

JANUARY 19, 2021
ICE JUVENILE
COORDINATOR REPORT

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JENNY LISETTE FLORES, <i>et. al.</i> ,	)	Case No.: CV 85-4544-DMG
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
JEFFREY A. ROSEN,	)	
Acting Attorney General of the	)	
United States, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

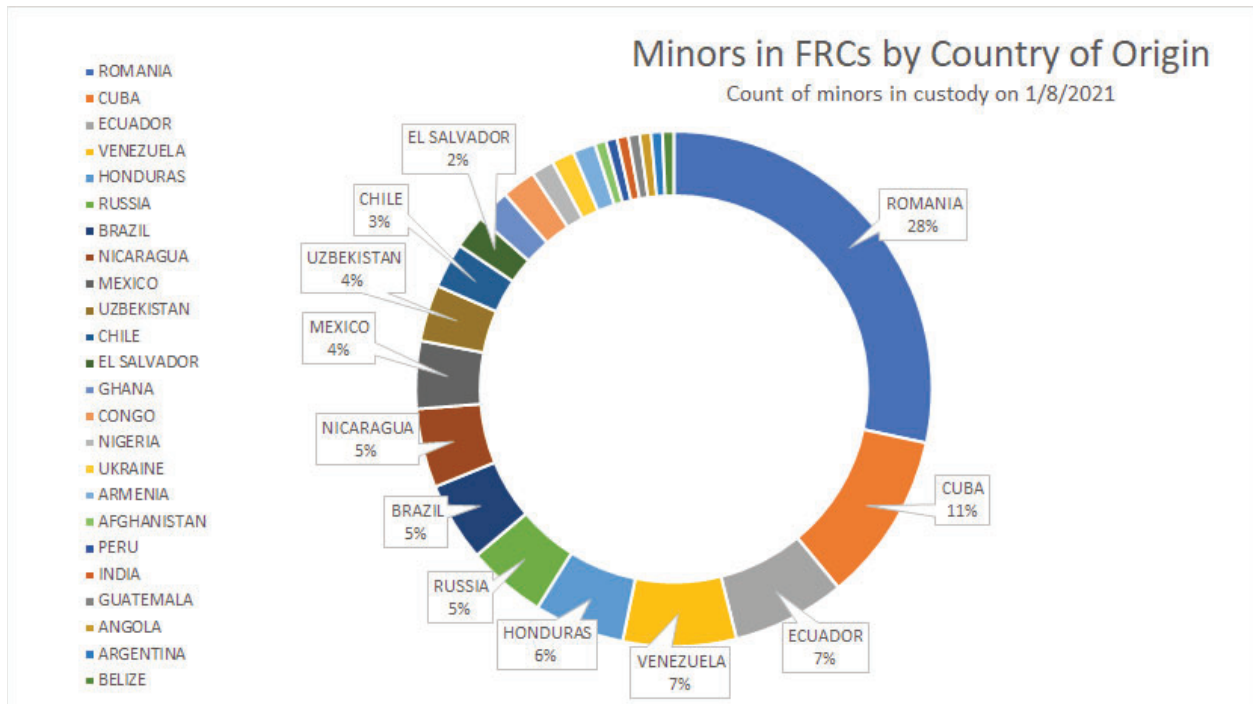
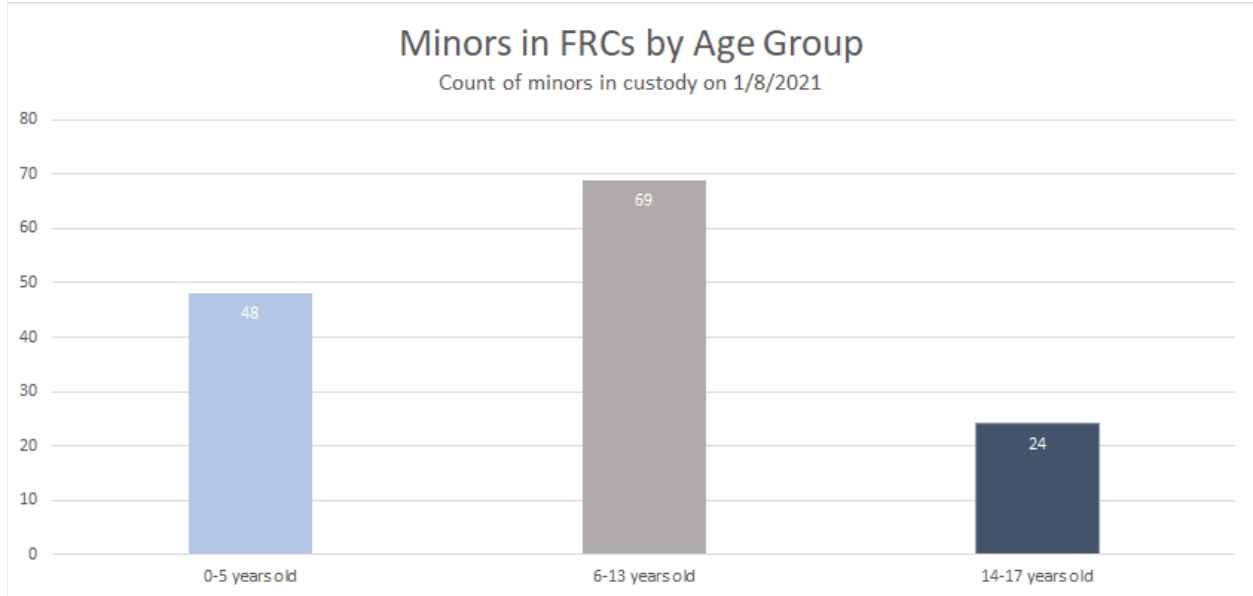
**JANUARY 2021 INTERIM REPORT
OF JUVENILE COORDINATOR DEANE DOUGHERTY
SUBMITTED BY IMMIGRATION AND CUSTOMS ENFORCEMENT**

As required by the Court in its order issued on December 4, 2020, U.S. Immigration and Customs Enforcement (ICE) Juvenile Coordinator Deane Dougherty is submitting the following interim report to provide an update on the Class Members in the FRCs over 20 days, status of implementation of COVID-19 guidances, a census of positive COVID-19 cases at the family residential centers (FRCs), the status of compliance with respect to minors held in Title 42 custody, and confirmation that ICE continues to comply with requests for information and access to residents made by Ms. Ordin and Dr. Wise.

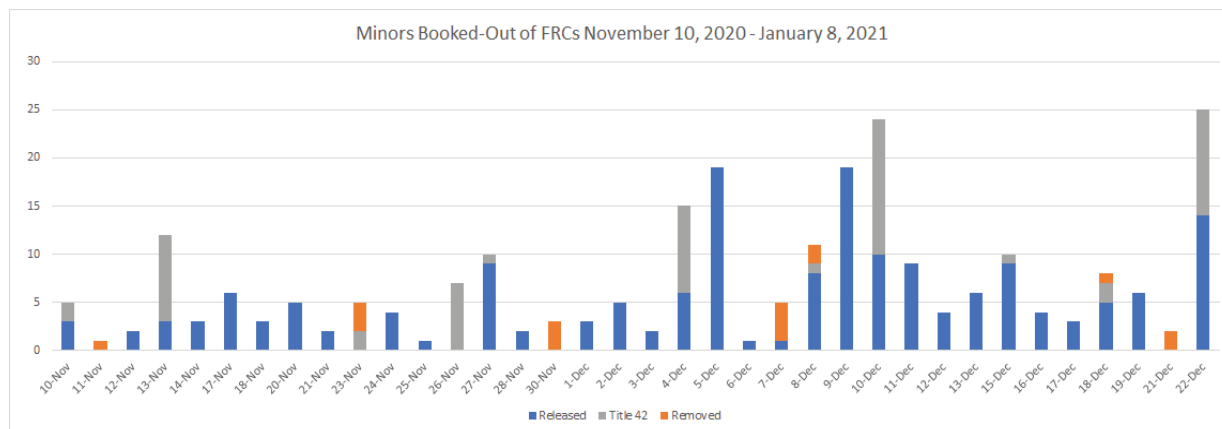
Due to the constantly evolving nature of the COVID-19 crisis, and the frequency of custody and discharge determinations, the information in this report is current and accurate as of the time of signature, or for the reported data, as of the date or time noted in conjunction with the information provided.

I. Making and Recording Individualized Custody Determinations and Census of Minors at FRCs

As of January 8, 2021, there were a total of 141 Class Members at ICE FRCs. The figures below breakdown these Class Members by age and country of origin.



ICE has been making continuous efforts to release Class Members under applicable standards throughout the course of this litigation and, where there are no impediments to removal, those that are subject to final orders of removal are repatriated in accordance with the law.¹ This includes the expeditious release of minors who received a positive credible fear finding by U.S. Citizenship and Immigration Services (USCIS) pursuant to a request for reconsideration, a process solely committed to and within the discretion of USCIS and with which ICE is not involved. The graph below portrays the book-outs by the FRCs from November 10, 2020 to January 8, 2021, which includes 260 Class Members released into the interior of the United States, 20 Class Members removed from the United States, and 80 Class Members returned to their country of origin pursuant to Title 42 authorities.



As of January 8, 2021, 37 Class Members have been detained at an FRC 20 days or more. Exhibit A. I have reviewed the data provided in Exhibit A, and it has been shared with the Special Monitor, as required by the December 4, 2020, Order. Because this list must be shared with the Special Monitor in advance of this filing, the information contained therein may have changed

¹ On January 11, 2012, the U.S. District Court for the Western District of Texas issued a stay of removal for named Plaintiffs in *S.L.V. v. Rosen*, No. 21-00017 (W.D. Tex. filed Jan 11, 2021). The stay prevented the imminent removal of at least five families detained at the STFRC. The stay expires 14 days' from issuance, and a hearing is set in the district court for January 25, 2021. Additionally, a stay of removal for named Plaintiffs in *Huisha-Huisha v. Gaynor, et al.*, No. 21-100 (D.D.C. filed Jan. 12, 2021), prevents the expulsion of three families at the KCFRC who are subject to Title 42.

since the date it was compiled. These individuals, and their accompanying parent(s) or legal guardian(s), may be subject to the *Flores* waiver process contemplated in this Court’s September 18, 2020 Order. This process has two parts that remain in development: (1) the Notice of Rights, and (2) an updated policy or instruction regarding the process that flows from service of the Notice of Rights where a Class Member and parent or legal guardian consent to the Class Member’s separate release (Directive). On January 12, 2021, the parties filed the latest court-ordered Joint Status Report regarding the proposed Notice of Rights and Directive. Once the Court issues a finalized Notice of Rights and Directive, ICE will update the specific explanations for continued detention over 20 days as outlined in paragraph 1, 4(c), and 4(d) of the Court’s June 26 Order, in its interim reporting.

II. Status of ICE’s Implementation of COVID-19 Guidances

I have confirmed that the measures described in the declarations and the Juvenile Coordinator’s reports, previously submitted to this Court, pertaining to the operational changes the FRCs have implemented to mitigate the introduction into, and spread of, COVID-19 are still in effect. As has been the case since the beginning of the pandemic, ICE FRCs are operating well below maximum capacity, as demonstrated in the chart below.

Family Residential Center Occupancy 1/8/2021					
Facility	Total # of Beds	# of Beds Occupied	% of Beds Occupied	# of Beds Not Occupied	% of Beds Not Occupied
Berks Family Residential Center	96	11	11%	85	89%
Karnes County Residential Center	830	79	10%	751	90%
South Texas Family Residential Center	2,400	194	8%	2,206	92%
Total	3,326	284	9%	3,042	91%

I am actively monitoring the Department of Homeland Security and ICE guidance with respect to distributing the COVID-19 vaccination. Due to the limited initial vaccine doses, vaccinations have begun for law enforcement officers in prioritized phases and in accordance with U.S. Centers for Disease Control and Prevention (CDC) recommendations and in partnership with

the Veterans Health Administration. One of these prioritized locations is the San Antonio Field Office, in which both the Karnes and South Texas Family Residential Centers are located. Please note that the vaccination program is voluntary for ICE personnel. I will update this Court when more information about the vaccination rollout becomes available, particularly as it may relate to residents.

III. Report of ICE Facilities Holding Minors and Number of COVID-19 Cases

ICE has been regularly reporting positive COVID-19 cases to the United States District Court for the District of Columbia, which is overseeing *O.M.G. v. Wolf*, and the notices of positive results are also submitted to this Court. The following charts describe the number of positive COVID-19 cases at the ICE FRCs as of January 8, 2021.

COVID-19 Positive Cases at Family Residential Centers as of 1/8/2021				
Facilities	Minor	Adult	Staff	Total
Berks Family Residential Center	-	1	10	11
Karnes County Residential Center	39	53	78	170
South Texas Family Residential Center	12	15	103	130
Total	51	69	191	311

COVID-19 Positive Cases of Residents at Family Residential Centers as of 1/8/2021			
Facilities	At Intake	In General Population	Total
Berks Family Residential Center	1	-	1
Karnes County Residential Center	92	-	92
South Texas Family Residential Center	17	10	27
Total	110	10	120

COVID-19 Positive Cases of Residents at Family Residential Centers as of 1/8/2021				
Facilities	Symptomatic	Asymptomatic	Hospitalized	Total
Berks Family Residential Center	1	-	-	1
Karnes County Residential Center	3	89	-	92
South Texas Family Residential Center	6	21	-	27
Total	10	110	-	120

Pursuant to section 4(b)(iv) of this Court's April 24, 2020 Order, the minors who remain housed at the ICE FRCs have not been released or transferred to non-congregate settings for two

reasons: (1) because they are either in quarantine or cohorting based on CDC guidance as a result of testing positive for COVID-19 or they are a new intake and must undergo a 14-day observation period; and/or (2) because they are housed with their parent or legal guardian whose release is not appropriate and, as discussed previously, ICE will determine the minor's eligibility for release with the consent of a parent or legal guardian in accordance with any future remedy ordered by the Court.

As of January 8, 2021, Cowlitz County Juvenile Detention Center ("Cowlitz") has had no reported cases of COVID-19 by residents or staff.

IV. Additional Policies and Practices Aimed at Identifying and Protecting Minors from COVID-19

Pursuant to section 5 of the Court's December 4, 2020 Order, I can confirm that I facilitated, and participated in a number of telephonic discussions with Ms. Ordin, Dr. Wise, Ms. Fabian and others to discuss Flores compliance with particular regard to COVID-19 precautions. Of note is one case in which Dr. Wise was particularly interested involving a four year old with a shoulder injury that occurred while enroute from Ecuador and was discovered while housed at the South Texas Family Residential Center (Dilley). While not directly related to Flores oversight, Dr. Wise acknowledged that the medical care and procedures provided to the child while housed at Dilley were excellent and followed accepted protocols. Dr. Wise, Ms. Ordin and ICE officials collaborated to ensure an expedited review of the child's Reasonable Fear claims which resulted in release from the facility. Additionally, the family was released with a detailed recommended medical care plan and referrals for possible future medical care in the local community in which the family planned to reside while continuing through their immigration proceedings. Ms. Ordin and I also conferred regarding the status of Title 42 families and UAC as well as the submission of this report. I have also telephonically provided Ms. Ordin with data and reports on the hoteling

of minors and families with regard to Title 42 compliance and families who exceeded 20 days in residence at a FRC.

V. Title 42 Compliance

Pursuant to section 6 of the Court's September 4, 2020 Order, ordering that the government maintain records and statistical information on minors held in Title 42 custody, to include an update regarding the number of minors held in Title 42 custody, and to monitor compliance with the Agreement with respect to minors held in Title 42 custody, I can confirm that ICE has included minors temporarily housed by ICE pursuant to Title 42 authorities over 72 hours pending expulsion in its monthly Paragraph 28A reporting shared with Plaintiffs' counsel since March 2020, and will continue to do so. Since the last interim report I filed, advising this Court that KCFRC was exclusively housing Title 42 families, as of November 22, 2020, KCFRC resumed housing both Title 42 and Title 8 families.

On November 18, 2020, the U.S. District Court for the District of Columbia issued an order granting a nationwide preliminary injunction prohibiting the expulsion of unaccompanied alien children under regulations issued by the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) implementing Title 42, Section 265 of the U.S. Code (Title 42). *P.J.E.S. v. Wolf*, No. 20-cv-02245, (D.D.C. filed Aug. 14, 2020). The district court invalidated these regulations as applied to a class defined as:

all unaccompanied noncitizen children who (1) are or will be detained in U.S. government custody in the United States, and (2) are or will be subjected to expulsion from the United States under the CDC Order Process, whether pursuant to an Order issued by the Director of the Centers for Disease Control and Prevention

under the authority granted by the Interim Final Rule, 85 Fed. Reg 16559-01, or the Final Rule, 85 Fed. Reg. 56,424-01.

Id.

Between November 10, 2020, and January 8, 2021, which includes nine days before the preliminary injunction in *P.J.E.S.* was issued, ICE temporarily housed a total of 86 minors pending expulsion under Title 42 processes. Of those, ICE temporarily housed 5 minors at an FRC with an average length of stay of 7 days; the chart below demonstrates the age categories:

Age Category	# of minors
0 -5 years old	2
6 - 13 years old	2
14 - 17 years old	1
Total	5

ICE temporarily housed 81 minors in hotels, with an average length of stay of 1.4 days; the charts below demonstrate the age categories and breakdowns by family composition²:

Family Composition	# of minors
Family Unit	2
Family Group	2
Single Minor	77
Total	81

² As a reminder, the reporting period for Title 42 data includes single minors processed under Title 42 authorities pre-*P.J.E.S.* preliminary injunction.

Age Category	# of minors
0 -5 years old	1
6 - 13 years old	6
14 - 17 years old	74
Total	81

Of the 86 minors temporarily housed pursuant to Title 42 by ICE, no minors were held in hotels for more than 72 hours pending transfer to a licensed facility, and no minors were held in a hotel for more than 2 days pending an expulsion flight.

Signed on this 19th day of January 2021.

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Deane Dougherty
Juvenile Coordinator

ATTACHMENT A
TO JANUARY 15, 2021 ICE
JUVENILE COORDINATOR REPORT

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