

1 JEFFREY BOSSERT CLARK  
2 Acting Assistant Attorney General

3 WILLIAM C. PEACHEY  
4 Director

5 Office of Immigration Litigation  
6 WILLIAM C. SILVIS  
7 Assistant Director

8 Office of Immigration Litigation  
9 SARAH B. FABIAN  
10 Senior Litigation Counsel

11 NICOLE N. MURLEY  
12 Senior Litigation Counsel  
13 Office of Immigration Litigation

14 U.S. Department of Justice  
15 Box 868, Ben Franklin Station  
16 Washington, D.C. 20044  
17 Telephone: (202) 532-4824  
18 Fax: (202) 616-8962

19 ADAM L. BRAVERMAN  
20 United States Attorney  
21 SAMUEL W. BETTWY  
22 Assistant U.S. Attorney

23 California Bar No. 94918  
24 Office of the U.S. Attorney  
25 880 Front Street, Room 6293  
26 San Diego, CA 92101-8893  
27 619-546-7125  
28 619-546-7751 (fax)

*Attorneys for Federal Respondents-  
Defendants*

Lee Gelernt\*

Judy Rabinovitz\*

Anand Balakrishnan\*

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION

125 Broad St., 18th Floor  
New York, NY 10004

T: (212) 549-2660

F: (212) 549-2654

*lgelernt@aclu.org*

*jrabinovitz@aclu.org*

*abalakrishnan@aclu.org*

Bardis Vakili (SBN 247783)

ACLU FOUNDATION OF  
SAN DIEGO & IMPERIAL  
COUNTIES

P.O. Box 87131

San Diego, CA 92138-7131

T: (619) 398-4485

F: (619) 232-0036

*bvakili@aclusandiego.org*

Stephen B. Kang (SBN 292280)

Spencer E. Amdur (SBN 320069)

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION

39 Drumm Street

San Francisco, CA 94111

T: (415) 343-1198

F: (415) 395-0950

*skang@aclu.org*

*samdur@aclu.org*

*Attorneys for Petitioners-  
Plaintiffs*

*\*Admitted Pro Hac Vice*

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 MS. L, et al.,

Case No. 18cv428 DMS MDD

4  
5 Petitioners-Plaintiffs,

**JOINT STATUS REPORT**

6 vs.

7 U.S. IMMIGRATION AND CUSTOMS  
8 ENFORCEMENT, et al.,

9 Respondents-Defendants.  
10

11  
12 The Court ordered the parties to file a joint status report (JSR) by 3:00 pm on  
13 January 13, 2021, in anticipation of the status conference scheduled at 1:30 pm on  
14 January 15, 2021. The parties submit this joint status report in accordance with the  
15 Court's instruction.  
16

17 ///

18  
19 ///

20  
21 ///  
22  
23  
24  
25  
26  
27  
28

## I. DEFENDANTS' POSITIONS

### A. Update Regarding Government's Implementation of Settlement Agreement

| SETTLEMENT PROCESS                | DESCRIPTION  | NUMBER  |
|-----------------------------------|--|---|
| <b>Election Forms<sup>1</sup></b> | Total number of executed election forms received by the Government | <b>444 (261 Parents/185 Children)<sup>2</sup></b> |
|                                   | • Number who elect to receive settlement procedures                | <b>284 (158 Parents/126 Children)</b>             |
|                                   | • Number who waive settlement procedures                           | <b>162 (103 Parents/59 Children)<sup>3</sup></b>  |
| <b>Interviews</b>                 | Total number of class members who received interviews              | <b>173<sup>4</sup></b>                            |
|                                   | • Parents who received interviews                                  | <b>91</b>   |
|                                   | • Children who received interviews                                 | <b>82</b>   |
| <b>Decisions</b>                  | Total number of CFI/RFI decisions issued for parents by USCIS      | <b>72<sup>5</sup></b>                             |

<sup>1</sup> The number of election forms reported here is the number received by the Government as of January 5, 2021.

<sup>2</sup> The number of children's election forms is lower than the number of parent election forms because in many instances a parent electing settlement procedures submitted an election form on his or her own behalf or opposing counsel e-mailed requesting settlement implementation for the entire family, but no separate form was submitted on behalf of the child.

<sup>3</sup> The number of children's waivers is lower because some parents have submitted waivers only for themselves and some parents who have waived reunification also waived settlement procedures and have therefore not provided a form for the child.

<sup>4</sup> Some individuals could not be interviewed because of rare languages; these individuals were placed in Section 240 proceedings. This number includes credible fear and reasonable fear interviews, as well as affirmative asylum interviews.

<sup>5</sup> This number is the aggregate of the number of parents whose negative CFI/RFI determinations were reconsidered, number of parents whose negative CFI/RFI determination was unchanged, and individuals who were referred to 240 proceedings without interview because of a rare language. This number excludes 12 cases where a parent already had an NTA from ICE or was already ordered removed by an IJ (which are included in the interview totals).

|  |  |                       |
|--|--|-----------------------|
|  | • Number of parents determined to establish CF or RF upon review by USCIS        | <b>70<sup>6</sup></b> |
|  | • Number of parents whose CF or RF finding remains negative upon review by USCIS | <b>12</b>             |
|  | Total number of CFI decisions issued for children by USCIS                       | <b>73<sup>7</sup></b> |
|  | • Number of children determined to establish CF by USCIS                         | <b>73<sup>8</sup></b> |
|  | • Number of children determined not to establish CF by USCIS                     | <b>0</b>              |
|  | Total number of affirmative asylum decisions by USCIS                            | <b>24</b>             |
|  | • Number of parents granted asylum by USCIS                                      | <b>3</b>              |
|  | • Number of parents referred to immigration court                                | <b>5</b>              |
|  | • Number of children granted asylum by USCIS                                     | <b>4<sup>9</sup></b>  |

<sup>6</sup> This number includes parents who received positive CF/RF determinations upon reconsideration, parents who received a Notice to Appear based on their child's positive CF determination, and parents who were placed in Section 240 proceedings due to a rare language.

<sup>7</sup> This number is the aggregate of the number of children who received a positive CF determination, the number of children who received a negative CF determination, and children who were referred to 240 proceedings without interview because of a rare language.

<sup>8</sup> This number includes children who received a positive CF determination, children who received a Notice to Appear as a dependent on their parent's positive CF determination, and children who were placed in Section 240 proceedings due to a rare language.

<sup>9</sup> This number includes children granted asylum as a dependent on their parent's asylum application.

|                 |  |                                 |
|-----------------|--|---------------------------------|
|                 | <ul style="list-style-type: none"> <li>Number of children referred/returned to immigration court</li> </ul>                | 12                              |
| <b>Removals</b> | Number of class members who have been returned to their country of origin as a result of waiving the settlement procedures | <b>103 Parents<sup>10</sup></b> |

### B. Expanded Class Members

The Court expanded the class definition on March 8, 2019, ECF No. 386. In so doing, the Court declined to resolve the issue of what relief was to be afforded expanded class members, and stayed application of the preliminary injunction to the expanded class pending further briefing from the parties regarding what relief Plaintiffs were requesting for these expanded class members, which has not occurred. *Id.* at 14. On March 19, 2019, the parties met and conferred, and Plaintiffs requested that Defendants provide a list of expanded class members, “along with information in the agencies’ possession as to the parent and child’s location and contact information.” ECF No. 388 at 11-12. On April 5, 2019, Defendants submitted their initial plan to do so. ECF No. 394. The parties met and conferred numerous times regarding the process by which Defendants would identify members of the expanded class and provide information about those class members to Plaintiffs, and the Court also was kept informed about these discussions and about

---

<sup>10</sup> This number is as of January 6, 2021.

1 Defendants' plan. *See* ECF Nos. 388, 394, 396, 397, 402, 403, 405. On April 25,  
2 2019, the Court approved Defendants' Plan for identifying members of the expanded  
3 class, and set a deadline of October 25, 2019 for Defendants to complete their  
4 process. Defendants completed the process ahead of the Court's deadline.  
5

6 Neither Defendants, nor any of the individuals participating on behalf of  
7 Plaintiffs in discussions regarding the development of the Plan, identified a need to  
8 search the Executive Office for Immigration Review (EOIR) database at the time  
9 that the Plan was developed or during the time it was being implemented. The  
10 government completed the Plan in October 2019, and the Steering Committee has  
11 been operating with the data provided under the Plan since that time. As it became  
12 apparent in recent weeks that information in the EOIR database might also be useful  
13 in the Steering Committee's efforts to contact members of the expanded class, and  
14 after the Steering Committee requested for the first time on October 22, 2020 that  
15 Defendants conduct such a search, Defendants have fully cooperated in searching  
16 for any and all information requested by Plaintiffs.  
17  
18  
19  
20

21 In developing the Plan that was ultimately approved by the Court, Defendants  
22 incorporated Plaintiffs' request that they provide "information in the agencies'  
23 possession as to the parent and child's location and contact information." ECF No.  
24 388 at 11-12. The Department of Health and Human Services (HHS), U.S. Customs  
25 and Border Protection (CBP), and U.S. Immigration and Customs Enforcement  
26  
27  
28

1 (ICE) Operational Leads developed a work-flow process to optimize interagency  
2 validation and consolidation of information between the participating agency  
3 Defendants to this litigation. Declaration of Jonathan White, Attachment A, at ¶ 3;  
4 Declaration of Jay Visconti, Attachment B, at ¶ 3. A team of U.S. Public Health  
5 Service Commissioned Corps (USPHS) Officers was created, deployed and trained  
6 to conduct case file review, and the USPHS team manually reviewed 32,972 case  
7 files and automated data held by the Office of Refugee Resettlement (ORR). White  
8 Decl. ¶ 4. HHS then transmitted its data sets on minors with some preliminary  
9 indication of separation to CBP and ICE for further assessment, reconciliation with  
10 CBP and ICE information, and determination of parental class membership. *Id.*;  
11 Visconti Decl. ¶ 4.

12  
13 When CBP received a list from HHS, CBP identified any indicia of separation  
14 in the CBP electronic systems of record, and then reviewed the records to validate  
15 the separation and, if validated, provided a reason for the separation. Visconti Decl.  
16 ¶ 4. For those cases identified and confirmed to be separations, CBP added the name,  
17 alien registration number (A-number), and FBI number (if applicable) of the  
18 separated parent; the nature of the parental relationship (e.g., father or mother); the  
19 gender of the separated parent; and any relevant notes about the separation. *Id.* Upon  
20 completion of this effort, CBP forwarded the list to ICE for review and the inclusion  
21 of additional data points. *Id.* As part of its processes, ICE then ran a search of parent  
22  
23  
24  
25  
26  
27  
28

1 address data. Declaration of Dawnisha Helland. Attachment C, at ¶ 5. ICE reviewed  
2 its internal databases, including the Enforcement and Removal Management Module  
3 (“EARM”) and IIDS, which is a data warehouse that contains dynamic data extracts  
4 from the Enforcement Integrated Database (“EID”). *Id.* These sources were  
5 specifically searched for the latest contact information available for the parents. *Id.*  
6 In addition, any electronic database information was manually reviewed by officers  
7 to ensure accuracy. *Id.* Once this process was completed, the government provided  
8 the lists of potential class members with the contact information to Plaintiffs. White  
9 Decl. ¶ 5. In addition to parent contact information from ICE discussed above, the  
10 contact information provided to Plaintiffs also included ORR data that would assist  
11 Plaintiffs in locating class members, including the discharge type of the child, all  
12 contact information for any sponsors (including parents) to whom children were  
13 released, and any available contact information for the parent in cases where the  
14 child was released to a non-parent sponsor. *Id.* This contact information was  
15 obtained by ORR through both manual and automated record searches. *Id.*

16 EOIR was not part of discussions developing the Plan because it is not a  
17 defendant in this case. Declaration of Jill Anderson, Exhibit D, at ¶ 16. Moreover, it  
18 is reasonable that neither Plaintiffs nor Defendants identified EOIR as a likely source  
19 of information at the time the Plan was developed. EOIR databases contain address  
20 and telephone information for individuals who are in the United States, and who  
21  
22  
23  
24  
25  
26  
27  
28



1 are—or have been—in immigration proceedings before the immigration courts. *Id.*

2 ¶ 6. EOIR obtains such information either from ICE, or from the alien updating his  
3 or her own information, which he or she then is required also to update with ICE. *Id.*

4  
5 ¶ 8. Given these requirements, at any given time and assuming individuals in  
6 removal proceedings are properly updating their contact information with both ICE  
7 and EOIR, the address and telephone information available in EOIR’s database  
8 should not be substantially different from the information that is in ICE’s databases.  
9

10 *Id.* ¶ 9; Helland Decl. ¶ 8-12. Thus, while Defendants cannot determine today what  
11 would have been in EOIR’s databases at the time address and telephone information  
12 for the expanded class was originally provided, it is reasonable to assume that it  
13 should have been substantially similar to the information that was provided from  
14 ICE’s databases at that time. Anderson Decl. ¶ 11. Moreover, as the definition of the  
15 expanded class included alien parents who entered the United States on or after July  
16 1, 2017, and prior to the certification of the original class, there was a strong  
17 likelihood that many members of the expanded class would be outside the United  
18 States at the time of identification, and EOIR would not have any current information  
19 about those class members. Given all of the above, at the time the Plan was  
20 developed, no one involved in the process—neither Plaintiffs, nor Defendants—  
21 identified a need to provide information obtained from a search of the EOIR database  
22 as part of the Plan.  
23  
24  
25  
26  
27  
28

1 As noted, Plaintiffs never requested that Defendants provide information from  
2 EOIR, despite being heavily involved in the process of developing the Plan for  
3 identifying expanded class members. The parties met and conferred numerous times  
4 regarding the process, and at times Defendants adapted their plan based on these  
5 discussions. *See* ECF Nos. 388, 394, 396, 397, 402, 403, 405. Plaintiffs enlisted the  
6 help of several outside individuals in assessing and commenting on Defendants'  
7 plan. At least one of those individuals submitted a declaration in which she stated  
8 that her work focuses on the representation of minors in immigration proceedings  
9 which occur before EOIR, *see* ECF No. 397-2, ¶ 1, and numerous other individuals  
10 who have significant experience with immigration proceedings and information  
11 maintained in various agencies' systems participated in meetings between the parties  
12 on behalf of Plaintiffs. Many of the individuals working with Plaintiffs and making  
13 suggestions throughout the extensive meet and confer process of identifying  
14 expanded class members would have been aware of EOIR as well as its purpose and  
15 function, and likewise with the information that it would collect as part of that  
16 function. Plaintiffs' representation to the Court that the existence of the EOIR  
17 database "had not previously been disclosed," ECF No. 560 at 10, is therefore  
18 disingenuous. Plaintiffs had numerous opportunities to request that Defendants  
19 conduct searches of specific databases or otherwise amend their processes, and at no  
20 time did Plaintiffs or any of the individuals working with them, most of whom would  
21  
22  
23  
24  
25  
26  
27  
28

1 have been well aware of EOIR's information collection practices, request that the  
2 government obtain or provide information out of EOIR's databases.

3 Since Defendants' Plan was completed in October 2019 and all lists of  
4 expanded class members with their associated information were provided to the  
5 Steering Committee, Defendants have fully supported the Steering Committee's  
6 efforts to locate and contact the members of the expanded class. Notably, Defendants  
7 have a strong interest in the Steering Committee's successful completion of their  
8 part of this process. Defendants have worked closely with the Steering Committee  
9 throughout this litigation, and there is no reason why the Steering Committee could  
10 not have made additional requests for information from Defendants at any time after  
11 the initial provision of contact information for expanded class members to Plaintiffs  
12 and the Steering Committee. In fact, Defendants have repeatedly reached out to the  
13 Steering Committee and Plaintiffs for updates regarding their efforts to contact  
14 members of the expanded class, and have noted their concerns that "the government  
15 cannot tell where the efforts of the Steering Committee currently stand, or whether  
16 the Steering Committee is making bona fide progress. Further, the government  
17 cannot anticipate whether Plaintiffs intend to raise issues regarding this process  
18 because Plaintiffs are keeping all information about this process and any progress to  
19 themselves, and are unilaterally choosing what to tell the Court and what to  
20 withhold." ECF No. 534 at 6. Plaintiffs have declined to provide anything other than  
21  
22  
23  
24  
25  
26  
27  
28

1 the bare minimum of information. *See* ECF Nos. 528, 534, 541, 547. While  
2 Defendants have repeatedly sought to increase the communication between the  
3 parties regarding this process, Plaintiffs and the Steering Committee never requested  
4 any form of updated or additional contact information from the government for any  
5 expanded class member until October 22, 2020.<sup>11</sup>

7       As noted above, the EOIR database contains information about individuals  
8 inside the United States who are in removal proceedings. Anderson Decl. ¶ 6. Given  
9 that the government knew nothing about the methods employed by the Steering  
10 Committee to contact expanded class members, had already provided contact  
11 information from the ICE database, and understood that the Steering Committee was  
12 focused largely on class members outside of the United States, there was little reason  
13  
14  
15

---

16 <sup>11</sup> Defendants have produced contact information for class members in the related  
17 case of *Ms. J.P., et al. v. William P. Barr, et al.* (2:18-cv-06081-JAK-SK, C.D. Cal.),  
18 to the Seneca Family of Agencies (Seneca) with whom HHS has signed a contract  
19 under which Seneca is searching for class members within the United States. Those  
20 productions are more recent, and likely contain more updated class member  
21 information. Defendants also have provided updated contact information to Seneca  
22 from ICE databases for specific class members on May 28, August 3, September 21,  
23 October 26, November 19, and December 23, 2021, at Seneca's request. Given the  
24 overlap between the efforts of Seneca and the *Ms. L.* Steering Committee, in early  
25 2020, Defendants put the two groups in touch and gave permission for the groups to  
26 share information about class members. Defendants learned in the December 2, 2020  
27 status report that the Steering Committee had only recently obtained the information  
28 that the government provided to Seneca, but Plaintiffs did not explain why the  
Steering Committee delayed in seeking that information. In any event, the Steering  
Committee has long had access to updated information from Seneca. The Steering  
Committee, unlike Seneca, has never asked for any updated contact information for  
any class member.

1 to believe that the government would have any additional information related to  
2 those class members on whom the Steering Committee was focused. More  
3 specifically, there was no reason to believe that the EOIR database would contain  
4 useful information regarding class members outside the United States, because it  
5 contains information only about individuals inside the United States and who are, or  
6 were, in proceedings. *Id.* Moreover, to the extent that the Steering Committee was  
7 attempting to find class members inside the United States, the government had put  
8 the Steering Committee in touch with—and understood the Steering Committee to  
9 be working with—Seneca, with whom the government has a multi-million dollar  
10 contract for locating class members inside the United States, and to whom the  
11 government has provided updated contact information regularly upon request.  
12

13  
14 It was only after news reports, based on the October 20, 2020 status report,  
15 brought the Steering Committee's efforts to public attention, that the Steering  
16 Committee finally agreed to discuss with the government more details about their  
17 efforts towards contacting expanded class members. Those discussions, held on the  
18 morning of October 22, 2020, were the first time that the Steering Committee asked  
19 Defendants to provide any updated contact information for any expanded class  
20 members. In conjunction with that request, the government asked the Steering  
21 Committee to provide a list identifying the class members for whom it needed more  
22 information, and that list was provided by the Steering Committee on October 31,  
23  
24  
25  
26  
27  
28

2020. Anderson Decl. ¶ 4. The Defendant agencies and counsel held multiple internal discussions to consider ways in which the government could assist the Steering Committee's efforts. Commander White has offered his assistance and ideas to the Steering Committee, and after receiving the list of class members from the Steering Committee on October 31, 2020, the government provided the most recent information available from multiple databases, including EOIR. *See* Anderson Decl. ¶¶ 4-5, 11-12. While Defendants note that this case remains in active litigation, and that the government's obligations in this context are guided by the Federal Rules and orders of this Court, the government also submits that it has been, and remains, available to discuss the Steering Committee's efforts and to provide assistance where it is able to do so.

**C. Government Processes, Procedures, and Tracking, for Separations Since June 26, 2018.**

Data Requested by Plaintiffs. Defendants continue to provide Plaintiffs updated reports containing information regarding parents and children separated since the Court's June 26, 2018 Order on a monthly basis. The parties have not yet met and conferred about changing the frequency of these productions.

Processes and Procedures.

In the May 27, 2020 Joint Status Report, Defendants provided the court with updated reporting regarding the various steps it has taken to implement Paragraph 5 of the preliminary injunction, ECF No. 83 at 24, ¶ 5, and improve the processes and

1 procedures for information sharing between the agencies related to family  
2 separations. Following the July 10, 2020 status conference, the Court ordered that  
3 “Defendants shall provide a declaration from the Assistant Commissioner of OIT or  
4 other appropriate designee setting out the status of the development of the UIP and  
5 estimated completion date. The declarant should also address the Court’s concerns  
6 about how the UIP will enable parents in criminal custody access to their children’s  
7 location information and how the UIP will assist in reunification efforts when a  
8 parent is transferred from criminal custody to immigration custody.” ECF No. 543  
9 at 2. Defendants provided that information in the August 19, 2020, Joint Status  
10 Report, including a declaration from Robert J. Costello, Executive Director, Office  
11 of Information Technology, Enterprise Services, U.S. Customs and Border  
12 Protection, U.S. Department of Homeland Security. ECF No. 547. On October 20,  
13 2020, and December 2, 2020, at the request of the Court, Defendants provided  
14 additional declarations from Mr. Costello on the progress of the UIP. ECF Nos. 556-  
15 1, 560-1. The Court did not order a further update this month, and Defendants have  
16 not identified any significant issues that require a further update from Mr. Costello  
17 at this time.

18  
19  
20  
21  
22  
23 On October 22, 2020, the Court also ordered that the parties “shall continue  
24 to meet and confer on the information gap between the Department of Justice  
25 (Bureau of Prisons and U.S. Marshal) [USMS] and the Department of Health and  
26  
27  
28

1 Human Services (ORR).” ECF No. 558, ¶ 1. In the December 2, 2020 Joint Status  
2 Report, the government stated that it would provide an update to the Court on this  
3 issue in the next Joint Status Report.  
4

5 Since that time, the government has discussed this issue internally, and has  
6 taken steps to formalize the processes for information sharing between ORR and  
7 USMS. ORR and USMS have identified the relevant individuals to bridge this  
8 information gap, and the operational leads from each agency are communicating  
9 (including a call scheduled during the week of January 11) in order to identify and  
10 formalize the best processes for information sharing between the agencies. The  
11 presumptive goal of these discussions will be to establish formalized notification  
12 procedures between USMS and ORR to ensure that USMS—including all detention  
13 facilities housing these individuals—is made aware that it may have a separated  
14 parent in its custody. Once so notified, USMS will develop formalized procedures  
15 at each of its facilities that will allow parents to communicate with their children in  
16 ORR custody. USMS and ORR will work together to create a formalized process  
17 whereby the USMS will be able to arrange regular calls between the parent and child  
18 taking into consideration the wishes of the parent and child and the operational needs  
19 of the USMS and ORR facilities involved.  
20  
21  
22  
23  
24  
25  
26  
27  
28



## 1 **II. MS. L. PLAINTIFFS' POSITION**

### 2 **A. Steering Committee Outreach to Sponsors and Parents of Children of** 3 **Expanded Class Members**

4 The government has provided eleven lists identifying 1,134 children of  
 5 expanded class members. The government has also identified 64 “recategorized”  
 6 deported parents from the original class, who the Steering Committee has sought to  
 7 contact as part of its efforts to reach members of the expanded class.<sup>12</sup> The  
 8 Steering Committee’s recent efforts have been targeted at locating the parents of  
 9 this group of 1,198 (1,134 plus 64) children.<sup>13</sup>

10 Of these 1,198 children, the Steering Committee has reached the parents (or  
 11 their attorneys) of 587 children. This represents an increase of 17 children’s  
 12 parents since our last status report. We describe below the status of our continuing  
 13 efforts to reach the parents of the remaining 611 children.

14 The 611 children fall into three groups. First, there are approximately 392  
 15 children whose parents are believed to have been removed from the United States  
 16 following separation from their children, and our efforts to locate them in their  
 17 country of origin are ongoing. Second, there is a group of approximately 201  
 18 children whose parents are believed to be in the United States, and efforts to locate  
 19 them in the United States are also ongoing. Third, there is a group of 18 children  
 20  
 21

---

22 <sup>12</sup> In its portion of the December 12, 2018 Joint Status Report, the government disclosed the  
 23 existence of what we call the “Recategorized Original Class”, *i.e.*, members of the original class  
 24 who were not identified as part of the government’s initial disclosures in the summer of  
 25 2018. The government only provided contact information for this group in February 2019, after  
 26 the Steering Committee’s efforts to contact original class members had concluded – and so, as a  
 logistical matter, the Steering Committee has conducted outreach to the 64 parents in this group  
 who were deported following separation from their children, as part of the Steering Committee’s  
 efforts to contact *expanded* class members.

27 <sup>13</sup> Because some of the parents of these children entered with more than one  
 28 child, there are 1,082 parents in this combined group.

1 for whom the government has not provided a phone number for the parent, child,  
2 sponsor or attorney. This group previously numbered 104.

3 Steering Committee Efforts to Locate Parents

4 First, as previously reported, the Steering Committee attempts to reach all  
5 parents, sponsors and attorneys by telephone. The Steering Committee has  
6 renewed these efforts and is currently engaged in an effort to reach parents, where  
7 possible, by using the additional contact information recently provided by the  
8 government from databases of the Executive Office for Immigration Review and  
9 U.S. Customs and Immigration Enforcement. This information includes phone  
10 numbers that had not previously been disclosed for children and parents, as well as  
11 contact information for a number of attorneys.

12 Where those efforts are not successful, the Steering Committee has engaged  
13 in time-consuming and arduous on-the-ground searches for parents. These on-the-  
14 ground searches have been focused abroad in the countries of origin of parents who  
15 were removed from the United States following separation from their children.  
16 These international on-the-ground searches are ongoing by members of the  
17 Steering Committee, and we are in the process of obtaining additional resources for  
18 these efforts. As previously reported, on-the-ground searches for separated parents  
19 are ongoing when it is safe to do so, but are limited and in some cases cannot take  
20 place due to risks associated with the COVID-19 pandemic.

21 Also, as previously reported, the Steering Committee has established toll-  
22 free telephone numbers in the United States, Guatemala, Honduras, Mexico and El  
23 Salvador to receive inbound phone calls from potential members of the expanded  
24 class. The Steering Committee has distributed this number both by email and U.S.  
25 Mail to a number of non-governmental organizations and other community  
26 organizations in the United States, who may be able to help us locate parents  
27 because they work in the communities these parents are likely to have contact with.  
28

1 In addition, the Steering Committee sent letters in Spanish and English to  
2 approximately 1,600 addresses provided by the government for the potential class  
3 members that the Steering Committee has not yet reached. These letters explain  
4 our role in this action and invite parents to contact the Steering Committee to call  
5 these toll-free numbers. The Steering Committee continues to monitor voicemail  
6 boxes reachable via these toll-free numbers, and plans to renew its mailing effort  
7 with the new address information received for children and their attorneys from the  
8 government.

9 Additionally, as previously reported, the Steering Committee has undertaken  
10 broad-based media outreach efforts to publicize the toll-free phone numbers  
11 created by the Steering Committee in Spanish language media. The Steering  
12 Committee will also shortly be commencing advertisements on Spanish language  
13 radio in Central America. The Steering Committee continues to work to identify  
14 opportunities to broadly disseminate the toll-free numbers through various media  
15 to maximize visibility to potential *Ms. L.* class members, including most recently  
16 by seeking to collaborate on such media outreach initiatives with other non-profit  
17 organizations.

18 Since the last Status Conference, the Steering Committee has also received  
19 additional contact information for a limited number of families from third parties,  
20 including a number of non-governmental organizations. The Steering Committee  
21 is re-attempting telephonic communication with all families for whom new contact  
22 information has become available, in addition to the efforts underway using new  
23 information provided by the government as described above.

#### 24 **B. Information Sharing**

25 The Parties continue to discuss issues with information-sharing, and have  
26 scheduled further discussion for next week. Plaintiffs provided the government in  
27 early December proposed language to include on the Notice of Potential Rights  
28

1 and Letters of Designation that the government already provides to parents. That  
2 language seeks to obtain any consent the government believes is needed from the  
3 parent to be able to share such forms with their child or child's representative.

4 **C. Return of Additional Deported Parents**

5 The parties are discussing avenues for relief for deported parents, and will  
6 continue to meet and confer, and report back to the Court.

7  
8 **III. MMM-Dora Plaintiffs' Report Regarding Settlement Implementation**

9 The parties continue to work together to implement the settlement agreement  
10 approved on November 15, 2018. Class counsel are providing the Government with  
11 signed waiver forms as they are received from class members, and class counsel are  
12 continuing to work on outreach efforts to class members who may qualify for relief  
13 under the settlement. The parties continue to meet and confer on issues related to  
14 settlement implementation as they arise.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 DATED: January 13, 2021

Respectfully submitted,

2  
3 /s/ Lee Gelernt

Lee Gelernt\*

Judy Rabinovitz\*

Anand Balakrishnan\*

4 AMERICAN CIVIL LIBERTIES UNION  
5 FOUNDATION

6 125 Broad St., 18th Floor

7 New York, NY 10004

8 T: (212) 549-2660

9 F: (212) 549-2654

*lgelernt@aclu.org*

10 *jrabinovitz@aclu.org*

11 *abalakrishnan@aclu.org*

12 Bardis Vakili (SBN 247783)

13 ACLU FOUNDATION OF SAN DIEGO

& IMPERIAL COUNTIES

14 P.O. Box 87131

15 San Diego, CA 92138-7131

16 T: (619) 398-4485

F: (619) 232-0036

17 *bvakili@aclusandiego.org*

18 Stephen B. Kang (SBN 292280)

19 Spencer E. Amdur (SBN 320069)

20 AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

21 39 Drumm Street

22 San Francisco, CA 94111

T: (415) 343-1198

23 F: (415) 395-0950

*skang@aclu.org*

24 *samdur@aclu.org*

25 *Attorneys for Petitioners-Plaintiffs*

26 *\*Admitted Pro Hac Vice*

1 JEFFREY BOSSERT CLARK  
2 Acting Assistant Attorney General  
3 WILLIAM C. PEACHEY  
4 Director  
5 WILLIAM C. SILVIS  
6 Assistant Director

7 /s/ Sarah B. Fabian  
8 SARAH B. FABIAN  
9 Senior Litigation Counsel  
10 NICOLE N. MURLEY  
11 Senior Litigation Counsel  
12 Office of Immigration Litigation  
13 Civil Division  
14 U.S. Department of Justice  
15 P.O. Box 868, Ben Franklin Station  
16 Washington, DC 20044  
17 (202) 532-4824  
18 (202) 616-8962 (facsimile)  
19 Sarah.B.Fabian@usdoj.gov

20 *Attorneys for Respondents-Defendants*  
21  
22  
23  
24  
25  
26  
27  
28