

1. Questions relating to implementation of ¶¶ 9, 10 and 41.

- a. Do defendants agree that the Settlement governs the detention, release, and treatment of minors in DHS's legal custody? If not, please identify the facts, documents, and tangible things on which you base your response.

RESPONSE: This question is outside the scope of Paragraph 29 of the Flores Settlement Agreement because it does not seek information regarding the implementation of the Settlement Agreement.

- b. Do defendants agree that the Settlement is binding on the Executive Office of Immigration Review? If not, please identify the facts, documents, and tangible things on which you base your response.

RESPONSE: This question is outside the scope of Paragraph 29 of the Flores Settlement Agreement because it does not seek information regarding the implementation of the Settlement Agreement.

- c. Do defendants consider themselves bound to comply with the Settlement with respect to minors taken into DHS custody pursuant to the Immigration and Nationality Act (INA) who are accompanied by an adult parent? If not, please identify the facts, documents, and tangible things on which you base your response.

RESPONSE: This question is outside the scope of Paragraph 29 of the Flores Settlement Agreement because it does not seek information regarding the implementation of the Settlement Agreement.

- d. Do defendants treat minors they take into DHS custody pursuant to the INA differently if they are apprehended in the company of an adult mother as opposed to an adult father? If so
- i. How does such treatment differ?
 - ii. What law and facts justify disparate treatment of minors depending on the gender of their accompanying parent?
- e. Do defendants treat minors they take into DHS custody pursuant to the INA differently if they are arrested in the company of a parent as opposed to in the company of an adult family member other than a parent? If so —
- i. How does such treatment differ?
 - ii. What law and facts justify disparate treatment of minors depending on the type of accompanying adult relative?

RESPONSE: In response to questions 1(d) and 1(e), consistent with Paragraph 14 of the Settlement Agreement, and the immigration laws, U.S. Immigration and Customs Enforcement ("ICE") makes custody determinations with regard to individual class members on a case-by-case basis. Where there is discretion to release an individual alien during the pendency of proceedings before the immigration courts, ICE considers all evidence that is relevant, including whether the individual poses a flight risk, a risk to his or her own safety or the safety of others, or a danger to the national security. As provided by regulations, ICE's custody determination is subject to review by an immigration judge.

2. Questions relating to implementation of §§ 14 and 18.

- a. Is it defendants' policy and practice to detain minors who unlawfully enter with their mothers in lieu of releasing them on bond, recognizance, or parole, pending a determination of their right to remain in the United States? If so —
 - i. Do defendants follow such policy and practice uniformly: that is, without regard to individual minors' age, reasons for coming to the United States, prior immigration violations, family ties in the United States, or potential eligibility for lawful status?
 - ii. What evidence, if any, do defendants have that such policy and practice ensure the safety of others?
 - iii. What instructions or directions, if any, have defendants issued to their employees, agents or officers regarding the detention or release of minors detained with their mothers?
 - iv. What, if any, objections to defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: In response to the humanitarian situation created by the recent influx of foreign nationals (including adults with children) seeking to unlawfully enter the United States across the Southwest Border, the U.S. Department of Homeland Security ("DHS") has taken action to reduce the flow of illegal immigration by, among other things, detaining families in a manner consistent with all applicable legal authority. In cases in which adults with children are detained in family facilities, DHS has submitted documentary evidence establishing that releasing foreign nationals from detention encourages additional unlawful migration, risks the diversion of U.S. Customs and Border Protection's ("CBP") and ICE's limited resources, and diminishes DHS's ability to conduct background investigations to ensure community safety. The documentary evidence DHS has submitted shows that detention is especially crucial in instances of influx as significant resources have had to be diverted to the Southwest Border, not only to handle the additional caseload, but also as part of a strengthened effort to investigate, prosecute, and dismantle criminal smuggling organizations. Such a diversion of resources disrupts DHS's ability to deal with other threats to public safety, including national security threats.

Media reports detail widespread misconceptions of what will happen to individuals who risk the perilous trip to the United States either alone or at the hands of human traffickers. For example, several articles report the common belief that the individuals who came to the United States would be given a "permiso" allowing them to live freely in the United States. Other articles have reported that children sometimes make the trip based on the mistaken belief that they will be able to work and send home up to \$1,000 per month.¹

¹ Damien Cave and Frances Robles, New York Times, *A Smuggled Girl's Odyssey of False Promises and Fear*, (Oct. 6, 2014). <http://www.nytimes.com/2014/10/06/world/americas/a-smuggled-girls-odyssey-guatemala-migration-abduction.html?emc=eta1> (Describing how one family took out a loan for \$7,000, using their home as a guarantee, in order to send their 16-year old daughter, Cecilia, to the United States and explaining, among other life-altering concerns that Cecilia's "dreams of sending home \$1,000 a month were unrealistic").

Although these general considerations are relevant to custodial determinations regarding adults with children, ICE makes such determinations on a case-by-case basis after consideration of the individual facts of the case.

- b. Do defendants contend that minors taken into DHS custody pursuant to the INA with an adult mother present a risk to national security? If so —
 - i. What evidence supports such contention?
 - ii. How long do defendants believe such minors will continue to present a risk to national security?
 - iii. What evidence, if any, do defendants have that minors who enter without authorization with an adult mother present a risk to national security greater than that presented by minors who so enter unaccompanied?
 - iv. What evidence, if any, do defendants have that minors who enter without authorization with an adult mother present a risk to national security different from or greater than that presented by adults who so enter without children?
 - v. What evidence, if any, do defendants have that minors who enter without authorization with an adult mother present a risk to national security different from or greater than that presented by minors who so enter with an adult father?
 - vi. Do defendants contend that accompanied minors entering without authorization present impair national security such that defendants are excused from complying with all or part of the Settlement?
 - vii. If so, as to which parts of the Settlement do defendants believe their compliance excused and what is the legal and factual basis for defendants' position?

RESPONSE: See response to question 2(a).

- c. Is it defendants' policy and practice to refuse minors taken into custody with their mothers the favorable exercise of prosecutorial discretion pursuant to the memoranda issued June 17, 2011, by Immigration and Customs Enforcement Director John Morton? If so —
 - i. Do defendants follow such policy and practice uniformly: that is, without regard to individual minors' age, reasons for coming to the United States, prior immigration violations, family ties in the United States, or potential eligibility for lawful status?
 - ii. What facts, documents, and tangible things justify such policy and practice?

RESPONSE: This question is outside the scope of Paragraph 29 of the Flores Settlement Agreement because it does not seek information regarding the implementation of the Settlement Agreement.

- d. Is it defendants' policy and practice to advise minors taken into custody with their mothers that they might qualify for the favorable exercise of prosecutorial discretion

pursuant to the memoranda issued June 17, 2011, by Immigration and Customs Enforcement Director John Morton?

- i. If so, do defendants follow such policy and practice uniformly: that is, without regard to individual minors' age, reasons for coming to the United States, prior immigration violations, family ties in the United States, or potential eligibility for lawful status?

RESPONSE: This question is outside the scope of Paragraph 29 of the Flores Settlement Agreement because it does not seek information regarding the implementation of the Settlement Agreement.

- e. Do defendants make and record prompt and continuous efforts toward the release of minors detained at the facility in Artesia, New Mexico? If so —
 - i. Where are such records kept?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of such records?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to make and record prompt and continuous efforts toward the release of minors detained at the facility in Artesia, New Mexico.

RESPONSE: To the extent that an individual minor is eligible for release under the immigration laws, ICE makes detention and release determinations on a case-by-case basis after consideration of the facts of the individual case and records these determinations in accordance with ICE procedures and practices.

- f. Do defendants make and record prompt and continuous efforts toward the release of minors detained at the facility in Karnes City, Texas? If so —
 - i. Where are such records kept?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of such records?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to make and record prompt and continuous efforts toward the release of minors detained at the facility in Karnes City, Texas.

RESPONSE: See response to question 2(e).

- g. Do defendants make and record prompt and continuous efforts toward the release of minors detained at the facility in Leesport, Pennsylvania? If so —
 - i. Where are such records kept?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of such records?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to make and record prompt and continuous efforts toward the release of minors detained at the facility in Leesport, Pennsylvania.

RESPONSE: See response to question 2(e).

- h. When setting bond for minors detained with a parent, do defendants consider parent and child separately, or do defendants determine bond for them as a family unit?

RESPONSE: ICE assesses each case on its unique facts, and makes custodial determinations based upon whether the release of any individual parent or child would pose a danger to the community, flight risk, or danger to the national security.

- i. What factors do defendants consider when setting bond for —
 - i. A detained minor individually?
 - ii. A detained family that includes a minor, if bond is determined for the family as a whole?
 - iii. A parent of a detained minor, if bond is determined for the parent and child separately?

RESPONSE: See responses to questions 2(a) and 2(h).

- j. Do defendants consider potential eligibility for Special Immigrant Juvenile (SIJ) status in setting bond for minors apprehended with an adult parent? If so —
 - i. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider a minor's eligibility for Special Immigrant Juvenile (SIJ) status when making a bond determination?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See responses to questions 2(a) and 2(h).

- k. Do defendants consider potential eligibility for Special Immigrant Juvenile (SIJ) status in setting bond for minors apprehended unaccompanied by an adult parent? If so —
 - i. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider a minor's eligibility for Special Immigrant Juvenile (SIJ) status when making a bond determination?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: Except in the case of exceptional circumstances, unaccompanied minors apprehended by DHS who lack immigration status (and who are from non-contiguous countries), as well as unaccompanied minors from contiguous countries who meet certain criteria, are transferred to the custody of the U.S. Department of Health and Human Services ("HHS") not later than 72 hours after determining that such child is an unaccompanied child under the requirements of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). Pub. L. No. 110-457, Title II, Subtitle D, Dec. 23, 2008 (codified at 8 U.S.C. §1232(b)(3)). Certain unaccompanied minors from

contiguous countries may be permitted to withdraw their applications for admission. 8 U.S.C. § 1232(a)(2)(B).

- I. Do defendants consider national security in setting bond for minors apprehended with an adult mother? If so —
 - i. What factors do defendants consider in assessing the impact releasing minors apprehended with an adult mother will have on national security?
 - ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider national security in setting bond for minors apprehended with an adult mother?
 - iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See responses to question 2(a) and 2(h).

- m. Do defendants consider national security in setting bond for minors apprehended with an adult father? If so —
 - i. What factors do defendants consider in assessing the impact releasing minors apprehended with an adult father will have on national security?
 - ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider national security in setting bond for minors apprehended with an adult father?
 - iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See responses to question 2(a) and 2(h).

- n. Do defendants consider the national security in setting bond for unaccompanied minors detained pursuant to the INA? If so —
 - i. What factors do defendants consider in assessing the impact releasing unaccompanied minors will have on national security?
 - ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider the national security in setting bond for unaccompanied minors detained pursuant to the INA?
 - iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See response to question 2(k).

- o. Do defendants contend that minors apprehended with an adult mother should be detained in order to deter others from entering the United States without authorization? If so —
 - i. What evidence, if any, is there that detaining minors apprehended with an adult mother deters others from entering the United States without authorization?

- ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers detain minors apprehended with an adult mother in order to deter others from entering the United States without authorization?
- iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See responses to questions 2(a) and 2(h).

- p. Do defendants contend that minors apprehended with an adult father should be detained in order to deter others from entering the United States without authorization? If so —
 - i. What evidence, if any, is there that detaining minors apprehended with an adult father deters others from entering the United States without authorization?
 - ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers detain minors apprehended with an adult father in order to deter others from entering the United States without authorization?
 - iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See responses to questions 2(a) and 2(h).

- q. Do defendants contend that minors apprehended unaccompanied by an adult parent should be detained in order to deter others from entering the United States without authorization? If so —
 - i. What evidence, if any, is there that detaining unaccompanied minors deters others from entering the United States without authorization?
 - ii. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers detain minors apprehended without an adult parent in order to deter others from entering the United States without authorization?
 - iii. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: See response to question 2(k).

- r. In deciding whether to detain parents arrested with a minor child, or release such parent on bond, recognizance or parole, is it defendants' policy and practice to consider the best interests of the detained child? If so —
 - i. What do such policy and practice provide?
 - ii. Where are such policy and practice published?

- iii. What are defendants' procedures for monitoring compliance with such policy and practice, and where are reports of such monitoring, if any, kept and published?
- iv. Have defendants issued written instructions or directions requiring that defendants' employees, agents or officers consider minors' best interests in determining whether to release their parents on bond, recognizance, or parole?
- v. What objections, if any, do defendants have to providing class counsel with copies of any such instructions or directions?

RESPONSE: ICE's detention determinations related to adults are outside the scope of Paragraph 29 of the Flores Settlement Agreement because it is not information regarding the implementation of the Settlement Agreement.

- s. For the period from June 1, 2014, to September 30, 2014 —
 - i. What percentage and raw number of bond-eligible families comprising one or more minors did defendants determine should be detained without bond?
 - ii. What percentage and raw number of children apprehended with an adult parent did defendants order detained without bond?
 - iii. What percentage and raw number of bond-ineligible families comprising one or more minors which passed credible fear interviews did defendants release on parole?
 - iv. What percentage and raw number of children who were part of bond-ineligible families which passed credible fear interviews did defendants release on parole?
- t. For the period from June 1, 2013, to September 30, 2013 —
 - i. What percentage and raw number of detained, bond-eligible families comprising one or more minors did defendants order held without bond?
 - ii. What percentage and raw number of children who were part of bond-eligible families did defendants order detained without bond?
 - iii. What percentage and raw number of bond-ineligible families comprising one or more minors which passed credible fear interviews did defendants release on parole?
 - iv. What percentage and raw number of children who were part of bond-ineligible families which passed credible fear interviews did defendants release on parole?
- u. Of bonds set by DHS between June 1, 2014, and September 30, 2014, what was the average bond set for the release of —
 - i. An individual minor?
 - ii. An individual minor and parent, when bond was set for the family as a whole?
 - iii. A parent of a detained minor, if bond was set for parent and child individually?
- v. Of bonds set by DHS between June 1, 2013, and September 30, 2013, what was the average bond set for the release of —

- i. An individual minor?
 - ii. An individual minor and parent, when bond was set for the family as a whole?
 - iii. A parent of a detained minor, if bond was set for parent and child individually?
- w. Of bonds set by DHS between June 1, 2014, and September 30, 2014, what percentage and raw number of families with one or more minors posted bond and were released?
- x. Of bonds set by DHS between June 1, 2013, and September 30, 2013, what percentage and raw number of families with one or more minors posted bond and were released?
- y. With respect to bond redetermined by immigration judges between June 1, 2014, and September 30, 2014, what percentage and raw number of families with one or more minors —
 - i. Were unable to post bond and remained detained?
 - ii. Were released on recognizance?
 - iii. Had the immigration judge’s bond decision stayed by DHS appeal to the BIA?
- z. With respect to release on bond or recognizance ordered by immigration judges between June 1, 2013, and September 30, 2013, what percentage and raw number of families with one or more minors —
 - i. Were unable to post bond and remained detained?
 - ii. Were released on recognizance?
 - iii. Had the immigration judge’s bond decision stayed by DHS appeal to the BIA?

RESPONSE: Questions 2(s) through 2(z) are outside the scope of Paragraph 29 of the Flores Settlement Agreement because they do not seek information regarding the implementation of the Settlement Agreement. Moreover, Paragraph 29 of the Agreement does not permit class counsel to obtain the data sought in questions 2(s) through 2(z) nor does it require the identification or production of documents or data maintained by Defendants, other than the data specifically identified in that Paragraph.

3. Questions relating to implementation of ¶ 24A.

- a. Are minors detained at the facility in Artesia, New Mexico, given 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? If so —
 - i. Where are signed Notice of Custody Determination forms kept?
 - ii. What objection, if any, do defendants have to providing class counsel with copies of such forms?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants’ failure give minors detained at the facility in Artesia, New Mexico, 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.

RESPONSE: A Notice of Custody Determination (Form I-286) is completed only in cases in which the alien is detained pursuant to section 236 of the Immigration and Nationality Act (INA). In cases in which

a Form I-286 is completed, it is maintained in the alien file. Minors detained at family residential centers are given an opportunity for a bond redetermination hearing before an immigration judge.

- b. Are minors detained at the facility in Karnes City, Texas, given 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? If so —
 - i. Where are signed Notice of Custody Determination forms kept?
 - ii. What objection, if any, do defendants have to providing class counsel with copies of such forms?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure give minors detained at the facility in Karnes City, Texas, 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.

RESPONSE: See response to question 3(a).

- c. Are minors detained at the facility in Leesport, Pennsylvania, given 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? If so —
 - i. Where are signed Notice of Custody Determination forms kept?
 - ii. What objection, if any, do defendants have to providing class counsel with copies of such forms?
 - iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure give minors detained at the facility in Leesport, Pennsylvania, 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.

RESPONSE: See response to question 3(a).

4. Questions relating to implementation of ¶ 11.

- a. Do defendants identify, for each detained minor, the least restrictive setting appropriate to the minor's age and special needs?
 - i. If so, please describe what information is collected, what tools and assessments are used to collect that information, what factors are considered, and who is responsible for the determination and where this information is recorded.
 - ii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to identify, for each detained minor, the least restrictive setting appropriate to the minor's age and special needs.

RESPONSE: ICE's Family Residential Centers permit free movement of residents from 6:30 a.m. until 8:00 p.m., during which times they have access to the outdoors and other areas within the facility.

These areas include, but are not limited to, outdoor and indoor recreation areas, gym, library, cafeteria, common areas in residential buildings, barber/beauty grooming areas, and medical and dental clinics. Minors 12 years old and older are free to move about with a pass signed by his or her parent, and younger children are also free to move throughout the facility but must be accompanied by a parent. Each resident is screened at intake and his/her individual needs are assessed and any special requirements are incorporated into the resident's care.

5. Questions relating to implementation of Definition 6 and §§ 19 and 24C.

- a. Is the detention facility in Artesia, New Mexico, state-licensed to provide residential, group, or foster care services for dependent children? If so —
 - i. What state agency issued such license?
 - ii. What is the license's numerical or other official designation?
 - iii. On what date was the license issued?
 - iv. What was the date of the most recent visit or inspection by the licensing agency?
 - v. What objections, if any, do defendants have to providing class counsel with a copy of such license?
 - vi. If not, please identify the facts, documents, and tangible things that excuse the absence of such licensing for the facility.

RESPONSE: The temporary family residential facility at Artesia was set up in response to the recent influx of minors, which included many entering the United States with a parent or legal guardian. The Settlement Agreement provides that individuals entering the country during an "influx" are not required to be transferred to a "licensed facility" within 3 to 5 days, but instead are required to be placed in such facilities as expeditiously as possible. The Artesia Family Residential Center operates pursuant to the ICE Family Residential Standards and meets the applicable substantive requirements for conditions at such facilities from the Agreement. ICE is currently in the process of working towards obtaining licensure, to the extent possible, for the Artesia facility as expeditiously as possible.

- b. If the detention facility in Artesia, New Mexico, is not state-licensed to provide residential, group, or foster care services for dependent children —
 - i. Has the facility been licensed, approved or certified by any other entity? If so, what entity licensed, approved, or certified the facility, what standards did the facility meet, and on what date was the facility licensed, approved, or certified?
 - ii. What objections, if any, do defendants have to providing class counsel with a copy of any such standards and license, approval or certification?

RESPONSE: See response to question 5(a).

- c. Are minors detained in the facility in Artesia, New Mexico, provided a notice of the reasons for housing them in a detention or medium security facility? If so —
 - i. Where are records, if any, of such notices kept?

- ii. What objections, if any, do defendants have to providing copies of such records to class counsel?
- iii. If not, please identify the facts, documents, and tangible things that excuse defendants' failure to provide such notice.

RESPONSE: See response to question 4(a). In addition, ICE is not housing children apprehended with adult parents in detention facilities or medium security facilities, but is instead placing them with a parent in one of ICE's family residential centers. For that reason, the notices provided under paragraph 24.C are not implicated.

- d. Is the detention facility in Karnes City, Texas, state-licensed to provide residential, group, or foster care services for dependent children? If so —
 - i. What State agency issued such license?
 - ii. What is the license's numerical or other official designation?
 - iii. On what date was the license issued?
 - iv. What was the date of the most recent visit or inspection by the licensing agency?
 - v. What objections, if any, do defendants have to providing class counsel with a copy of such license?
 - vi. If not, please identify the facts, documents, and tangible things that excuse the absence of such licensing for the facility.

RESPONSE: The family residential facility at Karnes City, Texas was set up in response to the recent influx of minors entering the United States with a parent or legal guardian. The FSA provides that individuals entering the country during an "influx" are not required to be transferred to a "licensed facility" within 3 to 5 days, but instead are required to be placed in such facilities as expeditiously as possible. The Karnes Family Residential Center operates pursuant to the ICE Family Residential Standards and meets the applicable substantive requirements for conditions at such facilities from the Agreement. To help facilitate state licensure, among their other requirements, the Family Residential Standards link closely to state law requirements for purposes of ensuring that any child detained as part of a family unit is provided with an Initial Educational Assessment and either (1) comprehensive educational services in a structured classroom setting, covering core subjects on a year-round schedule and providing appropriate educational texts and learning materials, or (2) age appropriate child development toys and reading materials. The Standards also, for instance, require educational field trips and daily indoor and outdoor recreational activities that are appropriate to the needs and interests of families and children. ICE is currently in the process of working towards obtaining licensure, to the extent possible, for the Karnes facility as expeditiously as possible.

- e. If the detention facility in Karnes City, Texas, is not state-licensed to provide residential, group, or foster care services for dependent children —
 - i. Has the facility been licensed, approved or certified by any other entity? If so, what entity licensed, approved, or certified the facility, what standards did the facility meet, and on what date was the facility licensed, approved, or certified?

- ii. What objections, if any, do defendants have to providing class counsel with a copy of any such standards and license, approval or certification?

RESPONSE: See response to question 5(d).

- f. Are minors detained in the facility in Karnes City, Texas, provided a notice of the reasons for housing them in a detention or medium security facility? If so —
 - i. Where are records, if any, of such notices kept?
 - ii. What objections, if any, do defendants have to providing copies of such records to class counsel?
 - iii. If not, please identify the facts, documents, and tangible things that excuse defendants' failure to provide such notice.

RESPONSE: See response to question 5(c).

- g. Is the detention facility in Leesport, Pennsylvania, state-licensed to licensed to provide residential, group, or foster care services for dependent children? If so —
 - i. What State agency issued such license?
 - ii. What is the license's numerical or other official designation?
 - iii. On what date was the license issued?
 - iv. What was the date of the most recent visit or inspection by the licensing agency?
 - v. What objections, if any, do defendants have to providing class counsel with a copy of such license?
 - vi. If not, please identify the facts, documents, and tangible things that justify the absence of such licensing for the facility.

RESPONSE: The Berks Family Residential Center, located in Leesport, Pennsylvania, is licensed by the Pennsylvania Department of Public Welfare. It was most recently inspected in February 2014. The next inspection will take place on or before February 2015.

- h. If the detention facility in Leesport, Pennsylvania, is not state-licensed to provide residential, group, or foster care services for dependent children —
 - i. Has the facility been licensed, approved or certified by any other entity? If so, what entity licensed, approved, or certified the facility, what standards did the facility meet, and on what date was the facility licensed, approved, or certified?
 - ii. What objections, if any, do defendants have to providing class counsel with a copy of any such standards and license, approval or certification?
 - iii. Are minors placed in such facility provided a notice of the reasons for housing them in a detention or medium security facility, and if so, where are records of such notice kept and do defendants object to providing copies of such records to class counsel?

RESPONSE: See responses to questions 5(g) and 5(c).

- i. Are minors detained in the facility in Leesport, Pennsylvania, provided a notice of the reasons for housing them in a detention or medium security facility? If so —
 - i. Where are records, if any, of such notices kept?
 - ii. What objections, if any, do defendants have to providing copies of such records to class counsel?
 - iii. If not, please identify the facts, documents, and tangible things that excuse defendants' failure to provide such notice.

RESPONSE: See response to question 5(c).

- j. Is the detention facility in Artesia, New Mexico, non-secure as required under state law?
 - i. If so, under what state law do defendants deem the facility non-secure?
 - ii. If not, please identify the facts, documents, and tangible things that justify housing class members at the facility in Artesia, New Mexico.

RESPONSE: See response to question 4(a). In addition, there is no razor wire on the facility's perimeter fencing, no fence in front of the entrance to the facilities, no bars on the entrance to the facility or in the residences, and no signs on the premises describing the facility as a "corrections facility." The recreation areas are landscaped and the resident intake area has doors which remain unlocked.

- k. Is the detention facility in Karnes City, Texas, non-secure as required under state law?
 - i. If so, under what state law do defendants deem the facility non-secure?
 - ii. If not, please identify the facts, documents, and tangible things that justify housing class members at the facility in Karnes City, Texas.

RESPONSE: See response to question 5(j).

- l. Is the detention facility in Leesport, Pennsylvania, non-secure as required under state law?
 - i. If so, under what state law do defendants deem the facility non-secure?
 - ii. If not, please identify the facts, documents, and tangible things that justify housing class members at the facility in Leesport, Pennsylvania.

RESPONSE: See response to question 5(j).

- m. In what facilities do defendants currently hold minors? For each such facility —
 - i. What is the name and location of the facility?
 - ii. What type of facility is it: e.g., shelter, transitional foster care, long term foster care, group home, residential treatment, staff secure, or secure?
 - iii. For each facility identified, is the facility licensed, and if so, what type of license does the facility have and what agency issued the license?

RESPONSE: Currently, ICE is housing minors encountered with a parent or legal guardian in Family Residential Centers in Berks, Artesia, and Karnes. Unaccompanied alien children apprehended by DHS

who remain in the custody of the U.S. Government are transferred to HHS in accordance with the TVPRA.

- n. Do defendants have written standards regarding monitoring and treatment of weight loss and/or failure to thrive in minors held in family detention facilities? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards?
 - v. If defendants have no such standards, why are there no such standards?

RESPONSE: ICE has detailed written standards for routine and emergency medical and mental health care, including complete medical examinations of incoming residents. The standards are available at <http://www.ice.gov/detention-standards/family-residential>.

- o. Do defendants have written standards regarding the monitoring and treatment of the mental health of mothers and minors in family detention facilities? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards?
 - v. If defendants have no such standards, why are there no such standards?

RESPONSE: See response to question 5(n).

- p. Do defendants have written standards regarding monitoring and treatment of respiratory illnesses in minors held in family detention? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards?
 - v. If defendants have no such standards, why are there no such standards?

RESPONSE: See response to question 5(n).

- q. Do defendants have written standards regarding monitoring and treatment of fever in children held in family detention? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards?
 - v. If defendants have no such standards, why are there no such standards?

RESPONSE: See response to question 5(n).

6. Questions relating to implementation of ¶ 12.

- a. Do defendants have written standards specifying the minimum protections required to ensure that facilities are “safe and sanitary”? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: Defendants cannot point to a particular policy that specifically defines the term “safe and sanitary” with regard to standards for its temporary detention facilities. However, DHS is committed to providing appropriate care for everyone in its custody consistent with its legal obligations. DHS agents and officers are required to treat all minors with dignity, respect and special concern for their particular vulnerability. DHS makes every effort to take the best possible care of unaccompanied alien children in its custody. Some of the steps taken during the recent influx included designating certain facilities for children alone (in order to further segregate them from unrelated adults and provide a secure environment), ensuring children had access to showers and clean clothes, providing three meals daily with access to drinks and snacks, and deploying FEMA Corps to assist with the general care of children, as well as providing recreational activities until such time as they could be transferred to the custody of HHS.

- b. Do defendants have written standards specifying the minimum and maximum temperatures for rooms at Border Patrol facilities in which minors are held following arrest? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?

- iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
- iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
- v. If defendants have no such standards or procedures, why not?

RESPONSE: Temperature requirements may vary by the type of station and the location of that station. CBP follows the standards prescribed by the American Society of Heating, Refrigeration and Air Conditioning Engineers in keeping facilities in the range of comfort that is commonly referred to as 'room temperature.'

- c. Do defendants have written standards on providing minors mattresses and blankets at Border Patrol facilities in which such minors are held following arrest? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: Defendants cannot point to a standard specifically related to the provision of mattresses or blankets in its temporary detention facilities for Border Patrol. However, DHS is committed to providing appropriate care for everyone in its custody consistent with its legal obligations. During the recent influx DHS not only undertook to purchase additional blankets, it also provided laundering facilities in order to ensure that the needs of those individuals in its custody, including unaccompanied alien children not yet transferred to HHS, were provided for. CBP was able to accept gifts, such as blankets and children's books, during the period of the crisis as part of our strong and ongoing cooperation with non-governmental organizations. So, for instance, the American Red Cross provided certain blankets and other supplies and, through its Restoring Family Links program, coordinated calls between children in the care of DHS and families concerned about their well-being.

- d. Do defendants have written standards regarding the retention, removal, or destruction of minors' jackets, sweaters, identity documents and other personal property at Border Patrol facilities in which such minors are held following arrest? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?

- iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
- v. If defendants have no such standards or procedures, why not?

RESPONSE: CBP Directive 5240-007 (Nov. 6, 2006) establishes procedures to assist CBP officers in determining how to handle personal effects of detainees. It provides, in part, that at the time of arrest, “a 100 percent inventory shall be taken of all personal effects” ¶ 4.3.

- e. Do defendants have written standards prescribing the maximum capacity of rooms at Border Patrol facilities in which such minors are held following arrest? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants’ procedures for monitoring individual facilities’ compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: The capacity of a particular CBP facility will vary depending on the nature of the particular space and the individuals that may be detained in that space. During the recent influx, CBP was proactive in its efforts to address the needs of the unaccompanied alien children in its custody by using its processing center in Nogales, Arizona and adding a processing center in McAllen, Texas, which significantly expanded CBP’s capacity to house minors who were awaiting transfer into HHS custody. The Nogales, Arizona facility is not currently being used to hold minors.

- f. Do defendants have written standards prescribing minors’ access to toilets and sinks at Border Patrol facilities in which such minors are held following arrest? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants’ procedures for monitoring individual facilities’ compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: Access to restroom facilities is available to any detainees in a hold room, a temporary holding area, or in any secondary inspection area. Unaccompanied alien children have access to medical care, food, water, and bathroom facilities pursuant to CBP’s processes for the particular facility in which that child is being held.

- g. Do defendants have written standards regulating the quality and quantity of food and drink minors are to be provided in Border Patrol facilities following arrest? If so —

- i. What do such standards provide?
- ii. Where are such standards published?
- iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
- iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
- v. If defendants have no such standards or procedures, why not?

RESPONSE: All individuals who are detained in CBP's custody are provided appropriate nutrition. CBP provides access to snacks, milk or juice to certain vulnerable populations such as minors and pregnant women. During the most recent influx of unaccompanied alien children, contractors provided meals and snacks for unaccompanied alien children in the Rio Grande Valley (RGV) that met their nutritional needs. Those meals included at least two hot meals (and one cold) each day.

- h. Do defendants have written standards regulating what information minors are to be provided when transferred from Border Patrol facilities to another detention facility? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: All minors apprehended by CBP are provided with the Notice of Rights and Request for Disposition (Form I-770). *See* 8 C.F.R. § 236.3(h). Depending on where they are processed and whether they are part of other groups where additional advisals are required, those may also be provided. Moreover, even though the TVPRA only requires screening for certain unaccompanied alien children, every unaccompanied alien child apprehended by CBP is screened to determine whether he or she has a fear of return or has been a victim of a severe form of trafficking. This screening is done on a standard form, CBP Form 93. Unaccompanied alien children that are subject to removal proceedings are transferred to the custody of HHS for shelter placement. DHS defers to HHS regarding what information may be provided to minors after their transfer to HHS custody.

- i. Do defendants have written standards prohibiting their agents, officers and employees from falsely informing minors that they will be deported or are being deported? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?

- iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
- iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
- v. If defendants have no such standards or procedures, why not?

RESPONSE: Federal regulations require DHS officers to give specific notices of rights to minors including but not limited to the I-770 which specifically states that minors have rights which cannot be taken away including the right to: an attorney, a hearing before an immigration judge, speak to your consular, and use the telephone. Additionally, the TVPRA requires that "[a]ny unaccompanied alien child sought to be removed by the Department of Homeland Security, except for unaccompanied alien children from a contiguous country [] shall be placed in removal proceedings under section 240 of the [INA]." Removal decisions under section 240 of the INA are made by immigration judges.

Moreover, CBP and ICE have standards of conduct applicable to all employees. CBP's standards of conduct may be found here: http://www.cbp.gov/sites/default/files/documents/std_of_conduct_3.pdf, and ICE's standards may be found at http://www.ice.gov/doclib/foia/dro_policy_memos/employee-code-of-conduct.pdf.

Both ICE and CBP hold their workforce to a high standard of integrity and have robust processes to address any claim of misconduct.

- j. Do defendants have written standards prohibiting their agents, officers and employees from recording false information on documentation, including by obtaining signatures without having provided translation services or by falsely affixing a signature? If so —
 - i. What do such standards provide?
 - ii. Where are such standards published?
 - iii. What are defendants' procedures for monitoring individual facilities' compliance with such standards, and where are reports of such monitoring, if any, kept and published?
 - iv. What objections, if any, do defendants have to providing class counsel with copies of any such standards, procedures and reports?
 - v. If defendants have no such standards or procedures, why not?

RESPONSE: See response to question 6(i).

7. Questions relating to implementation of ¶ 12C.

- a. Do defendants have a written plan that describes the reasonable efforts that it will take to place all minors as expeditiously as possible in licensed facilities? If so —
 - i. Why have defendants not provided plaintiffs' counsel with quarterly updates of the listing of additional beds?
 - ii. What objections, if any, do defendants have to providing class counsel with copies such written plans issued in 2013 and 2014?

- iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to have a written plan that describes the reasonable efforts they will take to place all minors as expeditiously as possible in licensed facilities.

RESPONSE: As noted paragraph 12(C) of the Settlement Agreement "[t]he plan, without identification of the additional beds available, is attached as Exhibit 3." With the enactment of the TVPRA, DHS's role in detaining minors changed significantly and all unaccompanied minors who remain in U.S. Government custody are transferred to HHS for housing and placement in accordance with the TVPRA. ICE has maintained 96 beds at the Berks facility. Further, in response to the recent influx of minors and families that occurred over the past year, DHS further increased its capacity to detain family units. DHS has provided class counsel not only with the locations of those facilities, but with tours of the facilities which included information on the overall capacity of the residential centers. See also responses to questions 5(a) and 5(d).

- b. Have defendants identified facilities that will or may become available in 2014 to provide additional beds for the expeditious placement of minors, whether accompanied or unaccompanied? If so —
 - i. What is the name, location and projected number of beds for each such facility?
 - ii. Will defendants require each facility to be state-licensed before it admits minors?

RESPONSE: During the recent influx, DHS arranged additional processing centers to handle the increase in apprehensions within the Rio Grande Valley, including adding a processing center in McAllen, Texas. All unaccompanied minors who remain in U.S. Government custody are transferred to HHS for custody and placement in accordance with the TVPRA, and DHS defers to HHS with regard to additional shelter facilities that may be identified for use by HHS. With regard to accompanied minors, DHS has informed class counsel and the general public that it has entered into a contract for a family residential center in Dilley, Texas. Expected to open in December, initial capacity at the South Texas Family Residential Center will be up to 480 residents, while the facility will ultimately accommodate up to 2,400 residents on the approximately 50-acre site. ICE expects to open the facility to its first residents in early November and for the site to be ready for full capacity within 210 days. The facility will operate under the ICE Family Residential Standards.

8. Questions relating to implementation of ¶¶ 28A and 29.

- a. Do defendants collect the statistical information described in ¶ 28A on a weekly basis? If so —
 - i. Why does the statistical report defendants have provided class counsel most recently report information through June 2013 only?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of the weekly reports for the period from July 2013, to the present, in hard copy and native format?

- iii. If not, please identify the facts, documents, and tangible things that justify defendants' failure to maintain an up-to-date record of all minors who are placed in proceedings and remain in INS custody for longer than 72 hours, to collect such information weekly, and/or failure to provide up-to-date information in reports.

RESPONSE: Defendants collect the statistical information described in ¶ 28A, and have provided it to class counsel on a bi-annual basis. The most recent report was delayed slightly by the circumstances related to the influx of minors crossing the southern border in recent months, which caused DHS to focus its resources primarily on that situation. Nonetheless, that report is under review and DHS anticipates providing that report to class counsel as soon as possible.

- b. Have defendants provided to class counsel each policy or instruction issued to their employees regarding the implementation of the Settlement? If not —
 - i. What facts, documents, and tangible things that justify defendants' failure to provide class counsel each policy or instruction issued to their employees regarding the implementation of the Settlement?
 - ii. What objections, if any, do defendants have to providing class counsel with copies of such policies and instructions now?

RESPONSE: Defendants are not aware of any policy or instruction issued to their employees within the last six months regarding the implementation of the Agreement.