarding the prescription of psychotropic medication with the Texas state licensing authorities or the JCAHO accreditation process. Rather, both UAC, who exhibited serious mental health symptoms while at Shiloh, were prescribed psychotropic medication in compliance with Texas state law and Shiloh's policies and procedures.

[4] ORR does not, however, employ child and adolescent psychiatrists who would have the training to scrutinize the specific medications prescribed by Shiloh experts.

[redacted]

[redacted] was admitted to Shiloh in March 2016 following a psychiatric hospitalization that resulted from his expression of suicidal ideation (jumping from a window of a multi-story building) and threats. He also has a history of severe trauma and has been attacked by gang members, which reportedly put him into a coma for two days and may have resulted in a traumatic brain injury. In the past (2014), [redacted] says that he actually attempted suicide and shot himself in the head. While placed at Shiloh, he engaged in physically aggressive behavior towards his peers and staff which was unprovoked, and sexually inappropriate behavior with female staff at Shiloh.

[redacted] was prescribed medication by a board-certified child and adolescent psychiatrist who contracted with Shiloh in order to treat his extreme aggressiveness, as well as posttraumatic stress disorder (PTSD) and terrifying nightmares, paranoia, labile mood, and anxiety/depression. Notably, one of the documented goals of family therapy with [redacted] and his sponsor/mother, which was scheduled for two 45 minute sessions per month, was to understand [redacted] mental health diagnoses, symptoms, and needs. A goal for [redacted] mother in therapy was to learn about the psychotropic medication that he was prescribed by his assigned psychiatrist at Shiloh. Further, [redacted] Service Plan at Shiloh RTC specified that the minor was to be provided medication education in order to ensure that he understood what medications he was prescribed and why. Per this plan, during one medication administration daily, [redacted] was to be asked to name his medications and state why they were prescribed to him.

Following his discharge from Shiloh RTC on 4/12/2016, [redacted] was transferred directly to NOVA secure facility in order to stabilize his increasingly aggressive and defiant behavior, such as attacking a vulnerable peer and stabbing a staff member with a pencil – incidents which necessitated the administration of PRN psychotropic medication consistent with Texas law in order to calm [redacted] down. He was not transferred to Yolo secure until more than five months later on 9/25/2016 and spent several months (from June to September 2016) in the interim placed at Mercy RTC in New York. Psychiatric records from NOVA (where [redacted] was placed from April to June 2016), including a neuropsychological evaluation performed on 5/9/2016 by an independent psychiatrist, indicate that, at the time, although he was initially uncomfortable with the idea of taking medication, [redacted] believed his medication regimen to be working to improve his emotional state and he wanted to keep taking the same medications. Upon his discharge from NOVA on 6/6/2016, psychiatric records from that facility likewise reflect a recommendation that [redacted] continue to take his prescribed psychotropic medications. When he arrived at Mercy RTC the next day (6/7/2016), the psychiatrist's progress notes state that he agreed to continue to take his medications. While at Mercy RTC, [redacted] experienced suicidal ideation and engaged in self harm, actively hallucinated, as well as disclosed intrusive PTSD related memories from his harrowing trip to the United States, which necessitated an increase in the dosage of certain medications, and switching other medications.

Following his subsequent placement at Yolo secure in late September 2016, medication logs show that [redacted] assigned psychiatrist gradually added prescriptions to try new psychotropic medications and reduced the dosage for or eliminated others that [redacted] had already been taking. It was not until later in November 2016 at Yolo that [redacted] expressed that he did not want to take most of his medications (with the exception of medications for nightmares and sleeping) because he no

longer needed them. During a weekly therapy session at Yolo on 11/10/2016 just two days after stopping certain medications psychotropic medications, however, [redacted] reported to a mental health clinician that he was experiencing more nightmares, sadness, loneliness, and thoughts of harming himself by cutting. Notably, psychiatric records from Mercy RTC where [redacted] was readmitted in December 2016 show that [redacted] was prescribed additional psychotropic medications with his consent in order to better stabilize his mood and prevent psychosis, as well as lessen his exhibition of aggressive behavior.

[redacted]

When he was transferred to Shiloh RTC in June 2016 on an emergency basis, [redacted] exhibited several severe mental health symptoms such as psychosis, paranoia, and hyper-suspiciousness. [redacted] came to Shiloh not long after an acute psychiatric hospitalization in late April 2016 and had a history of bizarre catatonic and seizure-like behavior, and depression. While previously hospitalized, [redacted] had urinated on himself and attempted to shower with his clothes on. He arrived at Shiloh with several psychotropic medications which had been previously prescribed to him at SW Key Mesa, a staff-secure shelter where he had exhibited oppositional and defiant behaviors, aggression, homicidal threats, and runaway behavior. While placed at Shiloh, [redacted] engaged in physically and verbally aggressive behavior towards staff and peers, self-injurious behaviors/self-mutilation, as well as inappropriate sexualized behavior; in total he obtained 26 Special Incident Reports (SIRS) while at Shiloh for this behavior.

The board-certified psychiatrist who was assigned to [redacted] at Shiloh gradually made changes to [redacted] diagnoses based on his observations of him at Shiloh, and changed his medication regimen accordingly. As is permitted by Texas law, [redacted] also sometimes needed emergency PRN psychotropic medications at Shiloh in order to curb his highly aggressive behavior, and protect him and other minors at the facility. On at least one occasion, [redacted] *asked* for such medication in order to help control his extremely volatile mood. Each new medication or dosage change was carefully documented and explained to [redacted] who never refused to take the medication prescribed and was compliant with his regimen at Shiloh, although he did refuse further medical evaluation later after being transferred to Yolo secure. [redacted] also agreed to allow his therapist at Shiloh to inform his sponsor mother about his diagnoses and the medications that he was prescribed. The therapist spoke to the mother and provided her with psycho-education about [redacted] mental illness, and she agreed to take the minor to a psychiatrist in the community to continue his medication if he were released to her upon his discharge from Shiloh.

The treating psychiatrist at Shiloh did document side effects that [redacted] experienced such as weight gain and made further gradual medication changes in order to alleviate such side effects while continuing to treat his serious mental health symptoms effectively. [redacted] severe psychiatric symptoms such as psychotic behavior improved incrementally throughout his stay at Shiloh and the psychiatrist made different adjustments to his medication regimen up until the time of his discharge to Yolo secure in December 2016. [redacted] medical records also indicate that he had been successfully treated for pneumonia in the past but that, contrary to your letter, testing did not actually confirm that he had a history of encephalitis. A brain MRI and EEG given to [redacted] because of prior reports of "seizure-like activity" were also negative.

Of note is that records from Yolo secure indicate that [redacted] physical and verbal aggression with peers and staff persisted after his transfer to that facility in December 2016, and he regularly engaged in disruptive and defiant behavior there. He also expressed suicidal ideation and exhibited sexually inappropriate behavior. In fact, although the assigned consulting psychiatrist's progress note from 1/5/17 indicated improvement in how [redacted] felt with a reduction in his medications and stated he reported that he was calm and cooperative with Yolo staff, a psychological evaluation of [redacted] from March 2017 which details 18 separate SIRS that [redacted] received since his arrival at Yolo secure which spanned the months of December 2016 through February 2017 seems to suggest otherwise. In that evaluation, the independent licensed clinical psychologist who performed the psychological testing and reviewed various historical medical, psychiatric, and other records concluded that [redacted] moderate violence risk would likely decrease if he continued to participate in mental health treatment, including taking prescribed psychotropic medications.

Finally, we note that the cases you cite are older cases from 2016. There is no evidence that the cases are representative of a widespread problem with the medication practices that exist at facilities where ORR places UAC.

Sincerely,

James S. De La Cruz

Senior Federal Field Specialist Supervisor

Office of Office Refugee Resettlement, Division of Children's Services

Exhibit 84

REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL

Individual Service Plan – Residential Treatment

Shiloh Treatment Center, Inc.

Client's Name: [redacted] Case #: [redacted]

DOB: [redacted]03 Age: **14** Gender: **Female** Race: **Hispanic**

Language: **Spanish** Nationality: **Honduras** Alien Number: [redacted]

DOA: **12-05-17** Date of Service Plan: **12-26-17**

Estimated Length of Stay: **30 days** ISP Review Interval: **28 days**

Client Placed at Shiloh by: **Office of Refugee Resettlement Department of Unaccompanied Children**

ORR Program Type: **Subacute**

Completed by: **Erika Slater, BCBA; Juana Medina; Josephine Avila, MA, LPA**

Allergies: Drug: Ibuprofen
Food: Spicy food, fish, sour cream

Safety Precautions: [redacted] was referred to Shiloh Treatment Center for a 30-day psychiatric evaluation following: anxiety with panic attacks and fainting spells.

Safety Plan: Due to her current mental and emotional functioning, the least restrictive environment necessary to care for her needs is in a highly structured residential subacute treatment setting. She should initially have trained staff to provide one-on-one supervision to monitor her as her mood stabilizes.

Level of Supervision: Highest: 1:1
Lowest: Close Proximity

Child-care Services:

Assigned Teaching Home	Daily	Woodhouse
Medication Administration	Daily	Lena Broussard, Art Portillo and all staff
Medication Education	Daily	Lena Broussard, Art Portillo and all staff
Educational Services*	Weekdays	Shiloh School – Reach Campus George Littleton
Social Skills Training	Daily	Lena Broussard, Art Portillo and all staff
Recreation and Leisure	Daily	Chesley Sharp, Doug Manning, Alyn Aluotto, Lena Broussard, Art Portillo and all staff
Community Recreation and Leisure	Monthly	Doug Manning, Alyn Aluotto, Lena Broussard, Art Portillo and all staff
Life Skills Training	Daily	Lena Broussard, Art Portillo and all staff

Service Plan
Shiloh Treatment Center, Inc.

Client: [redacted]
Case #: [redacted]
Date: **12-26-17**

Vocational Education	Weekdays	George Littleton
Acculturation Services	Weekdays	George Littleton
Preparation for Independent Living	Weekdays	George Littleton
Sexual Health Education	Monthly	Julie Schultz, LMSW
Religious Services	Weekly	Elisandro Sanabria
Family Communication	Bi-weekly	Juana Medina, Josephine Avila, MA, LPA

Treatment Services:

Medical/Nursing Services	Ongoing	Tabatha Ketner, RN and Angelina Farella, MD
Psychotropic Medication Monitoring	Monthly	Javier Ruiz, MD
Safety Contract	As Needed	Claudia, Josephine Avila, MA, LPA, Juana Medina, Doug Manning, Alyn Aluotto
Behavioral Programming	Continuous	Lena Broussard, Art Portillo and all staff
Counseling: Individual	Weekly	Josephine Avila, MA, LPA
Counseling: Family	(Frequency)	Josephine Avila, MA, LPA
Counseling: Group	Weekly	Ana Grant, LPC-I
Case Coordination	Daily	Juana Medina, Josephine Avila, MA, LPA, Micaela Vergara, MSW, LCSW, Marjorie Victor, Nidia Murray
Discharge Planning	Ongoing	Juana Medina, Josephine Avila, MA, LPA, Micaela Vergara, MSW, LCSW, Marjorie Victor, Nidia Murray

Additional Services and Community Service Providers:

Prescription Medications	Monthly/As needed	First Choice Pharmacy
General Dental Care	90 days/Bi-Annually As needed	Marvin Rodrigue, DDS
Guardianship	Ongoing	Office of Refugee Resettlement Micaela Vergara, MSW, LCSW Federal Field Specialist 2900 Louisiana Street Houston, TX 77006 (202) 450-8917
Third Party Case Monitor	Ongoing	NIDIA MURRAY Case Coordinator Nidia Murray
Citizenship Status	Ongoing	Undocumented
Legal Representation	Ongoing	Cabrini Center
Immigration Status	Current	In removal proceedings
Sponsor	Ongoing	No viable sponsor
Sponsor Language		Spanish

Reunification Status	☒ No Sponsor Available	Note: _____
	☐ Searching for Viable Sponsor	Note: _____
	☐ Sponsor Identified	Note: _____
	☐ FRP in Process	Note: _____
	☐ FRP Completed	Note: _____
	☐ Home Study Requested	Note: _____

Service Plan
Shiloh Treatment Center, Inc.

Client: [redacted]
Case #: [redacted]
Date: **12-26-17**

☐ Home Study in Progress	Note:
☐ Home Study Completed	Note:
☐ Release Decision Pending	Note:
☐ Negative Release Recommendation	Note:
☐ Positive Release Recommendation	Note:
☐ Post-Release Services Requested	Note:
☐ Post-Release Services Provider Accepted UC	Note:

Present Level of Functioning

Intellectual Functioning: When compared to others at her age level, [redacted] Compresion de Lenguaje, Expresion oral, and Lectura skills are limited (Level 3). Her Escritura skills are very limited (Level 2). Her Habilidad para escuchar skills are negligible (Level 1).

Overall, when compared to others at her age level, [redacted] Amplia habilidad en espanol is limited (Level 3). Her Lectura-Escritura skills are limited (Level 3). Her Proficiencia de lenguaje aplicado (the ability to apply listening, speaking, reading, writing, and comprehension abilities in Spanish) is very limited (Level 2). [redacted] Lenguage oral skills are very limited (Level 2).

Developmental Functioning: Unknown, but there is little reason to suspect that there were any developmental delays or other issues with delivery or pregnancy.

Strengths and Weaknesses

Major Stressors:
Separation from family.
Frustration with lengthy reunification process.
Experiences panic attacks and fainting spells.

Major Strengths:
Has family in the US.
Good academic experience.
Resilient, insightful, and goal oriented.

Skills:
Domestic skills.
Good academic experience.
Good social skills.

Deficits/Barriers to Treatment:
No viable sponsor
Death of her mother
Poor coping skills

Triggers of Problematic Behaviors:
When she worries due to bad news about her case; when someone is yelling or raising their voices

Client's Preferred De-Escalation Methods:
Deep breathing; coloring; drawing

Service Plan
Shiloh Treatment Center, Inc.

Client: [redacted]
Case #: [redacted]
Date: **12-26-17**

Cultural Identity Needs and Acculturation Issues:
None identified.

Assessments to be Completed:
30-Day Treatment Summary due 01-04-18 by Douglas Plaeger, MA, LPC.

Exhibit 85

DECLARATION OF LORILEI ALICIA WILLIAMS

I, Lorilei Alicia Williams, declare and say as follows:

1. I am an attorney licensed to practice in the states of Texas and New York. I joined Staten Island Legal Services, part of Legal Services NYC, in January 2016 as the Immigration Unit Director.

2. From September 2012 until April 2014, I worked as a staff attorney in the unaccompanied minors program of the St. Frances Cabrini Center for Immigration Legal Assistance at Catholic Charities of the Archdiocese of Houston-Galveston. In the course of my practice I regularly represented unaccompanied juveniles detained pursuant to the Immigration and Nationality Act (INA) and housed by the Office of Refugee Resettlement of the Department of Health and Human Services (ORR) at the following detention facilities: Southwest Key Conroe, Shiloh, Southwest Key Casa Houston, Southwest Key Mesa, Baptist Children and Family Services Baytown, Catholic Charities St. Michael's, and the Children's Center in Galveston.

3. From May 2014 until January 2016, I worked as a staff attorney in the unaccompanied minors program of Catholic Charities Community Services of the Archdiocese of New York. During this period I regularly represented unaccompanied juveniles detained ORR detained at the following facilities: MercyFirst, the Children's Village, Cayuga Centers, Abbott House, Leake and

Watts, New York Foundling, the Children's Home of Poughkeepsie, the Children's Home of Kingston, Lincoln Hall, and Cardinal McClosky, among others.

4. My representation included assisting detained juveniles contest removal, seek affirmative immigration benefits such as asylum and special immigrant juvenile status, as well as seeking their release to parents or other custodians and advocating for their placement in the least restrictive setting. I have accordingly had regular occasion to observe, and am intimately familiar with, ORR's policies and practices, as well as those of United States Immigration and Customs Enforcement (ICE), toward the detention, release, and treatment of juveniles. I am also familiar with how those policies and practices have changed over time.

5. In the Houston area, Southwest Key Mesa was primarily a shelter-level facility, although it did have staff-secure beds. Shiloh was primarily a residential treatment center, although for some time it also had staff-secure beds. In New York, the Children's Village was primarily a shelter-level facility with two cottages dedicated to staff-secure beds. MercyFirst has both shelter-level beds and residential treatment center beds.

6. Children are placed in staff-secure beds if ORR determines that they require a higher level of supervision than the general population of detained immigrant and refugee youth. Staff-secure placement is more restrictive than shelter placement or placement in transitional foster care. In all aforementioned

facilities, I observed that children placed in staff-secure beds oftentimes remained at staff-secure level for several months. In a few cases, ORR released such children to sponsors or transferred them directly to a less secure long-term placement (such as ORR-funded long-term foster care or the Unaccompanied Refugee Minors (URM) program). In most cases, however, ORR required that the child earn the right to be "stepped-down" from staff-secure level to shelter level before it would release the child or transfer him or her to a long-term placement. It was common to see children detained for six months or longer in staff-secure placements.

7. ORR places children at residential treatment centers (RTCs) when it believes they need psychological or medical intervention. Most children I worked with at RTCs suffered from post-traumatic stress disorder. Many had thoughts of self-harm or suicide, or had experienced psychotic episodes. (A few had no extraordinary psychological needs, but had heightened medical conditions such as deafness, muteness, autism, or epilepsy.) Many children suffering from PTSD or other psychological trauma also had alleged criminal history closely associated with such trauma. Similar to staff-secure children, ORR would sometimes release RTC children directly from RTC, but most often would refuse to release them until they had first stepped down to a less secure placement. In both staff-secure and RTC placements, children suffered greater restrictions on their liberties, such as

being denied permission to leave the facility to attend school or recreational activities. In my experience, children in staff-secure or RTC placements also reported shelter abuses more frequently, such as excessive use of force when restraining a child, threatening children with removal, and general hostility towards the children.

8. I am informed and believe that the *Flores* settlement and § 235(c)((2) of the 2008 Trafficking Victims Protection Act (TVPRA) require ORR to place detained juveniles in the least restrictive setting that is in the best interests of the child. I am further informed and believe that the *Flores* settlement and the TVPRA require ORR to minimize the detention of juveniles by releasing them to their parents and other reputable custodians except where a particular minor is an extraordinary flight-risk or to ensure his or her safety or the safety of others. I am further informed and believe that the *Flores* settlement guarantees juveniles whom ORR refuses to release notice and a meaningful opportunity to be heard regarding the grounds for continuing to detain them. In my opinion, ORR is clearly in breach of these requirements: ORR is needlessly extending the juveniles' time in detention, placement in staff-secure beds and RTCs, and it affords detained youth little or no opportunity to examine or contest the grounds for continuing to detain them or house them in restrictive settings. The following examples illustrate ORR's policies and practices.

9. Alan Yair Cruz Mar, a 16-year-old born in Mexico, A 205 907 243, was detained by Customs and Border Protection (CBP) on August 24, 2015. Alan's father is a U.S. citizen who recognized his paternity over Alan and agreed to provide him with financial support until he turns 18, thereby making Alan a derivative U.S. citizen effective the date of his birth. A derivative citizen does not need to apply for citizenship: he or she is a citizen at birth. Alan did not know that he had this claim to citizenship until I met with him and also spoke with his father.

10. On November 6, 2015, I informed ORR and ICE that Alan was a U.S. citizen and therefore not subject to detention under the INA. ICE's Enforcement and Removal Operations (ERO) unit terminated removal proceedings against Alan during the fourth week of November because of his probative claim to U.S. citizenship and, advised ORR regarding his U.S. citizenship claim. ORR nevertheless continued to detain him for months without affording him any meaningful opportunity contest such detention and despite my best efforts to have him released to his father.

11. In an effort to have Alan released to his father, I reached out multiple times via telephone and email to David Fink, ORR's Federal Field Specialist (FFS) supervisor, and James "Jim" de la Cruz, also an FFS supervisor, both out of Washington, D.C. On multiple occasions, they simply refused to respond to inquiries regarding why Alan was being detained in lieu of release to his father. A

local FFS, Karla Mansilla, instructed me to bring up the question with ORR's legal counsel, but when I asked for their counsel's contact information, she refused to give it to me. (I considered filing a petition for habeas corpus contesting Alan's continued detention, but as explained below, I was then funded by the Vera Institute pursuant to a contract with ORR; both ORR and Vera Institute informally discourage Vera-funded lawyers from taking any legal action against ORR lest they cut off funds entirely for assisting unaccompanied minors.)

12. I successfully had Alan's removal proceedings terminated in immigration court in mid-January 2016, but it took more than a week for ORR to release Alan to his grandmother. At no time did ORR provide Alan, his father, his grandmother, or me any written explanation of its reasons for continuing to detain him. At no time did ORR present Alan for a bond redetermination hearing. At no time did ORR disclose to Alan, his father, his grandmother, or to me the evidence supporting its decision to continue Alan in detention. At no time did ORR grant Alan, his father, or his grandmother a hearing regarding the grounds for continuing to detain Alan. The most ORR could muster was to advise me informally that they did not want release Alan because they were concerned about his father's criminal history.

13. Another of my clients who suffered needless detention was William Alberto Alvarez Argaeta, A 205 298 892, from El Salvador. (William recently

passed away at the age of 14 in a fishing accident.) CBP apprehended William on December 26, 2011, when he was nine years old. ORR first detained William at the IES Harlingen Foster Program, and then at the Children's Center in Galveston, Texas. On January 4, 2012, ORR transferred him to Shiloh RTC. William was diagnosed with Attention-Deficit/Hyperactivity Disorder, Combined Type; Posttraumatic Stress Disorder; and, Bipolar I Disorder, with episodes that have been mixed, severe with psychotic features.

14. William's psychological difficulties stemmed from a long and tragic history of sexual abuse in El Salvador. He had been abandoned by extended family with whom his parents had left him, and for at least a year he lived alone, homeless, and defenseless on the streets of El Salvador; he was eight years old and easy prey for sexual predators. William's parents eventually managed to find him and arranged to have him brought to Dallas, Texas, where they lived.

15. I began representing William in October 2012. On numerous occasions he was uncooperative and exhibited clear indicia of mental illness. During this initial period of detention, William had no next-friend or child advocate, so I undertook to advocate for release to his parents. Being reunified with his parents was William's only clear wish, and I believed his parents would speak for him during removal proceedings. ORR refused to release William. As was the case with Alan, the agency refused to provide any written explanation of why a child of

such tender age and suffering from such trauma needed to be detained for more than a year when his parents were ready, willing and able to care from him and lived only a few hours away. Again, at no time did ORR present William for a bond redetermination hearing. At no time did ORR disclose to William's parents or to me the evidence supporting its decision to continue William in detention. At no time did ORR grant William or his parents any hearing regarding its reasons for continuing to detain their nine year old child.

16. ORR also appears to have done its best to insulate its decisions to continue children in detention from judicial review. When I discussed William's plight with my supervisors at Catholic Charities Houston, I was told explicitly that we could not take legal action against ORR because our Vera Institute funding to help detained children would be at risk. I determined, then, that my only recourse was to attempt to terminate William's removal proceedings on the basis of his incompetency. In January 2013, I submitted a motion to the immigration court. I also reached out to ORR and asked them if William's psychiatrist and clinician would be able to testify in court as to William's competency. I believe an individual hearing date was either for April or June 2013, but I do not recall the exact date. Some time prior to the competency hearing, ORR suddenly and without explanation released William to his parents; he had by that time spent almost a year and a half needlessly detained.

17. As the foregoing cases illustrate, in practice I have never known ORR to provide any written explanation for its decisions against releasing juveniles from staff-secure or RTC detention. In my experience, ORR affords neither detained juveniles nor their parents or other proposed custodians any transparent, meaningful opportunity to be heard on the matter of children's release, no opportunity to see, explain or rebut whatever evidence ORR believes justifies a child's continued secure confinement, or any effective way to appeal ORR's custody decisions administratively. Although ORR publishes on its website that parents may send a letter to the ACF Assistant Secretary appealing the denial, this is not communicated clearly to the parents or children. In sum, in denying juveniles' release to their parents or other caregivers, ORR provides—

- no notice of the reasons for housing them in a staff-secure or RTC facility;
- no bond redetermination or other hearing on the reasons for continuing to detain them;
- no written information regarding when or if it will reach a decision on whether to detain or release a child;
- no written information regarding when or if it will "step down" a child from a staff-secure or RTC placement to a non-secure licensed placement;

- no explanation of the right of judicial review; and

18. Although I am not a mental health professional, I have noted the deleterious effects ORR's opaque and oft-delayed release and step-down decisions have on detained youth. In both Alan's and William's cases, facility staff repeatedly encouraged my clients, their parents, and myself to believe that ORR would release my clients promptly, whereas in truth and fact the agency delayed its decisions for weeks or months, leaving children, their parents, and their lawyer twisting in the wind, awaiting a decision from on high that might or might not be favorable and that would never be explained other than in the barest of conclusory terms. In the face of such extended and faceless uncertainty, detained children—already traumatized by horrific experiences in their countries of origin—have expressed to me feeling profound helplessness and despair, to the point where they are prepared to take extreme measures, including opting for voluntary return to countries in which they know their lives and freedom will be in jeopardy, rather than continue to live day after day in ORR's detention facilities never knowing if or when they will be reunited with their families.

19. Additionally, although ORR boasts of providing free legal services to detained minors, it hobbles free legal service providers who undertake to represent detained children. While working for both Catholic Charities in Houston and in New York, I was funded by ORR to represent detained unaccompanied minors.

ORR provides such funds pursuant to the TVPRA to the VERA Institute of Justice, which then sub-contracts with nonprofit legal service organizations to provide direct legal services to ORR detainees, among others.

20. In cases where ORR insisted upon detaining children for unusually long periods of time, pursuing relief in federal court was not an option, so my only recourse was to maintain open communication with shelter staff and ORR personnel in the hopes that a positive long-term stakeholder relationship would work to detained children's benefit. On more than one occasion, shelter staff and I strategized together on how to persuade ORR to release a child, but these measures were no substitute for a fair and transparent procedure by which detained children and their parents could understand and test the government's case for refusing release.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5 day of August, 2016, at Staten Island, NY.

Rachel W W Granfield
Notary Public, State of New York
No. 02GR6333769
Qualified in Richmond County
My Commission Expires 11-20-19

Lorilei Alicia Williams

/// Rachel W W Granfield

Exhibit 86

DECLARATION OF MEGAN STUART

I, Megan Stuart, declare and say as follows:

1. I am an attorney licensed to practice in the state of New York. Since 2011, I have been employed by the Urban Justice Center and work for the Peter Cicchino Youth Project ("PCYP")

2. The Peter Cicchino Youth Project provides free civil and immigration legal services to homeless and incarcerated youth under 25 in New York, with a particular focus on LGBTQ youth. PCYP works to interrupt cycles of poverty and criminalization that prevent homeless and street-involved young people in New York City from living their lives to the fullest. We do so by providing holistic, client-centered legal services and case management. PCYP operates legal clinics in drop-in centers and youth programs where homeless youth congregate to access food, showers, laundry, medical care, social services, and community. To meet the needs of undocumented youth, we have partnerships with service providers and community activists who are able to connect homeless immigrant youth with us.

3. My immigration practice involves representing clients in a wide array of affirmative immigration applications, including Special Immigrant Juvenile Status, U Visas, Asylum, Green Card replacements, adjustment

of status and naturalization as well as defensive applications for clients in removal proceedings.

4. PCYP clients are a mix of young people who were brought here as children or who fled their home country because of sexual orientation/gender identity-based persecution. Some of these clients have had no contact with immigration, while others are in removal proceedings and homeless.

5. In the course of my practice I have represented unaccompanied juveniles detained pursuant to the Immigration and Nationality Act (INA) and housed by the Department of Health and Human Services' Office of Refugee Resettlement (ORR) at Children's Village, Union County Juvenile Detention Center, Shenandoah, NOVA and Sandy Pines.

6. My representation of these youth includes both advocacy for release from detention and placement in the least restrictive setting possible as well as immigration representation, including applications for various immigration benefits and defense in removal proceedings.

7. Through this work, I have had regular occasion to observe, and am accordingly familiar with, the policies and practices of the ORR and United States Immigration and Customs Enforcement (ICE), toward the detention, release, and treatment of juveniles detained at Children's

Village and Union County, which I am informed and believe are generally representative of ORR policies and practices nationwide.

8. The Union County facility in New Jersey and NOVA in Virginia, are secure detention facilities for adjudicated juvenile delinquents; to my knowledge, these facilities are neither licensed nor suited to house dependent, non-delinquent minors. The facilities are surrounded by a secure perimeter fence, and ingress and egress take place through sally ports. To my knowledge, juveniles detained at Union County and NOVA are never allowed outside the facility. Schooling takes place inside the locked gates of the facility; visitation is rare and tightly regulated.

9. In sum, juveniles held at the Union County facility live under palpably prison-like conditions, and those placed there by ORR or ICE are treated little differently from the adjudicated delinquents with whom ORR and ICE detainees are wholly commingled and have regular daily contact.

10. I am informed and believe that pursuant to the 2008 Trafficking Victims Protection Act (TVPRA) as well as the 1997 settlement in *Flores v. Lynch*, No. 85-4544 (C.D. Cal.), neither ORR nor ICE is permitted to place minors in secure juvenile facilities unless no less restrictive alternative is available and appropriate under the circumstances.

11. I am further informed and believe that the *Flores* settlement requires ORR and ICE to minimize the detention of juveniles by releasing them to their parents and other reputable custodians except where a particular minor is an extraordinary flight-risk or to ensure his or her safety or the safety of others. In light of what I have observed in the abovementioned facilities, I believe ORR and ICE are clearly in breach of these requirements.

12. In multiple cases of youth detained in these facilities, I have advised ORR of the availability of less restrictive placements, including release to parents, guardians, or other appropriate custodians, yet in my experience ORR generally ignores such alternatives or rejects them without providing detained children, their parents or other proposed custodians, or their counsel a coherent explanation of why it believes release would be inappropriate, nor does ORR provide any meaningful opportunity to examine, much less explain or rebut, any evidence it may have to support having denied children's release. At best, ORR's policies and procedures for determining whether to release a juvenile are ad hoc and adhere neither to accepted standards of due process in immigration proceedings nor to those accepted in the context of child welfare.

13. In my experience, ORR never provides a child denied release (i) a written explanation for refusing to release the minor from either Union County or Children's Village facility; a bond redetermination hearing before an immigration judge; a Form I-770; an explanation of the child's right to seek judicial review of ORR's release or placement decisions; or a list of free legal services providers. In effect, ORR affords detained juveniles no meaningful opportunity to be heard on the matter of their release, to see or explain any evidence ORR believes justifies their continued secure confinement, or to appeal ORR's custody or placement decisions administratively.

14. Among my clients whose experience is illustrative of the foregoing are E.S., Roberto Montealegre, and Sandra Igihozo.

15. Sandra Igihozo is a now 20- year-old native and citizen of Rwanda and a member of the class protected under the *Flores* settlement, who was previously detained at the Children's Village in New York.

16. Sandra, who had a stable middle-class childhood, fled Rwanda after she was tortured because of her sexual orientation. During her journey to join her family in Canada, Sandra was sexually assaulted.

17. Sandra was taken into custody by CBP in July 2013, and was placed at Children's Village a few days later. She entered ORR care pregnant and

without family in the United States. In July 2013, ORR determined that Sandra would be detained in lieu of release on bond, recognizance, supervision or parole. In October 2013, I requested that the immigration court review ORR's no-release decision and the $20,000 bond set before her transfer to ORR. In a decision dated October 31, 2013, and affirmed December 19, 2013, the immigration court declined to redetermine bond because she believed that she only had jurisdiction over certain custody determinations made by the Attorney General, and not the Office of Refugee Resettlement. Sandra accordingly remained detained. A true and correct copy of this decision is attached as Exhibit A to this declaration.

18. During the pendency of the Bond redetermination motion, I also made a request on October 2, 2013 for ORR to release Sandra into the custody and care of a licensed youth shelter that had agreed to provide her foster care until her 21st birthday. On October 24, 2013, ORR field specialist Elcy Velez denied this request, advising via email that "ORR has no plans to release Sandra at this time." ORR provided no explanation for its decision, nor did it disclose—much less allow Sandra to explain or rebut—any evidence it may have had to support its decision. A true and correct copy of my request and ORR's denial thereof are attached as Exhibit B to this declaration.

19. Between October and December 2013, I made several additional requests to ORR for Sandra to be released so that she could enter foster care, all of which were denied without any explanation of the reasons for the decision, the standards employed, or the evidence upon which the decision was based.

20. Sandra remained in ORR custody until January 10, 2014, 20 days before her 18th birthday. I believe the threat of a habeas petition is what motivated ORR and the Attorney General to release Sandra into URM care, though ORR never offered any explanation for reversing its decision to detain Sandra.

21. Despite the stress that months of detention imposed on Sandra and her child, Sandra was eventually able to become a Legal Permanent Resident.

22. In my experience, the Vera-funded legal service providers seem reluctant to aggressively advocate or take legal action when ORR refuses to release a minor or places them in an overly restrictive setting.

23. Although most Vera-funded providers are personally committed to representing immigrant youth with the utmost vigor, the current funding structure deters many from zealously advocating for unaccompanied minors with respect to ORR's often arbitrary detention decisions.

24. Though I am uniquely situated in terms of capacity and expertise to represent youth in ORR detention, I have been told that because of my advocacy for my clients, Vera-funded providers are not to refer cases to me, or risk losing their funding.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of August 2016.

Megan Stuart

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
26 FEDERAL PLZ 12TH FL.,RM1237
NEW YORK, NY 10278

URBAN JUSTICE CENTER
123 WILLIAM STREET 16TH FL.
NEW YORK, NY 10038

IN THE MATTER OF
IGIHOZO, SANDRA

FILE A 205-710-232

DATE: Oct 31, 2013

__ UNABLE TO FORWARD - NO ADDRESS PROVIDED

__ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO: BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
5107 Leesburg Pike, Suite 2000
FALLS CHURCH, VA 20530

__ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
26 FEDERAL PLZ 12TH FL.,RM1237
NEW YORK, NY 10278

__ OTHER: _____

_____
COURT CLERK
IMMIGRATION COURT

FF

CC: DISTRICT COUNSEL, NYC DISTRICT
26 FEDERAL PLAZA, ROOM #1130
NEW YORK, NY, 10278

Ex A1

U.S. Department of Justice

Executive Office for Immigration Review
Immigration Court

26 Federal Plaza, 12th Floor Room 1237
New York, New York 10278

File: A205 710 232 - New York

---x

In the Matter of
IGIHOZO, Sandra
Respondent.

In Removal Proceedings

---x

On behalf of Respondent:
Megan Stuart, Staff Attorney

On behalf of DHS:
Fen Lu, Assistant Chief Counsel

Decision on Motion for Bond Redetermination

The respondent is a seventeen year old, female, who is a native and citizen of Rwanda. She is alleged to have entered the United States upon presentation of a false passport in an assumed name on or about July 13, 2013 at Dulles International Airport. On or about July 29, 2013, she was apprehended by U.S. Border Patrol Agents near the Canadian border. She explained to the agents that she was attempting to enter Canada. She was placed in custody and served with a Notice to Appear on that date. On the following day, she was served with Form I-286, informing her that DHS had made a determination that she be released from custody under bond in the amount of $20,000.[1]

The respondent was previously before Immigration Judge Gabriel C. Videla when, through counsel, she indicated she wished a bond redetermination. Judge Videla instructed counsel to file the motion by October 9, 2013, and the Department to reply by October 17, 2013. The Department did not respond. On October 17, 2013, the matter was assigned to me for consideration. I granted the Department an extension to respond, and they have filed a memorandum in opposition to the respondent's motion. The respondent has replied to that memorandum in opposition.

As more fully described in her pending motion, the respondent was forced to flee Rwanda after she was detained by the police and threatened with death when her sexual orientation

[1]The Record of Proceeding does not include Form I-286. However, respondent has supplied a copy of such document (Exhibit C to Reply to DHS Opposition), and the Form I-213 (Exhibit B to Emergency Motion filed by respondent) confirms that such determination was made at the time of her apprehension. Respondent indicated on Form I-286 that she requested a redetermination of this custody decision by an immigration judge.

(lesbian) was discovered. Her mother made arrangements with a step-cousin to take the respondent to Canada, where she has family. Unfortunately, en route to the United States, she was raped by her step-cousin. In the United States, she sought to escape from him and took a cab to the US-Canadian border where she was apprehended and these proceedings were initiated. [2] The respondent asserts that she is pregnant as a result of the rape by her step-cousin, and is due to deliver a child approximately one month after her 18th birthday.

Respondent is currently housed at Children's Village in Dobbs Ferry, New York. She asserts that she is not comfortable in that setting, has no educational opportunities there, and most of the children are much younger than she is. In Rwanda, she had completed most of her high school education and speaks three languages. She has presented documentation to show that she has been accepted into the Safe Horizon's Streetwork Project, and has offered a "detailed release plan" written by that office's social worker. However, the Office of Refugee Resettlement ("ORR"), through its Federal Field Specialist, Elcy Valdez, has declined to allow such placement and informed counsel for respondent, as recently as October 24, 2013, that it has "no plan to release Sandra at this time."

Respondent asserts that the immigration judge has authority to order the release of the respondent. DHS asserts that it does not. I have carefully considered the memoranda and evidence, and arguments made by both sides and have concluded that an immigration judge has authority to review the decision of the DHS with respect to determinations relating to bond, but that it has no authority to interfere with the care and custody of the minor child as determined by ORR.

The respondent has offered an unreported decision of the Board of Immigration Appeals to support her position. That decision is supportive of my conclusion that I continue to have jurisdiction with respect to bond, and could order the $20,000 bond reduced or that she be released on conditional parole, but I can not require the Office of Refugee Resettlement to make any particular determination regarding the placement of the respondent. The Immigration Judge's authority to determine conditions of custody under 8 C.F.R. 1236.1(d) extends only to certain custody determinations by the Attorney General, not the Office of Refugee Resettlement. I have no authority under the Homeland Security Act of 2002 to order the ORR to provide any particular custody arrangements, or to require them to provide reasons for their custody decisions. The Director of ORR is charged with "coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status." 6 U.S.C. 279(b)(a)(A). The Director has jurisdiction to make placement determinations, but that does not strip jurisdiction from the Immigration Judge to determine if custody is warranted in the first place. Clearly, the overriding consideration in separating the custody decisions made by the Attorney General from those care and custody issues determined

---

[2]The respondent asserts that her baby is due in February (about a month after her 18th birthday). The respondent claims that she was raped by her step-cousin, Didier, while in Uganda. The time-frame of these events is not clear, although it would seem that respondent became pregnant in approximately May, 2013, nine months prior to her anticipated delivery in February, 2014.

by ORR highlights the need for the expertise of those charged with the best placement of the child for the best interests of the child. The ORR has social workers and experts in these issues, whereas an immigration judge does not. In a hypothetical situation, I might conclude that a seven-year old child should not be detained in custody or be required to post a bond. However, it would be for ORR to decide where that child should be placed and by whom the child should be cared for. While I may feel quite confident, based on the representations of counsel for respondent, that the suggested placement with Safe Horizons appears suitable, apparently ORR does not, and there is no mechanism for me to override their determination as to this child's care and placement. The care of this very vulnerable child has been determined by ORR to be best served at Children's Village.

Having reached the conclusion that I lack the authority to override that determination, I note that DHS has determined that a $20,000 bond is necessary to ensure the respondent's appearance at hearings. The immigration judge does have jurisdiction to review that determination. Unless the DHS wishes to re-evaluate whether such bond, or any bond, is necessary, a hearing will be set solely for the purpose of considering that bond so that when it is determined that respondent may be placed in another setting, or she is over 18 and no longer subject to the care of ORR, the redetermination of the bond, to which she is entitled, will have been completed. The issue of the care and custody exercised by ORR will not be part of the hearing and the sole issues will be whether respondent's release would pose a danger to property or persons and whether she is likely to appear at any future proceedings.

ORDER: IT IS ORDERED that the motion for bond redetermination is Granted in part, and Denied in part.

Patricia A. Rohan
Immigration Judge

Dated: Oct. 31, 2013

THIS DOCUMENT WAS SERVED

	ALIEN/ATTY	TA'S
IN PERSON	☐	☐
VIA US MAIL	☑	☑
VIA FEDERAL EXPRESS	☐	☐

DATE 10/31/13 BY DRL CLK

U.S. Department of Justice
Executive Office for Immigration Review
Office of the Immigration Judge

File A 079 238 898

In the Matter of
Ignozo, Sandra

In Removal Proceedings

Order of the Immigration Judge

Supplemented Decision on Bond Redetermination

I hereby incorporate, in its entirety, my decision of October 31.2013. I do not believe I have authority to order the release or placement of the respondent. I would wish that I had such authority, but I do not. The DHS has withdrawn any bond requirement. It is, in my opinion, for ORR to find an appropriate placement for her as soon as possible given the respondents situation.

Date: Dec 19 2013
Place: NYC

(Immigration Judge)

2. ALIEN'S COPY

ExA2

URBAN JUSTICE CENTER

PETER CICCHINO YOUTH PROJECT

October 2, 2013

The Childrens Village
1 Echo Hills Road
Dobbs Ferry, NY 10522

Re: Pre 18 Release Plan
Sandra Igihozo, A# 205-710-232

Dear Ms. Valdez, Ms. Claudio, and Ms. Roman,

My name is Gretchen Begley and I am a Case Manager at the Peter Cicchino Youth Project ("PCYP") of the Urban Justice Center. PCYP addresses the legal needs of homeless and street involved youth. I work with the Urban Justice Center's legal team as a social service provider to help released children transition into the community and towards independence. In order to facilitate this transition, I create and carry out individualized social service and education plans.

This plan is submitted in support of Sandra's pre-18 release from Children's Village.[1] As you know, Sandra is pregnant and has no long-term federal care options which means that she is in grave danger of being discharged into homelessness on her 18th birthday and in her third-trimester of pregnancy. Our primary concern, which I know you share, is that Sandra and her child have access to the best long-term care available so that they both have a change at a safe and supported life. Given this, the best long-term option for Sandra is for her to get into State Foster Care, which requires her release from Children's Village before her 18th birthday. Additionally, given that Sandra's life will undoubtedly get more difficult as her pregnancy advances, a release as soon as possible is in her best interest.

The plan detailed below considers Sandra's: A) future housing, B) education, C) medical care and mental health, D) immigration case, E) need for identification, and F) extracurricular enrichment opportunities. Each component of this plan has been identified based upon my recent conversations with Sandra, her attorney Megan Stuart, and my experience working with numerous unaccompanied youth in New York City. This plan has been discussed with Sandra and he has agreed to participate. I have done my best to incorporate information regarding the programs and social service agencies I have identified for Sandra in order to provide context for the services available to unaccompanied children generally in the New York City area.

My proposed Plan for Sandra is as follows:

[1] Although it is certainly in Sandra's best interest to transition to foster care upon release from the Children's Village, I have been working concurrently on a pre/post18 plan for Sandra, so that, in the event Sandra does not transfer to Foster Care, his transition to the community is as smooth as possible.

ExB

A. Housing:

Independent housing opportunities for youth like Sandra in New York City, are funded by the New York Department of Youth and Community Development ("DYCD"). Generally, DYCD housing services include three separate elements: 1) Crisis Shelters, 2) Transitional Independent Living, and 3) Borough-Based Drop-in Centers.

1. Crisis Shelters: Crisis Shelters offer emergency shelter for runaway and homeless youth up to the age of 21.[2] The shelters are the **entry-point** for the DYCD's Runaway and Homeless Youth system. These voluntary, short-term residential programs provide emergency shelter and crisis intervention services aimed at reuniting youth with their families or, if family reunification is not possible, arranging appropriate transitional and long-term placements. In other words, in order for a youth to enter a transitional and long-term housing placement in New York, he or she must first begin in a DYCD "Crisis Shelter", who have the ability to make a referral.

   There are three Crisis Shelters in New York City that Sandra is eligible for: Streetworks and the Covenant House. Both programs are tasked with ensuring a youth's transition to long-term placement when other reunification options or placements do not exist. In order to ensure children transition to permanency as quickly as possible, DYCD limits the length of stay for a child in a Crisis Shelter to 30 days, with the possibility of a 30 day extension. Both Streetworks and Covenant House accept children on a first-come first serve basis, however, their intake procedures are different as follows:

   a. Streetworks (209 W. 125th. St., New York, NY 10027, Phone: 212.695.2220)
      i. I have contacted Streetworks about Sandra, and they have agreed to accept her into their crisis shelter. Letter from Streetworks, attached.
      ii. Generally, youth seeking acceptance into the Streetworks program must complete two intake interviews. The youth must come to the shelter from 10am-12pm on Monday, Tuesday, Thursday, or Friday. Streetworks only takes the first four youth who arrive on any given day for intake. It is best to arrive 15 minutes prior to the opening time. If Streetworks has a bed available once a youth completes the intake process, the youth is placed immediately. If however a bed is not available, youth are placed on the waitlist. A youth placed on the waitlist must call Streetworks daily in order to determine if and when a bed is available.

   b. Covenant House (460 W 41st St, New York, NY 10026)
      i. Covenant House will conduct an intake of a youth at any time, day or night. Youth will be placed immediately, if a bed is available. If a bed is not available, youth are referred to adult crisis shelters. Due to Urban

[2] Please note that the term "homeless and runaway" youth is broadly defined by the McKinney-Vento Act as a youth who has a primary nighttime residence a publicly or privately operated program, including transitional housing. The definition of homeless, as defined by the federal statute, is so broad that it deems children who are in ORR facilities "homeless" as well as children who are in independent living placements that provide housing to youth for years.

Justice Center's long-standing relationship with the Covenant House, we frequently communicate directly with Covenant House Legal Director Nancy Downing when a client of ours is expected to arrive for intake. [3] We have already communicated with Nancy Downing about Client's case, and she is prepared to coordinate Client's placement at the Covenant House if and when necessary.

c. Ali Forney Center ("AFC") (321 W 125th St New York, NY)
   i. AFC offers a scattered-site emergency housing program for LGBTQ youth with sites in Queens and Brooklyn. They offer temporary housing in safe, staff-supervised homelike apartments. LGBTQ youths are able to reside in our emergency housing program for up to six months while we assist them in moving on to more permanent housing. Currently AFC has 4 emergency housing apartments and a total of 49 beds.

Both the Covenant House and Streetworks provide the following services to their residents:

- Crisis Center
- Community Centers
- Street Outreach
- Transitional Housing Program
- Health Services
- Mental Health Services
- Mother & Child Programs
- Regional Training Centers
- Substance Abuse Services
- Vocational Training Institute

2. Transitional Independent Living: Transitional Independent Living (TIL) facilities provide homeless youth between the ages of 16 and 21 with support and shelter as they work to establish an independent life. As mentioned above, a young person in need of long-term residential services must first visit a Crisis Shelter and obtain a referral to a Transitional Independent Living facilities. Youth may stay in the Transitional Independent Living facilities for up to 18 months. Services offered at TILs include:

- Educational programs
- Vocational training
- Job placement assistance
- Counseling
- Basic life skills training
   a. There are three long-term programs specifically designed for pregnant and parenting teens, however to be eligible for the program a youth needs to be referred from one of the Crisis Centers.

[3] *See* *http://www.covenanthouse.org/homeless-charity/new-york*

i. Independence Inn mother-child program;
ii. Covenant House mother-child program
iii. Inwood house

3. Borough-Based Drop-in Centers: Drop-In Centers are located in each of the five boroughs of New York City, one per borough. The Drop-In Centers provide youth up to the age of 24 and their families with essentials like food, clothing and immediate shelter as well as access to counseling, support, and referrals to relevant services. Drop-In Centers are open 6 days a week. Drop-In Centers frequently have close connections to TIL programs, and in limited circumstances, may be able to conduct an intake for possible placement at a partner TIL.

B. Education:

We would like to enroll Sandra into a traditional high school. We think she would succeed in a traditional educational environment because she is fluent in English and completed all but one month of high school in Rwanda. New York Law guarantees Sandra the right to an education and once she is released, we will take her the local enrollment center so that she can be immediately placed into a high school.

C. Medical Care and Mental Health:

Upon release, we will enroll Sandra into Child's Health Plus, New York Sate's low-income insurance plan for youth. Unlike traditional Medicaid, undocumented immigrants are eligible for insurance until they turn 19. We imagine that by the time Sandra is 19, she will have immigration status, thereby becoming eligible for Medicaid.

D. Immigration Case:

Sandra and her attorney, Megan Stuart, will continue to work together on her immigration applications. Sandra is eligible for the following forms of relief, which she and Megan will peruse. I will escort Sandra to all immigration court appearances, the next of which is on October 17th at 1pm.

i. Asylum
   a. Sandra is prima facie eligible for asylum because she was persecuted in Rwanda because of her sexual orientation. Sandra is working with Megan to develop her asylum application, which will be submitted before Sandra turns 18. Because an asylum application requires Sandra to re-live an extremely traumatic period in her life, it requires several meetings between Sandra and Megan.
ii. SIJS
   a. Sandra is also prima facie eligible for SIJS. Upon release, Sandra and Megan will petition the appropriate family court for a special findings order that they can then submit to USCIS.
iii. U-Visa/T-Visa

a. Sadly, Sandra is also eligible for a U and/or T visa based upon the sexual assault from her relative who was entrusted with her care. Sandra and obtain the necessary certifications either by reporting the crime to law enforcement locally, or thu the family court. This process will be started in the next few weeks. Once the requisite certificates are obtained, Sandra and Megan will meet to write a supporting affidavit and then submit the application ASAP.

E. Identification:

We want to ensure Sandra has all needed identification. Youth under the age of 18 are able to obtain free picture identification at New York Parks and Recreation. These identifications include membership to all Park and Recreation centers in NYC, and are only free for youth under 18 years of age. Upon release, we will escort Sandra to obtain this ID. We believe the New York Parks and Recreation I.D. qualifies as a government issued I.D. because it is issued by NYC. A Parks and Recreation center is located near our offices at 80 Catherine Street. Sandra need only bring a birth certificate to become a member and obtain an I.D.

F. Extracurricular Activities:

In order to ensure Sandra is has access to extracurricular programming and additional supportive services, after her release we will assist Sandra in becoming a member of the Door and Ali Forney Center. The Ali Forney Center is a drop-in space for LGBTQ youth who provides a variety of social services as well as a place for LGBTQQ youth to congregate and socialize. The Door a comprehensive youth empowerment organization.[4] The Door provides a wide range of services to meet the needs of New York City youth aged 12-21, including, but not limited to:

College Advisement & Tutoring
The Talent Search program provides the support and guidance you need to make your way to high school graduation, college and beyond.

Counseling
Counselors are here to listen and help with a range of issues, including anger management, crisis intervention, gender identity, and much more.

Creative Arts
Regularly scheduled, free creative arts classes include a range of performing and visual arts, music and dance.

English Language (ESOL)
The Door offers a flexible schedule of classes for young people who would like to learn English.

Foster Care
If you are in foster care, The Door can provide the additional support you may need to reach your goals.

[4] *See http://www.door.org/about-door*

GED
The Door offers a variety of programs to help you get your GED and move on to a career, college or a vocational/training program.

Health & Dental Services
The Adolescent Health Center (AHC) offers comprehensive health and dental services to all Door members, regardless of ability to pay.

Jobs & Internships
Jobs & Internships programs give you the chance to explore different career paths and gain skills to help you find the right job and keep it.

Leadership
The Door offers a range of opportunities to learn key leadership skills that will help you in school, work and everyday life.

Legal & Immigration Services
The Legal Services Center provides different kinds of legal counsel, including support for immigrant youth. Services are offered in English, Spanish, Mandarin and French.

LGBTQ
The Door provides a range of programs geared towards Lesbian, Gay, Bisexual, Transgender or Questioning (LGBTQ) members.

Recreation
Games, workshops, and fitness and performance opportunities are offered on a daily basis.

Runaway and Homeless Youth
If you are homeless or have run away from home, The Door can help you find essentials like food, clothing and shelter, as well as help with your specific needs.
Sexual Health & Birth Control
The Adolescent Health Center (AHC) offers a comprehensive list of services to meet your sexual health and birth control needs.

Supportive Housing
In December of 2010, in partnership with Common Ground, The Door opened The Lee, a supportive housing building located on the Lower East Side. The Lee currently houses 55 young people living in their own apartments, often for the first time.

In sum, Sandra is quickly approaching her 18th birthday and we would like to do as much as possible to ensure that she is best situated for her transition to independent living in the community should he not have access to foster care. This requires that Sandra attend numerous appointments and we truly appreciate your help in transporting Client so that he can have the best chance possible upon release from the Children's Village.

I look forward to working with you. Thank you for your assistance.

Sincerely,

Gretchen Begley, MSW
Case Manager

COVENANT HOUSE NEW YORK
460 WEST 41ST STREET, NEW YORK, N.Y. 10036 • (212) 613-0300

December 18, 2013

Megan Stuart
Staff Attorney
Peter Cicchino Youth Project
Urban Justice Center
123 William Street, 16th Floor
New York, NY 10038

RE: Sandra Igihozo (DOB: 01/30/1996)

Dear Attorney Stuart,

This will confirm that Covenant House New York will accept Sandra Igihozo into our Crisis Center Program. We are aware that Sandra is a minor and we will provide for her essential needs during her stay at Covenant House. She will be placed in our Mother/Child program located at 427 West 52nd Street, New York, NY 10019. Covenant House is a crisis intervention center for homeless and runaway youth, under 21 years of age. We provide shelter, food, clothing, as well as a number of services including medical services, counseling services, employment and education services. Caseworkers and a case manager work with each youth to develop a case plan, and to help each youth meet his/her goals with the longer term goal of becoming a self-sufficient adult. If Sandra is in need of services that we do not offer, we will work with her to obtain services through an outside agency.

Please be advised that because we are a licensed Runaway and Homeless Youth Program (licensed by NYS Office of Children and Family Services), we provide all services and must act in accordance with the New York State Runaway and Homeless Youth Act and the relevant Runaway and Homeless Youth Regulations.

Please feel free to contact me should you need any additional information. We look forward to having Sandra Igihozo in our Crisis Center Program, and assisting her in any way possible. Thank you for your kind assistance in this matter.

Sincerely,

Nancy Downing
Director of Advocacy/Legal Services

ExC

US Department of Health and Human Services

Sponsor's Agreement to Conditions of Release

OFFICE OF REFUGEE RESETTLEMENT
Division of Unaccompanied Children's Services

Name of Minor: Sandra Igihozo	**Minor A #:** 205-710-232
Aliases (if any):	**FINS #:**
Name of Sponsor: Covenant House New York/Under 21, Inc.	**Date:** 12/18/13

Pursuant to Section 462 of the Homeland Security Act, the Office of Refugee Resettlement (ORR) will place the above-named minor into your care and custody, provided that you, as the minor's custodian, agree to:

- Provide for the physical, mental, and financial well-being of the minor.
- Ensure the minor's presence at all future proceedings before the Department of Homeland Security (DHS)/Immigration and Customs Enforcement (ICE) and the Executive Office for Immigration Review (EOIR).
- Ensure the minor reports for removal from the United States if so ordered.
- Notify DHS/ICE and EOIR within (5) five days of any change of residence.
- Notify DHS/ICE at least (5) five days prior to your own departure from the United States and indicate whether the departure is voluntary, pursuant to a grant of voluntary departure, or an order of removal.
- Notify DHS/ICE if dependency proceedings involving the minor are initiated and also notify the dependency court of any immigration hearings pending against the minor.
- Receive written permission from DHS/ICE if you decide to transfer custody of the minor to another person. Please note that in the case of an emergency (serious illness, destruction of home, etc), you may temporarily transfer physical custody of the minor to another person prior to securing permission from ICE, but you must notify ICE as soon as it becomes practical and no later than (72) seventy-two hours.
- Notify DHS/ICE as it becomes practical and no later than 72 hours of your learning that the minor has disappeared, has been threatened, or has been contacted in any way by an individual or individuals believed to represent an alien smuggling syndicate or organized crime.

I Understand that release of the above-named minor from the Office of Refugee Resettlement to my custody does not grant the minor any legal immigration status and that the minor must present himself/herself for immigration court proceedings.

Check the circle that applies:

- ○ **I received a copy of the above-named minor's Notice to Appear, DHS Form I-862 (NTA).**
- ● **I was not provided a copy of the above-named minor's Notice to Appear, DHS Form I-862 (NTA).**

Sponsor's Agreement to Conditions of Release

I hereby acknowledge that I have read/had explained to me in my own language, and agree to these conditions of release of the above named minor into my custody. I further understand that DHS/ICE may refer the minor to ORR, and ORR may resume custody if I do not comply with the conditions of the release agreed to in this form.

Nancy J. Downing Director of Advocacy/Legal for Covenant House New York/Under 21, Inc. — *Signature of Sponsor*

12/18/13 — *Date*

Notary Seal:

Subscribed to before me this 18th day of December, 2013.
Alice Obida

ALICE OBIDA
Notary Public, State of New York
No. 31-4667734
Qualified in New York County
Commission Expires 8-23-14

Sponsor's Agreement to Conditions of Release, Rev. 3/21/05
ORR R-420
[OMB 0970-0278, valid through 06/30/2008]

OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
SPONSOR CARE AGREEMENT

Name of Minor:	Sandra Igihozo	**Minor A #:**	205-710-232
Aliases (if any):		**Minor DOB:**	01/30/1996
Name of Sponsor:	Covenant House New York / Under 21, Inc	**Date:**	12/18/13

You have applied to the Office of Refugee Resettlement (ORR) to sponsor an unaccompanied alien child in the care and custody of the Federal Government pursuant to the Flores v. Reno Stipulated Settlement Agreement, No. 85-4544-RJK (Px) (C.D. Cal., Jan. 17, 1997), Section 462 of the Homeland Security Act of 2002 and Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. If your sponsorship application is approved, you will receive an ORR *Verification of Release* form and will enter into a custodial arrangement with the Federal Government in which you agree to comply with the following provisions while the minor is in your care:

- Provide for the physical and mental well-being of the minor, including but not limited to, food, shelter, clothing, education, medical care and other services as needed.
- If you are not the minor's parent or legal guardian, make best efforts to establish legal guardianship with your local court within a reasonable time.
- Attend a legal orientation program provided under the Department of Justice/Executive Office of Immigration Review (EOIR)'s Legal Orientation Program for Custodians (Sponsors), if available where you reside.
- Depending on where the minor's immigration case is pending, notify the local Immigration Court or the Board of Immigration Appeals within five (5) days of any change of address or phone number of the minor, by using an Alien's Change of Address form (Form EOIR-33). In addition if necessary, file a Change of Venue motion on the minor's behalf. The Change of Venue motion must contain information specified by the Immigration Court. Please note that a Change of Venue motion may require the assistance of an attorney. For guidance on the "motion to change venue," see the Immigration Court Practice Manual at http://1.usa.gov/e0H9zL. For immigration case information please contact EOIR's immigration case information system at 1-800-898-7180. Visit EOIR's website for additional information at: http://www.justice.gov/eoir/formslist.htm
- Notify the Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services) within ten (10) days of any change of address, by filing an Alien's Change of Address Card (AR-11) or electronically, at http://1.usa.gov/Ac5MP
- Ensure the minor's presence at all future proceedings before the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR. For immigration case information, contact EOIR's case information system at: 1-800-898-7180.
- Ensure the minor reports to ICE for removal from the United States if an immigration judge issues a removal order or voluntary departure order. The minor is assigned to a Deportation Officer for removal proceedings.
- Notify local law enforcement or your state or local Child Protective Services if the minor has been or is at risk of being subjected to abuse, abandonment, neglect, or maltreatment or if you learn that the minor has been threatened, has been sexually or physically abused or assaulted, or has disappeared. Notice should be given as soon as it becomes practicable or no later than 24 hours after the event or after becoming aware of the risk or threat.

- Notify the National Center for Missing and Exploited Children at 1-800-843-5678 if the minor disappears, has been kidnapped, or runs away. Notice should be given as soon as it becomes practicable or no later than 24 hours after learning of the minor's disappearance.
- Notify ICE if the minor is contacted in any way by an individual(s) believed to represent an alien smuggling syndicate, organized crime, or a human trafficking organization. Provide notification as soon as possible or no later than 24 hours after becoming aware of this information. You can contact ICE at 1-866-341-2423.
- In the case of an emergency (serious illness, destruction of home, etc), you may temporarily transfer physical custody of the minor to another person who will comply with the terms of this *Sponsor Care Agreement.*
- If you are not the child's parent or legal guardian, in the event you are no longer able and willing to care for the minor and unable to temporarily transfer physical custody, and the minor meets the definition of an unaccompanied alien child, you should notify ORR at 202-401-5709.
- The release of the above-named minor from the Office of Refugee Resettlement to your care does not grant the minor any legal immigration status and the minor must present himself/herself for immigration court proceedings.

OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
LETTER OF DESIGNATION FOR CARE OF A MINOR

The Office of Refugee Resettlement (ORR) takes custody of unaccompanied alien children ("UAC") referred by a Federal entity pursuant to the Flores v. Reno, Stipulated Settlement Agreement, No. 85-4544-RJK (Px) (C.D. Cal., Jan. 17, 1997), Section 462 of the Homeland Security Act of 2002, and Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. ORR has authority under the law to transfer custody of a UAC to a sponsor. Your child has been classified as a UAC pursuant to the Homeland Security Act of 2002 §462(g)(2). ORR strongly encourages parents and legal guardians to designate a sponsor for their child. In the event that you are unavailable to sponsor your child, ORR asks that you designate a sponsor to care for your child (subject to ORR's approval).

I/We are the parent(s) or legal guardian(s) of, Sandra Igihozo *(name of child)*, **born on** 01, 30, 1996. *(MM/DD/YYYY)*

I/We designate, Covenant House New York/Under 21, Inc. *(name of sponsor)*, **to sponsor our child.**

I consent that the above named sponsor may:

- Have temporary care-giving authority for my child, until such time as my child is returned to my physical custody; or his/her custody status is altered by a Federal, State, or local agency; or changed by a court of law
- Provide for medical, dental, and mental health care for my child
- Provide for my child's physical and mental well-being, including but not limited to providing, food, shelter, and clothing
- Enroll my child in school
- Temporarily transfer physical custody of my child in the event of an emergency (serious illness, destruction of home, etc.) to another person who will comply with the *Sponsor Care Agreement.*

Name of parent(s) or legal guardian(s) signing the form	(1)_____ (2)_____	
If one of the child's biological parents or other legal guardian is unable to consent please check why	☐ Deceased ☐ Abandoned child ☐ Child's other parent/legal guardian resides in another location *(ORR may send them a separate copy of this form to sign)*	☐ Mentally or physically unable to give consent ☐ No longer has legal custody of child ☐ Other *(ORR may request an explanation)*
Address of parent(s) or legal guardian(s) signing the form		
Parent(s) or legal guardian(s) signature*	(1)_____ (DATE) (2)_____ (DATE)	

*** Please note that by signing this form you are NOT terminating your parental or guardianship rights to your child. You maintain legal custody over your child pursuant to relevant Federal and State law. ORR encourages you to stay in close contact with your child and the child's sponsor in order to help make decisions for the child's care and for medical, educational, and other service. Please also note that if you do not designate a sponsor, ORR may transfer custody of your child to a sponsor identified by ORR.**

NOTARY SEAL:

URBAN JUSTICE

Urban Justice Center
123 William Street, 16th Floor, New York, NY 10038
Tel: (646) 602-5600 • Fax: (212) 533-4598
www.urbanjustice.org

December 9, 2013

Office of Refugee Resettlement
Department of Health and Human Services
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447
Via email to:
Elcy Valdez Elcy.Valdez@acf.hhs.gov
David Fink David.Fink@ACF.hhs.gov

Re: IGIHOZO, Sandra
A 205-710-232

Dear Elcy and David:

I am writing today to demand the release of Sandra Igihozo by **Friday December 13, 2013.**

As you are well aware, a pre-18 release will allow Sandra to access state-foster care, which is the only way for Sandra to receive the care and support she needs to successfully transition into motherhood and adulthood. Foster care will ensure that Sandra receives the supportive services she needs to develop healthy coping skills for the traumatic events she suffered in Rwanda; on her journey to safety in the United States and the continued uncertainty that plagues her detention here in New York.

If Sandra is not released before her 18th birthday, she will face one of two brutal futures while she applies for lawful status. Upon her 18th birthday, Sandra will either be taken into ICE custody and placed in adult detention, or released from ORR and discharged into homeless while in her third trimester of pregnancy. The second possibility forces Sandra to survive without access to food, clothing, shelter and medical care. Both of these futures are bleak for both Sandra and her unborn child and place her health and life in imminent risk of harm.

Accordingly, I write to demand that Sandra be released to Covenant House, Streetworks or the Children's Village Sanctuary Program, all state-licensed programs. As outlined in the pre-18 release plan previously submitted, upon release, our social worker will facilitate Sandra's transition into foster care and will provide all other necessary social services. Failure to release Sandra violates the terms of the *Flores* settlement, which states that "[ORR] shall release a minor from its custody without unnecessary delay…"

ExD

URBAN JUSTICE
Urban Justice Center
123 William Street, 16th Floor, New York, NY 10038
Tel: (646) 602-5600 • Fax: (212) 533-4598
www.urbanjustice.org

In the alternate, I write to demand that you cease the unlawful detention of Sandra by Friday, December 13th. In our previous conversations, ORR and ICE have taken the position that Sandra is in the sole legal and physical custody of ORR. If this is true, then ORR has no authority to *detain (*rather than *care for*) Sandra. *See* Homeland Security Act § 462(b)(A)-(L), 6 U.S.C.A. § 279(b)(1)(A–L). According to the act, being in DHS custody is a statutory prerequisite for ORR's detention authority over unaccompanied children.

If you have any questions, please do not hesitate to contact me at 646-602-5643 or via email at mstuart@urbanjustice.org.

I look forward to your response,

Megan Stuart
Attorney for Sandra Igihozo

Cc:
Toby Biswas Toby.Biswas@ACF.hhs.gov

Exhibit 87

DECLARATION OF CARLOS HOLGUIN

I, Carlos Holguín, declare and say as follows:

1. I am one of two attorneys who currently serve as class counsel for Plaintiffs in *Flores v. Sessions*. I execute this declaration in support of plaintiffs' motion to compel the Office of Refugee Resettlement of the U.S. Department of Health and Human Services to comply with the *Flores* settlement.

2. Pursuant to ¶¶ 28 and 29 of the *Flores* settlement, ORR provides class counsel with monthly statistical reports on class members in its custody.

3. ORR's reports indicate that it currently houses class members in three juvenile jails: Yolo County Juvenile Hall in California, and Shenandoah Valley Juvenile Center ("SVJC") and Northern Virginia Juvenile Detention Center ("NoVA") in Virginia.

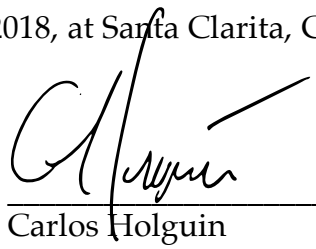
4. The statistical reports identify class members released to custodians from the various facilities in which ORR detains class members. From my review of these reports, it appears that at any given time ORR detains about 40 class members in residential treatment centers ("RTC"), about 50 class members in juvenile halls, and about 115 in staff-secure facilities.

/ / /

5. ORR's data do not include the average length of stay for youth housed in the different types of facilities. However, ORR's statistical report for December 2017, indicates it released one class member to a custodian from Shenandoah Valley Juvenile Center, one to a custodian from Yolo Juvenile Hall, and none to a custodian from Northern Virginia Juvenile Detention Center. According to its December 2017 statistical report, ORR released one class member to a custodian from MercyFirst RTC, and one to a custodian from Shiloh RTC.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of April, 2018, at Santa Clarita, California.



Carlos Holguin

/ / /

Exhibit 88

REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL

OFFICE OF REFUGEE RESETTLEMENT
Division of Children's Services
AUTHORIZATION FOR MEDICAL, DENTAL, AND MENTAL HEALTH CARE

The Department of Health and Human Service (HHS), Office of Refugee Resettlement (ORR), Division of Children's Services (DCS) is responsible for coordinating and implementing the care and custody of the following minor pursuant to section 462 of the Homeland Security Act of 2002 (6 U.S.C. §279):

Minor's Name: [redacted] Alien Number: [redacted]

Date of Birth: [redacted]2000 Nationality: El Salvador

ORR hereby Authorizes , hereinafter "care provider," to arrange medical, dental, and mental health care for said minor under the following terms and conditions:

care provider : Shenandoah Valley Juvenile Center

1. Licensing and Reimbursement

•All medical, dental, or mental health services for the minor will be by a State licensed provider

•The licensed medical, dental, or mental health provider must be willing to accept the Medicare reimbursement rate, payment on a fee for service basis, or to provide services for no fee.

2. Authorization and Notification

•The care provider shall secure authorization from ORR before consenting to any non-emergency medical, dental or medical health services; except for initial medical screening.

•The care provider shall consent to the provision of emergency treatment recommended by a licensed medical, dental, or mental health provider. The care provider shall notify ORR of the emergency immediately following treatment if possible, or within 24 hours after the initial incident.

•Significant surgical or medical procedures require heightened ORR involvement. Please refer to ORR instructions and procedures on medical services requiring heightened ORR involvement in these special cases.

•Minors have the right to be tested for HIV or other sexually transmitted diseases; the care provider shall ensure the minor receives the test(s) as requested.

•The care provider is authorized to dispense over-the-counter medications and prescription

3. Medical and Dental Exams/Screenings

•Minors in care shall receive a medical exam within 48 hours of placement in a care provider program, unless the minor obtained a medical exam within one calendar year and while under the care of another ORR-funded care provider.

•Minors in care shall also receive an initial dental examination within 90 days of placement, but no sooner than their 30th day in the custody of ORR.

4. Immunizations

•The care provider shall ensure that all minors in care receive necessary immunizations.

•Females 10 years or older must undergo a quantitative blood pregnancy test, with the minor's consent, before being administered any immunization.

5. Medical, Dental, and Mental Health Records/Confidentiality

•Care providers shall (1) obtain copies of all screenings, exams, or testing performed on a minor in care, signed by the licensed health care professional, (2) provide copies to ORR, when requested, and (3) ensure that medical records are maintained in the minor's file.

•All records maintained by the care provider in reference to the minor's health care are the property of ORR. Care providers may not release health information about the minor to any individual or organization without prior express authorization of ORR, except in the following instances: to the minor's educational program or medical, mental health, dental, and other service providers to the extent that the information is needed for the minor's education, recreation, social development,

Case manager Signature - Authorized Representative of Care Provider	07/31/2017 Date	(540) 886-0729 x.118 Telephone Number
Signature - Official Representative **Office of Refugee Resettlement** **Administration for Children and Families**	07/31/2017 Date	202-401-5709 Telephone Number

1. "Immunizations and Pregnancy Testing," April 2, 2008. http://www.acf.hhs.gov/programs/orr/programs/ORRPolicy4208.pdf

Exhibit 89

I, CARTER WHITE, declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I am the Director of the Civil Rights Clinic at the University of California Davis School of Law.

3. On November 20 and 21, 2017, I visited Shiloh Treatment Center as part of a visit to the facility by *Flores* counsel pursuant to ¶ 32 of the *Flores* Settlement Agreement.

4. Attached to this declaration is a true and correct copy of the Shiloh Treatment Center Consent to Medical Care Form that Shiloh staff gave us during that visit.

5. During that visit, we met with several Shiloh staff members. They informed us that, for children in ORR custody, these Shiloh Treatment Center Consent to Medical Care Forms are signed by Shiloh staff members as the "Parent, Guardian, or Conservator," and are not signed by the child's parent, family member, or potential sponsor.

6. Under my supervision, UC Davis students have reviewed the files of a significant number of children in ORR custody. To my knowledge, none of the students have ever found a medical consent form in the file of a child in ORR custody that was signed by the child's parent, family member, or potential sponsor.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 14th day of April, 2018, at Richmond, California.

Carter White

CARTER WHITE

Affidavit Authorizing

Consent to Medical Care
Consent to Administer Prescription Medications
Consent to Administer Non-prescription (OTC) Medications

State of TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared

_____ , who after being duly sworn by me, on his/her oath did say
Parent, Guardian, or Conservator Name

I am _____ and I am the _____
Parent, Guardian, or Conservator Name **Relationship to Client**

of _____ , who is in the care of Shiloh Treatment Center.
Client Name

If at any time such child or ward of mine should require medical or related care while in the care of Shiloh Treatment Center (Shiloh), I consent to the administration of necessary medical or related care, including any appropriate medications, and authorize any approved representative of Shiloh to give consent to any doctor, emergency medical service, hospital, or other medical facility to provide medical or related care to such child or ward. I further give my permission for Shiloh to administer such medications that may be prescribed or recommended by medical personnel treating my child or ward. I understand that I will be notified about medical care and the prescription of medication.

_____
Signature of Parent, Guardian, or Conservator

SWORN TO AN SUBSCRIBED before me, the ____ day of _____ ,20 ____

_____
Signature of Notary Public

_____
Printed Name of Notary Public

Notary Public for: _____
County