

1 BRIAN BOYNTON
2 Acting Assistant Attorney General
3 CHRISTOPHER P. TENORIO
4 Deputy Assistant Attorney General
5 WILLIAM C. PEACHEY
6 Director
7 Office of Immigration Litigation
8 WILLIAM C. SILVIS
9 Assistant Director
10 Office of Immigration Litigation
11 SARAH B. FABIAN
12 Senior Litigation Counsel
13 FIZZA BATOOL
14 Trial Attorney
15 Office of Immigration Litigation
16 U.S. Department of Justice
17 Box 868, Ben Franklin Station
18 Washington, D.C. 20044
19 Telephone: (202) 532-4824
20 Fax: (202) 616-8962
21
22 RANDY S. GROSSMAN
23 Acting United States Attorney
24 SAMUEL W. BETTWY
25 Assistant U.S. Attorney
26 California Bar No. 94918
27 Office of the U.S. Attorney
28 880 Front Street, Room 6293
San Diego, CA 92101-8893
619-546-7125
619-546-7751 (fax)

*Attorneys for Federal Respondents-
Defendants*

Lee Gelernt*
Judy Rabinovitz*
Anand Balakrishnan*
Daniel A. Galindo (SBN 292854)
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
dgalindo@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

4 MS. L, et al.,

Case No. 18cv428 DMS MDD

5 Petitioners-Plaintiffs,
6

JOINT STATUS REPORT

7 vs.

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

10 Respondents-Defendants.
11

12 On January 10, 2022, the Court ordered the parties to file a Joint Status Report
13 (JSR) by March 2, 2022, in anticipation of the status conference scheduled for 11:30
14 am on March 4, 2022. ECF No. 626. In accordance with this order of the Court, the
15 parties provide the below JSR.

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I. JOINT REPORT OF THE PARTIES

The Court asked the parties to provide a report on the following information: “(1) the total number of parents in the original and expanded classes, (2) the total number of parents in item (1) that have been located, and (3) the total number of parents in item (2) that have been reunified with their children.” ECF No. 626. In accordance with this order of the Court, the parties provide the following:

(1) the total number of children¹ whose parents are currently confirmed² to be members of the original and expanded classes: 3810

(2) the total number of children in item (1) the parents of whom the parties confirm have been located:³ 3574

(3) the total number of children in item (2) that the parties can confirm⁴ have been reunified with their separated parent⁵: 2762

¹ The parties have been reporting and discussing numbers with regard to efforts to locate and reunify class members as a function of the numbers of children of class member parents, as opposed to the numbers of parents. In order to avoid confusion, and with the consent of the Court, the parties are reporting these numbers in the same manner as they have done throughout the litigation.

² The parties expect that additional parents will be included in the final Ms. L. settlement class, but those individuals are not being counted here because those negotiations are ongoing.

³ For purposes of this reporting the parties are reporting as located any contact made with the separated parent or child, as well as parents whose whereabouts are or were known to the parties, sometimes through intermediaries such as a close family member. This total also includes cases that due to special circumstances have been resolved by the Steering Committee. The parties expect that additional communication will need to occur with settlement class members in the course of settlement, and so some individuals may be contacted multiple times.

⁴ The parties agree that some children who were released to a sponsor other than the separated parent may have since reunified with their parents in a manner that is not captured by the parties’ data, and the parties will continue working together to identify those cases.

⁵ This group also includes a limited set of cases that were resolved due to special circumstances, where the Steering Committee does not anticipate a need for

II. DEFENDANTS' POSITIONS

A. Update Regarding Government's Implementation of Settlement Agreement

SETTLEMENT PROCESS	DESCRIPTION	NUMBER
Election Forms⁶	Total number of executed election forms received by the Government	455 (266 Parents/189 Children)⁷
	• Number who elect to receive settlement procedures	293 (163 Parents/130 Children)
	• Number who waive settlement procedures	162 (103 Parents/59 Children)⁸
Interviews	Total number of class members who received interviews	186⁹
	• Parents who received interviews	100
	• Children who received interviews	86

reunification assistance.

⁶ The number of election forms reported here is the number received by the Government as of March 1, 2022.

⁷ 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.

⁸ 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.

⁹ 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.

Decisions	Total number of CFI/RFI decisions issued for parents by USCIS	74¹⁰
	• Number of parents determined to establish CF or RF upon review by USCIS	73¹¹
	• Number of parents whose CF or RF finding remains negative upon review by USCIS	1
	Total number of CFI decisions issued for children by USCIS	72¹²
	• Number of children determined to establish CF by USCIS	72¹³
	• Number of children determined not to	0

¹⁰ 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).

¹¹ 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.

¹² 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.

¹³ 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.

	establish CF by USCIS	
	Total number of affirmative asylum decisions by USCIS	33
	• Number of parents granted asylum by USCIS	5
	• Number of parents referred to immigration court	8
	• Number of children granted asylum by USCIS	6¹⁴
	• Number of children referred/returned to immigration court	14
Removals	Number of class members who have been returned to their country of origin as a result of waiving the settlement procedures	103 Parents¹⁵

B. The President's February 2, 2021 "Executive Order on the Establishment of Interagency Task Force on the Reunification of Families"

As noted in the parties' March 10, 2021 filing, the parties have entered into settlement negotiations which remain ongoing, and the FRTF is continuing its work both in parallel and in conjunction with these settlement discussions. ECF No. 578. Since the creation of the FRTF, a total of 125 separated children have been reunified with parents in the U.S and approximately 400 people have been paroled as of February 25, 2022. The

¹⁴ This number includes children granted asylum as a dependent on their parent's asylum application.

¹⁵ This number is as of March 1, 2022.

1 FRTF continues to focus on establishing contact with all families and working to increase
2 the rate of reunifications.

3 The parties are also discussing settlement issues on a regular basis, and the next
4 formal Settlement Conference with Magistrate Judge Dembin is scheduled for April 7,
5 2022. Issues previously reported by Defendants in joint status reports are now being
6 addressed by the parties as part of the ongoing settlement negotiations.

7 **III. MS. L. PLAINTIFFS' POSITIONS**

8 **A. Steering Committee Outreach to Sponsors and Parents of Children of** 9 **Expanded Class Members**

10 The government has provided eleven lists identifying 1,134 children of
11 expanded class members. The government has also identified 64 "recategorized"
12 deported parents from the original class, who the Steering Committee has sought to
13 contact as part of its efforts to reach members of the expanded class.¹⁶ The Steering
14 Committee's recent efforts have been targeted at locating the parents of this group
15 of 1,198 (1,134 plus 64) children.¹⁷

16 Of these 1,198 children, for 982 the Steering Committee has reached the
17 parents (or their attorneys), or otherwise resolved the cases. This represents an
18 increase of 21 children's parents since our last status report. We describe below the
19

20 ¹⁶ In its portion of the December 12, 2018 Joint Status Report, the government
21 disclosed the existence of what we call the "Recategorized Original Class", *i.e.*,
22 members of the original class who were not identified as part of the government's
23 initial disclosures in the summer of 2018. The government only provided contact
24 information for this group in February 2019, after the Steering Committee's efforts
25 to contact original class members had concluded – and so, as a logistical matter, the
26 Steering Committee has conducted outreach to the 64 parents in this group who were
27 deported following separation from their children, as part of the Steering
28 Committee's efforts to contact *expanded* class members.

¹⁷ Because some of the parents of these children entered with more than one child,
there are 1,082 parents in this combined group.

1 status of our continuing efforts to reach the parents of the remaining 216 children,
2 down from 237 in the last status report.

3 The parents of 216 children fall into three groups; in all three, searches are
4 ongoing. First, there are approximately 150 children whose parents are believed to
5 have been removed from the United States following separation from their children.
6 Second, there is a group of approximately 59 children whose parents are believed to
7 be in the United States. Third, there is a group of seven children for whom the
8 government has not provided a phone number for the parent, child, sponsor or
9 attorney. There are two fewer children in this group since our last status report.

10 *Steering Committee Efforts to Locate Parents*

11 First, as previously reported, the Steering Committee attempts to reach all
12 parents, sponsors and attorneys by telephone. The Steering Committee has renewed
13 these efforts and has continued its efforts to reach parents, where possible, by using
14 the additional contact information provided by the government in late 2020 from
15 databases of the Executive Office for Immigration Review and U.S. Customs and
16 Immigration Enforcement. This information includes phone numbers that had not
17 previously been disclosed for children and parents, as well as contact information
18 for a number of attorneys.

19 Where those efforts are not successful, the Steering Committee has engaged
20 in time-consuming and arduous on-the-ground searches for parents. These on-the-
21 ground searches have been focused abroad in the countries of origin of parents who
22 were removed from the United States following separation from their children.
23 These searches are ongoing by members of the Steering Committee, and over the
24 last several months we have devoted additional resources to these efforts. As
25 previously reported, on-the-ground searches for separated parents are ongoing when
26 it is safe to do so, but are limited and in some cases cannot take place due to risks
27 associated with the COVID-19 pandemic.
28

1 Also, as previously reported, the Steering Committee has established toll-free
2 telephone numbers in the United States, Guatemala, Honduras, Mexico and El
3 Salvador to receive inbound phone calls from potential members of the expanded
4 class. The Steering Committee has distributed this number both by email and U.S.
5 Mail to a number of non-governmental organizations and other community
6 organizations in the United States, who may be able to help us locate parents because
7 they work in the communities these parents are likely to have contact with. In
8 addition, the Steering Committee sent letters in Spanish and English to
9 approximately 1,600 addresses provided by the government for the potential class
10 members that the Steering Committee has not yet reached. These letters explain our
11 role in this action and invite parents to contact the Steering Committee to call these
12 toll-free numbers. The Steering Committee continues to monitor a voicemail box
13 reachable via these toll-free numbers, and plans to renew its mailing effort with the
14 new address information received for children and their attorneys from the
15 government.

16 Additionally, as previously reported, the Steering Committee has undertaken
17 broad-based media outreach efforts to publicize the toll-free phone numbers created
18 by the Steering Committee in Spanish language media. The Steering Committee has
19 also arranged for advertisements on Spanish language radio in Central America.
20 Those advertisements have aired over the last several months. The Steering
21 Committee continues to work to identify opportunities to broadly disseminate the
22 toll-free numbers through various media to maximize visibility to potential *Ms. L.*
23 class members, including seeking to collaborate on such media outreach initiatives
24 with other non-profit organizations.

25 The Steering Committee also receives additional contact information for a
26 limited number of families from third parties, including a number of non-
27 governmental organizations. The Steering Committee uses that information to re-
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attempt telephonic communication with all families for whom new contact information has become available, in addition to the efforts underway using new information provided by the government as described above.

IV. MMM-Dora Plaintiffs' Report Regarding Settlement Implementation

The parties continue to work together to implement the Settlement Agreement approved on November 15, 2018. Class counsel are providing the Government with signed waiver forms as they are received from class members, and class counsel are continuing to work on outreach efforts to class members who may qualify for relief under the settlement. The parties continue to meet and confer on issues related to settlement implementation as they arise.

DATED: March 2, 2022

Respectfully submitted,

/s/ Lee Gelernt

Lee Gelernt*

Judy Rabinovitz*

Anand Balakrishnan*

Daniel A. Galindo (SBN 292854)

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

dgalindo@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

1 F: (619) 232-0036
2 *bvakili@aclusandiego.org*

3 Stephen B. Kang (SBN 292280)
4 Spencer E. Amdur (SBN 320069)
5 AMERICAN CIVIL LIBERTIES UNION
6 FOUNDATION
7 39 Drumm Street
8 San Francisco, CA 94111
9 T: (415) 343-1198
F: (415) 395-0950
skang@aclu.org
samdur@aclu.org

10 *Attorneys for Petitioners-Plaintiffs*
11 **Admitted Pro Hac Vice*

12 BRIAN BOYNTON
13 Acting Assistant Attorney General
14 CHRISTOPHER P. TENORIO
15 Deputy Assistant Attorney General
16 WILLIAM C. PEACHEY
17 Director
18 WILLIAM C. SILVIS
19 Assistant Director

20 /s/ Sarah B. Fabian
21 SARAH B. FABIAN
22 Senior Litigation Counsel
23 FIZZA BATTOOL
24 Trial Attorney
25 Office of Immigration Litigation
26 Civil Division
27 U.S. Department of Justice
28 P.O. Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824
(202) 616-8962 (facsimile)
Sarah.B.Fabian@usdoj.gov

Attorneys for Respondents-Defendants