VIA FEDEX AND EMAIL

July 19, 2019

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mailstop 0485
Washington, DC 20528-0485
ogc@hq.dhs.gov

U.S. Customs and Border Protection
Office of the Chief Counsel
1300 Pennsylvania Avenue, NW
Washington, DC 20229

U.S. Citizenship and Immigration Services
Office of the Chief Counsel
111 Massachusetts Avenue, NW
Washington, DC 20529-2260

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536-5902

U.S. Department of Health and Human Services
Office of the General Counsel
200 Independence Avenue, SW
Washington, DC 20201

Re: Claims for Damages under the Federal Tort Claims Act — [Redacted]
on behalf of himself and his minor child, [Redacted]

Dear Counsel:

The Asylum Seeker Advocacy Project represents [Redacted] and his minor child, [Redacted] ("Claimants"). Enclosed please find administrative claims we are filing on their behalf under the Federal Tort Claims Act. The claims consist of: (1) a Claim Authorization Form; (2) a Standard Form 95 for each Claimant; and (4) an Attachment to the Standard Form 95s detailing the basis of their claims.
In the attached, we detail how federal government officers violated Mr. [redacted] and his son’s rights by separating them from each other without notice or information and detaining them in separate facilities for nearly two months. Mr. [redacted] and his minor son, [redacted], were severely traumatized by their separation and prolonged detention due to the actions of U.S. government officials, and the trauma continues to impede their daily life. Furthermore, Mr. [redacted] and his son have suffered prolonged and ongoing emotional harm from the day they were detained and separated in [redacted] and both continue to experience emotional suffering due to this experience.

We are submitting these claims without the benefit of formal discovery. Claimants reserve the right to amend or supplement their claims.

The identity of the Claimants is confidential, and we ask that their identity be treated accordingly. Should any U.S. government agency receive a request under the Freedom of Information Act ("FOIA") related to the enclosed claims, or any other information that would reveal the identity of the Claimants, we ask that the government: (1) notify the undersigned before responding to the requestor; and (2) redact any information identifying the Claimants pursuant to the FOIA privacy exemption under 5 U.S.C. § 552(b)(6), or any other applicable statute or regulation protecting the privacy of the Claimants.

Please do not hesitate to contact me if you have any questions or require additional information.

Dated: July 19, 2019

Sincerely,

Jasmina Nogo
Staff Attorney
Elizabeth Willis
Co-Legal Director
Conchita Cruz
Co-Director
Asylum Seeker Advocacy Project (ASAP)
228 Park Ave. S. #84810
New York, New York 10003-1502
Tel: [redacted]
Fax: [redacted]
Email: [redacted]
Website: https://asylumadvocacy.org
Enclosures:
1. Claim Authorization Form
2. Standard Form 95s for each Claimant
3. Attachment to Standard Form 95s
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I, [Redacted], authorize Elizabeth Willis and Jasmina Nogo of the Asylum Seeker Advocacy Project to submit a claim under the Federal Tort Claims Act on behalf of myself and my minor child, [Redacted], to the U.S. Department of Homeland Security, the U.S. Department of Health and Human Services, and any other government agency, seeking compensation for the unlawful actions of their employees or agents against me and my minor child.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Printed Name: [Redacted]
Signature: [Redacted]
Dated: [Redacted]

CERTIFICATION OF INTERPRETATION

I, [Redacted], certify under penalty of perjury that I am fluent in the English and Spanish languages and that I read this document to [Redacted] in Spanish who verified that he understood the translation and that its contents are true and accurate.

Interpreter Signature: [Redacted]
Interpreter Name: [Redacted]
Dated: [Redacted]
CLAIM FOR DAMAGE, INJURY, OR DEATH

1. Submit to Appropriate Federal Agency:

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse), Number, Street, City, State and Zip code.

3. TYPE OF EMPLOYMENT
   [ ] MILITARY  [X] CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

6. DATE AND DAY OF ACCIDENT
   06/18 to 07/18

7. TIME (A.M. OR P.M.)
   N/A

8. BASIS OF CLAIM (State in detail the known facts and circumstances attended the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

See attached.

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

N/A

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).

N/A

PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEASED.

See attached.

11. WITNESSES

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS (Number, Street, City, State, and Zip Code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>See attached.</td>
<td>See attached.</td>
</tr>
</tbody>
</table>

12. AMOUNT OF CLAIM (in dollars)

<table>
<thead>
<tr>
<th>12a. PROPERTY DAMAGE</th>
<th>12b. PERSONAL INJURY</th>
<th>12c. WRONGFUL DEATH</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,000,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

3,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

13c. CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS
   Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

14. DATE OF SIGNATURE

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STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2
INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? □ Yes □ If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. X No

N/A

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? □ Yes □ No

N/A

17. If deductible, state amount.

0.00

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? □ Yes □ If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). X No

N/A

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested parties, or, if payment has been made, the itemized and signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purposes: The information requested is to be used in evaluating claims.

C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

STANDARD FORM 95 REV. (2/2007) BACK
**CLAIM FOR DAMAGE, INJURY, OR DEATH**

**INSTRUCTIONS:** Please read carefully the instructions on the reverse side. If you have any questions regarding the information requested on both sides of this form, refer to additional instructions. You may need to complete Form 1159. If you need additional space for answering questions, attach additional sheets.

1. **Submit to Appropriate Federal Agency:**

2. **Name, address of claimant, and claimant’s personal representative if any:**
   - (See instructions on reverse side. Number, Street, City, State and Zip code)

3. **Type of Employment**
   - [ ] Military
   - [X] Civilian

4. **Date of Birth**

5. **Marital Status**

6. **Date and Day of Accident**
   - 06/18 to 07/18

7. **Time (A.M. or P.M.)**
   - N/A

8. **Basis of Claim:** (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary)
   - See attached.

9. **Property Damage**
   - **Name and Address of Owner, if other than claimant:** (Number, Street, City, State, and Zip Code)

   - N/A

   - Briefly describe the property, nature and extent of the damage and the location of where the property may be inspected. (See instructions on reverse side)

   - N/A

10. **Personal Injury/Wrongful Death**
    - State the nature and extent of each injury or cause of death, which forms the basis of the claim. If other than claimant, state the name of the injured person or decedent
    - See attached.

11. **Witnesses**
    - **Name**
    - **Address (Number, Street, City, State, and Zip Code)**

    - See attached.

12. **Amount of Claim (in dollars)**
    - **Property Damage**
    - **Person Injury**
    - **Wrongful Death**
    - **Total**
      - 3,000,000
      - 3,000,000
      - 3,000,000

13. **Signature of Claimant**
    - (See instructions on reverse side).

14. **Phone Number of Person Signing Form**

15. **Date of Signature**

**Civil Penalty for Presenting Fraudulent Claim**

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**Criminal Penalty for Presenting Fraudulent Claim or Making False Statements**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2
INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes ☐ If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☑ No

N/A

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☑ Yes ☑ No 17. If deductible, state amount.

N/A

0.00

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes ☐ If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☑ No

N/A

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the “appropriate Federal agency” whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DUTY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

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The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or inopacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

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STANDARD FORM 95 REV. (2/2007) BACK
FTCA Standard From 95 – Attachment
Claimants: [REDACTED], and his minor child [REDACTED].

Answer 1

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mailstop 0485
Washington, DC 20528-0485
ogc@hq.dhs.gov

U.S. Customs and Border Protection
Office of the Chief Counsel
1300 Pennsylvania Avenue, NW
Washington, DC 20229

U.S. Citizenship and Immigration Services
Office of the Chief Counsel
111 Massachusetts Avenue, NW
Washington, DC 20529-2260

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536-5902

U.S. Department of Health and Human Services
Office of the General Counsel
200 Independence Avenue, SW
Washington, DC 20201

Answer 2

Claimants
[REDACTED], on behalf of himself and his minor child [REDACTED]
Legal Representatives
Jasmina Nogo
Elizabeth Willis
Conchita Cruz
Asylum Seeker Advocacy Project (ASAP)
228 Park Ave. S. #84810
New York, New York 10003-1502

Answer 6: Date and Day of Accident:

The government forcibly separated Mr. [redacted] (“Mr. [redacted]”) (A# [redacted]) and his minor child [redacted] (A# [redacted]) on or about [date]. The government detained Mr. [redacted] until approximately [date]. Meanwhile, Mr. [redacted]’s son was held in a shelter for unaccompanied minors in Texas operated by the Department of Health and Human Services (“DHHS”). Mr. [redacted] was finally reunited with his son on [date] and the two were both released on their own recognizance from detention on [date].

Answer 7: Time (A.M. or P.M.)

The government forcibly separated Mr. [redacted] from [redacted] in the P.M. on or about [date]. The question is not applicable as to the remainder of their forced separation and detention.

Answer 8: Basis of Claim

Mr. [redacted] is a 43-year-old Honduran man who fled his country with his minor son, [redacted], who was 15 years old at the time. Mr. [redacted] and [redacted] fled Honduras because gang members attempted to recruit them and then threatened them with violence when they refused to join. [redacted], an attorney at [redacted], is currently representing Mr. [redacted] and [redacted] on their asylum applications before the [redacted] Immigration Court.

Mr. [redacted] came to the United States with [redacted] in order to seek safety and asylum. However, when they arrived, without warning or explanation, immigration officials separated Mr. [redacted] and [redacted] from each other, causing both severe emotional distress. Officers detained them separately for nearly two months, and Mr. [redacted] and [redacted] suffered stress, depression, and anxiety during and after their separation.

Their claim concerns an unprecedented policy issued at the highest levels of the federal government to separate parents from their children. The extraordinary trauma inflicted on parents and children alike was no incidental byproduct of the policy—it was the very point. The federal government sought to inflict so much distress on parents and children seeking asylum that other families would be deterred from trying to seek refuge in this country. Indeed, while serving as Secretary of the Department of Homeland Security (“DHS”), John Kelly stated that he “would do almost anything to deter the people from Central America” from migrating to the United States,
including separating children from their parents.\(^1\) After the forced separations began, former Attorney General Jeff Sessions confirmed that the goal was deterrence.\(^2\) In May 2018, Kelly, who had since become President Trump’s Chief of Staff, callously dismissed any concern about the government’s forced separation of a child from her mother, remarking: “[t]he children will be taken care of—put into foster care or whatever.”\(^3\) Despite widespread condemnation and legal challenges, President Trump continued to defend the policy as a deterrent to migration from Central America when he tweeted, “[I]f you don’t separate, FAR more people will come.”\(^4\)

In total, the U.S. government has admitted to separating more than 2,800 children from their parents or guardians after they crossed the Southwestern U.S. border.\(^5\) Recent reports indicate that the number of families separated may have been much higher.\(^6\) Shockingly, families continue to be separated at the border.\(^7\) The victims of this cruel, illegal, and unconstitutional policy include Mr. [redacted] and his then 15-year-old son, [redacted], whose forced separation lasted for nearly two months.

**A. The Forced Separation of Mr. [redacted] from his Minor Child, [redacted]**

Mr. [redacted] and his son, [redacted], entered the United States on [redacted] at approximately 7:00 P.M. by crossing the Rio Grande river by raft. After walking for approximately two hours, they turned themselves in after seeing several U.S. Customs and Border Protection

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\(^1\) Philip Bump, *Here are the administration officials who have said that family separation is meant as a deterrent*, WASH. POST, June 19, 2018, https://www.washingtonpost.com/news/politics/wp/2018/06/19/heres-administration-officials-who-have-said-family-separation-is-meant-as-a-deterrent/.

\(^2\) Id.


\(^5\) Joint Status Report at 9, Ms. L. v. Immigration and Customs Enforcement, No. 18-cv-428 DMS MDD, (S.D. Cal. Dec. 12, 2018); see also OFFICE OF THE INSPECTOR GENERAL, U.S. DEP’T OF HEALTH & HUMAN SERVS., OIG-BL-18-00511, SEPARATED CHILDREN PLACED IN OFFICE OF REFUGEE RESettlement CARE at 11 (Jan. 17, 2019) [hereinafter HHs OIG REPORT]; Order at 2, Ms. L. v. Immigration and Customs Enforcement, No. 18-cv-428 DMS MDD, (S.D. Cal. Mar. 8, 2019) (“Pursuant to the Court’s Orders, 2,816 children were identified as having been separated from their parents at the border . . . .”).

\(^6\) See HHs OIG REPORT, supra note 5, at 1, 6, 13 (reporting that “thousands of children may have been separated during an influx that began in 2017, before the accounting required by [the court in Ms. L. v. Immigration and Customs Enforcement], and HHs has faced challenges in identifying separated children”); Joint Status Report at 11, Ms. L. v. Immigration and Customs Enforcement, No. 18-cv-428 DMS MDD, (S.D. Cal. Feb. 20, 2019) (“Defendants have identified 245 new separations of children and parents that occurred between June 27, 2018 and January 31, 2019, and four cases which require more time to assess.”); Catherine E. Shoichet, *At least 1,712 more kids may have been separated from their parents at the border*, CNN, May 17, 2019, https://www.cnn.com/2019/05/17/politics/family-separation-lawsuit/index.html.

("CBP") officers near Hidalgo, Texas. The CBP officers handcuffed Mr. [redacted] by the wrists, ankles and waist, and placed him and [redacted] in separate vans. Nobody told Mr. [redacted] or [redacted] where they were being taken. At this point, [redacted] and Mr. [redacted] hadn’t eaten for more than 12 hours. At the time they were apprehended, they hadn’t had any water to drink for more than four hours. CBP officers did not offer them any food or water.

CBP officers took them to the Rio Grande Valley Central Processing Center in McAllen, Texas, which Mr. [redacted] refers to as the “hielera,” (meaning, “icebox,” in Spanish) due to its freezing cold temperatures. There, they confiscated Mr. [redacted] identification documents, his shoes and laces, and a few pesos. At the hielera, Mr. [redacted] and his son were held in separate cells, which Mr. [redacted] described as cages. They were physically separated by metal bars; the adults were on one side of the metal bars, and the minors on the other. Although Mr. [redacted] and [redacted] could see each other between the bars, Immigration and Customs Enforcement (“ICE”) officers did not allow them to talk to each other or have any physical contact. Mr. [redacted] indicated that they used hand signals to try and communicate, but when they tried to talk to each other, immigration officers reprimanded them. Mr. [redacted] was distressed because he was unable to communicate with his son and felt anxiety because he did not know what would happen next to either of them. [redacted] felt scared, confused, and lost because he could not talk to his father and did not know why they were kept apart.

In the cells, they were forced to sit on cold, concrete floors without beds or mattresses to sleep on or blankets to keep warm. Immigration officers provided them with an aluminum sheet to cover themselves, small sandwiches that were still frozen, and a juice box each. Mr. [redacted] had to wait for the sandwich to thaw before he could eat it. He experienced diarrhea and stomach aches from eating the frozen food. Both Mr. [redacted] and [redacted] were at the hielera for approximately two days.

After approximately two days at the hielera, Mr. [redacted] lost sight of [redacted]. He said that [redacted] simply disappeared. Mr. [redacted] felt panicked despair. He said the feeling of losing sight of his child and not knowing where he went is difficult to put into words because he just could not comprehend it. He felt nervous, worried, and completely lost without his son.

Despite his repeated requests to know where his son was, nobody shared any information with him. Mr. [redacted] tried to ask the immigration officers where they had taken his son, but repeatedly received the same response: “Only the authorities know.” Mr. [redacted] heard rumors from other detained individuals that immigration officers transported minors to shelters. However, no government officer notified Mr. [redacted], or confirmed, that [redacted] was in fact taken to a shelter.

Without any responses from government officers about his son’s whereabouts, Mr. [redacted] felt desperate. Government officers didn’t give him a phone call with his son, provide him a video or even a photograph of [redacted] to show Mr. [redacted] that his son was safe. He felt the worst part was that when he asked officers about his son’s whereabouts, they acted annoyed with him and told him they would look into it, but never actually did. The immigration officers acted like they did not care about his separation from his son, who meant everything to him. Mr. [redacted]
could not let his mind rest. He worried incessantly about whether was safe, eating or sleeping and how he was feeling.

B. was taken to a DHHS shelter for unaccompanied minors

According to documents produced by the government, immigration officers processed as an unaccompanied minor, even though CBP apprehended him with his father. ICE transported to the Casa Padre Southwest Key shelter for unaccompanied children in Brownsville, Texas. He remained there until he was reunited with his father in late . No employee of the government ever explained to why he was being taken there, when he would be reunited with his father, or how long he would be held in the custody of the government.

His father has noted that he was not provided with any information about’s actual whereabouts at any point during their separation or even after their reunification.

C. While in Federal Prison, Mr. Had No Contact with

After approximately five days in the , ICE officers transferred Mr. to the Port Isabel Service Processing Center in Los Fresnos, Texas, where he remained for approximately three days. No one informed him why he was transferred or where was at this time. For Mr., every day that he did not know where his son was or whether he was alive felt like the worst day of his life. He felt like he relived the fear and shock every day of their separation. He felt trapped in a place where he was treated like an animal and forced to follow everything the guards told him to do. These guards deprived Mr. of water, sometimes for days, subjecting him to torture-like conditions. He felt emotionally tormented being confined, having no control, and not knowing anything about.

According to documents produced by the government, Mr. was charged with violating 8 U.S.C. 1325(a)(1) and found guilty on by a U.S. Magistrate Judge in the Southern District of Texas McAllen Division. From the Port Isabel Service Processing Center, government officers transported Mr. to the FCI Victorville Medium II federal prison in Victorville, California. However, Mr. was never served with any documents charging him with committing a federal crime and he does not recall having a hearing before a federal judge. Officers placed chains on his ankles, wrists, and waist and boarded him onto an airplane full of other similarly chained individuals. Upon arrival at the federal prison, government officers escorted Mr. into a room where they forced him to remove all his clothing. One officer, in particular, treated him with extreme disregard. He kicked Mr.’s legs with his military-style boots to force him to open his stance wider and to submit to an aggressive full-body search. Officers inspected his entire body, including his anus, mouth, ears, and eyes.

While in the federal prison, Mr. spent approximately 22 hours per day locked in his cell and received his food trays through a little slot in the door. He received only two meals per day, at 9:00 A.M. and at 6:00 P.M., and was forced to endure hunger during the hours in between. Mr. was in federal prison for approximately 14 days. During this time, he was not allowed to have any communication with anyone outside of the facility, and he received no updates about his son. He felt isolated and completely alone. He couldn’t even ask about.

Attachment to Claim re:
because he was confined to his cell and the officers refused to talk to him. There was only silence, yet he had so many questions in his head about [redacted]. He felt trapped in his cell and trapped in his own head with so many unanswered questions and worries. It was extremely difficult for Mr. [redacted] to not be able to communicate with his family, neither in the U.S. nor in Honduras, to let them know he was okay, or that he was even alive. He believes the anguish was mutual for those he loves to not know anything about him. At this time, he still did not know anything about [redacted]'s whereabouts or wellbeing.

On approximately [redacted], Mr. [redacted] was released from the federal prison and transported to an immigration detention facility, again without explanation. For a moment he thought he was going to be reunited with his son. At this point he still hadn't received any information about [redacted].

D. The Mistreatment of Mr. [redacted] in Immigration Detention

Government officers transported Mr. [redacted], in chains, to the Adelanto Detention Center in Adelanto, California, which is operated by the private corporation GEO Group. Upon arrival, ICE officers searched Mr. [redacted] and assigned him to a detention pod with approximately 100 other individuals.

At Adelanto, Mr. [redacted] was contained in a cell with two sets of bunk beds and three other individuals. Each cell had a toilet and a sink, and they had no privacy when using the bathroom. Immigration officers held head counts approximately four to six times per day, during which everyone was locked in their cells for approximately an hour until count was completed. Mr. [redacted] spent approximately eight to ten hours per day locked in his cell. Government officers turned lights out from approximately 1:00 A.M. to 5:00 A.M., but they came and went throughout the night and often shined bright lights into the faces of individuals in their cells while they slept. Mr. [redacted] got sick from eating the food at the detention center approximately four times during the time he was at Adelanto. The food was often served half-frozen and he had to wait for it to thaw in order to eat it.

On one occasion at Adelanto, while Mr. [redacted] stood silently in line waiting to have his teeth examined by a dentist, an ICE officer yelled loudly at him in English. Mr. [redacted] did not know what exactly he said, but he felt threatened and intimidated by the ICE officer’s aggression towards him. He said that he just turned his eyes to the ground, bowed his head, and silently stared downwards. Mr. [redacted] felt that he was treated like a dog, not like a human, by the ICE officer.

On approximately [redacted], an immigration officer abruptly called Mr. [redacted] for a Credible Fear Interview (CFI). At the time, Mr. [redacted] did not know what the purpose of a CFI was or what the interview entailed. The immigration officer took him to a small room with a telephone and instructed him to dial a number without explanation. Mr. [redacted] spoke with an asylum officer and an interpreter via telephone and they conducted the CFI. During the CFI an ICE officer stood at the door and the call was not private. This made Mr. [redacted] feel uncomfortable. He did not feel like he could express himself fully during his interview. He also felt completely unprepared for the emotionally difficult questions the asylum officer asked him.
While at Adelanto, immigration officers gave Mr. [REDACTED] the telephone number of a social worker who worked at the shelter where his son was detained. This did not occur until approximately a month after their separation. Mr. [REDACTED] called this number almost daily in an effort to communicate with his son. However, the social worker rarely answered the phone, and when she did, she reported news about [REDACTED] to Mr. [REDACTED], instead of letting him speak to his son directly. Having a social worker, who was a stranger, tell him that his son was okay felt empty to Mr. [REDACTED] because he was not able to see or talk to his son himself. He felt like everyone was blocking him from talking to his son. Mr. [REDACTED] was only able to talk with [REDACTED] on the phone approximately three or four days before Mr. [REDACTED] was released from Adelanto.

To this day, Mr. [REDACTED] does not know exactly where [REDACTED] was detained during their separation. Nobody ever told him the name of the shelter, its exact location, or any other details related to [REDACTED]’s detention there. Mr. [REDACTED] and [REDACTED] were separated for nearly two months. Although Mr. [REDACTED] called the shelter where he believed [REDACTED] was held, almost daily, he was not given a chance to actually speak with [REDACTED] until just days before their reunification. He worried every day about whether his son was still alive, getting enough to eat, sleeping enough, and going to school. For Mr. [REDACTED], being detained and separated from his child without knowing any information about him was a daily torture.

E. Mr. [REDACTED]’s Reunification with [REDACTED]

Sometime in late [REDACTED], while at Adelanto, immigration officers called Mr. [REDACTED] and told him that he had an appointment with ICE. He met with an ICE officer who told him to sign something in English. No interpretation services were provided. Another detainee translated the document for Mr. [REDACTED], and he understood the document to be a release order, but he was not certain. Mr. [REDACTED] said that officers did not give him a copy of the document that he signed. Shortly thereafter, government officers transported him back to the Port Isabel Detention Center in Los Fresnos, Texas. Mr. [REDACTED] was there for approximately three to four days and did not know why. He believed he was going to be deported from there. It was torment for him to think about being returned to the country he fled and imagining what would happen to his son if he were sent back; while thinking about going back to his country was torturous, being detained without his son was worse. For Mr. [REDACTED], it was agonizing to not know what would happen next. He felt like he was losing his mind, still separated from [REDACTED].

While Mr. [REDACTED] waited in despair at the Port Isabel Detention Center, ICE officers transported [REDACTED] there. When [REDACTED] was finally released from the shelter and taken back to the holding facility where his father was, [REDACTED] was still unaware of what was happening and believed he was being taken to be deported.

On approximately [REDACTED], Mr. [REDACTED] and [REDACTED] were reunited at the Port Isabel Detention Center in Los Fresnos, Texas after [REDACTED] was brought to the facility. When Mr. [REDACTED] saw his son, he felt tremendous happiness. He felt so much emotion that he cried. Mr. [REDACTED] noticed that his son appeared depressed and that he seemed completely shut off.
When they saw each other, Mr. [redacted] said that [redacted] just stared at him for a long while, and then finally smiled. However, he didn’t have the same kind of enthusiasm as his father at the moment, and Mr. [redacted] said that his child seemed completely different from the last time he had seen him.

Both [redacted] and Mr. [redacted] were released from the Port Isabel Detention Center on their own recognizance on [redacted].

F. The Lasting and Harmful Effects of Separation and Detention on Mr. [redacted] and [redacted]

The psychological impact of Mr. [redacted] and [redacted]’s separation has been challenging for them both. [redacted], who was then 15 years old, felt fear, anxiety, and uncertainty every day of his separation from his father. Mr. [redacted] also worried constantly about the well-being of his son and was in a state of despair during their separation. Every day that they endured for nearly two months without information about each other’s whereabouts was agonizing. Because neither [redacted] nor Mr. [redacted] knew what would happen with them or whether and when they would be reunited, both experienced escalating anxiety and stress during their time apart. [redacted] didn’t know if he would be in the shelter for a few days or a few years, and the helpless inability to know anything about the future caused him to worry and feel anxious on a daily basis.

[redacted] continues to struggle as a result of the separation from his father. Although he is attending a high school in [redacted], during the [redacted] school year he missed more than 100 days of classes. He is having trouble learning English, advancing academically, and adapting to the United States due to his emotional state. According to Mr. [redacted], [redacted]’ behavior is different now from how he was prior to their separation. Before the separation, [redacted] and Mr. [redacted] had a close relationship and [redacted] talked to his father about his feelings. Since they were reunited, [redacted] has kept to himself and avoided intimacy with his family members. He doesn’t want to talk to anyone, and especially not about how he is feeling. Before the separation, [redacted] was more open. He talked to his father about his problems and they conversed like father and son. Now his conversation is limited to short greetings. When he comes home, he just closes himself in his room, doesn’t come out on his own to eat meals, and doesn’t talk to his father for more than five to ten minutes per day.

Mr. [redacted] tries to stay strong for his family but frequently has difficult days when he remembers and relives the agony of what it was like to be separated from his son and to not know anything about his whereabouts for so long. He recounts the way that he was treated by government officials and equates the treatment to that of an animal. Mr. [redacted] indicated that he needed to escape his country because he was so afraid for their lives, but that the worst part came for them once they crossed the U.S. border and were forcibly separated and detained.

G. The Trump Administration’s Family Separation Policy

1. The Purpose of the Policy
Curbing asylum has been a central focus of the Trump Administration’s immigration policy. On April 6, 2018, President Trump issued a memo entitled “Ending ‘Catch and Release’ at the Border of the United States and Directing Other Enhancements to Immigration Enforcement.” The memo, among other things, directs the Secretary of Homeland Security, the Secretary of Defense, the Attorney General, and the Secretary of Health and Human Services to submit a report to the President that details all of the measures their respective departments have pursued or are pursuing to end “‘catch and release’ practices.” “Catch and Release” refers to a federal policy that allows people who are seeking asylum to wait for their hearings in the community, not in government custody.

On the same day that President Trump issued his directive, then-Attorney General Jeff Sessions announced that the government would institute a “Zero Tolerance” policy, mandating the prosecution of all persons who cross the United States border between ports of entry. The purpose of the “Zero Tolerance” policy was to deter Central Americans from seeking asylum or otherwise coming to the United States. Through this policy, the United States intentionally inflicted trauma on immigrant parents and their children who crossed the border, by separating the children from their parents in violation of the United States Constitution. The U.S. government has admitted to forcibly separating more than 2,800 children from their parents and placing them in government

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10 Id.
12 60 Minutes: Chaos on the Border, Robots to the Rescue. To Kill a Mockingbird (CBS television broadcast Nov. 25, 2018) (revealing an un-redacted copy of the memo implementing the “Zero Tolerance” policy that stated that the policy’s purpose was deterrence).
A recent HHS OIG report and other sources indicate that the actual number is “thousands” higher. Family separations at the border continue.

Administration officials at the highest levels knew well before implementing the policy that it would harm the people it affected. Yet, once the separations began to generate public outrage and condemnation, administration officials changed their tune. They insisted that their hardline stance on prosecuting border crossings was not intended to discourage immigration, and, shockingly, even denied the existence of a family separation policy. The administration, however, could not expunge the numerous statements made by high-level officials confirming that family separation was the express policy and that its purpose was deterrence.

In a December 16, 2017 memorandum exchanged between senior officials at DOJ and DHS, the officials proposed a “Policy Option” of “Increased Prosecution of Family Unit Parents.” Under the proposal, “parents would be prosecuted for illegal entry . . . and the minors present with them would be placed in HHS custody as [unaccompanied alien children].” The memorandum asserted that “the increase in prosecutions would be reported by media and it would have substantial deterrent effect.”

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14 Joint Status Report, supra note 5, at 9; HHS OIG REPORT, supra note 5, at 11; Order at 2, Ms. L. v. Immigration and Customs Enforcement, No. 18-cv-428 DMS MDD (S.D. Cal. Mar. 8, 2019) (“Pursuant to the Court’s Orders, 2,816 children were identified as having been separated from their parents at the border . . . .”).
15 HHS OIG Report, supra note 5, at 13. The HHS OIG Report notes that the figure reported in the Ms. L. litigation does not include children whom, beginning in mid-2017, DHS forcibly separated from their parents but were released from HHS custody prior to the June 26, 2018 order in Ms. L. enjoining the practice of child separation. HHS estimates that there are “thousands of children whom DHS separated during an influx that began in 2017 and whom ORR released prior to Ms. L. v. ICE.” HHS OIG REPORT, supra note 5, at 13. The figure is understated because it also does not include children who were apprehended with and separated from a family member other than a parent, such as a grandparent or older sibling. Id. at 7. On March 8, 2019, the Court overseeing Ms. L. v. ICE issued an order expanding the protected class to include families who entered the United States on or after July 1, 2017. Order at 14, Ms. L. v. Immigration and Customs Enforcement, No. 18-cv-428 DMS MDD (S.D. Cal. Mar. 8, 2019). Now the government is in the process of reviewing more than 47,000 additional files dating to July 1, 2017 to identify separated families. See Shoichet, supra note 6. On May 17, 2019, the government admitted that it had identified 1,712 cases with “some preliminary indication of separation” from an initial pool of 4,108 children’s case files. Id.
16 Jervis & Gomez, supra note 7; Hoffman, supra note 7; O’Toole, supra note 7.
17 Jeremy Stahl, The Trump Administration Was Warned Separation Would Be Horrific for Children, Did It Anyway, SLATE (July 31, 2018), https://slate.com/news-and-politics/2018/07/the-trump-administration-was-warned-separation-would-be-horrific-for-children.html. Commander Jonathan White, a former HHS senior official, testified before Congress that he had warned the administration that implementing a family separation policy would involve a significant risk of harm to children. The policy was launched a few weeks after he raised his concerns. Id.
18 Christina Wilkie, White House denies separating families is ‘policy,’ but insists it is needed ‘to protect children,’ CNBC (June 18, 2018), https://www.cnbc.com/2018/06/18/white-house-denies-separating-families-is-policy.html.
20 Id. at 1.
21 Id.
When asked about the policy by NPR on May 11, 2018, John Kelly, President Trump’s Chief of Staff, responded that “a big name of the game is deterrence . . . It could be a tough deterrent—would be a tough deterrent.” As for the children affected, he said: “[t]he children will be taken care of—put into foster care or whatever.”

On June 19, 2018, on Fox News’ “The Ingraham Angle,” host Laura Ingraham asked then-Attorney General Jeff Sessions, “[I]s this policy in part used as a deterrent? Are you trying to deter people from bringing children or minors across this dangerous journey? Is that part of what the separation is about?” Sessions replied, “I see that the fact that no one was being prosecuted for this was a factor in a fivefold increase in four years in this kind of illegal immigration. So, yes, hopefully people will get the message and come through the border at the port of entry and not break across the border unlawfully.”

And President Trump himself has indicated that deterrence was the motivation behind his Justice Department’s “Zero Tolerance” policy. When speaking with reporters at the White House on October 13, 2018, he said, “If they feel there will be separation, they don’t come.” On December 16, 2018, the President tweeted, “[If you don’t separate, FAR more people will come.”

Thus, the trauma inflicted by the family separation policy was entirely intentional and premeditated. This point cannot be overstated: the most senior members of the U.S. government intentionally chose to cause parents and small children, including infants, extraordinary pain and suffering in order to accomplish their policy objectives. The unspeakable pain and suffering experienced by parents and small children was seen as a useful device by the most senior members of the U.S. Government to accomplish their policy objective of deterring Central Americans from seeking asylum in the United States.

2. The Implementation of the Policy

22 Transcript: White House Chief Of Staff John Kelly’s Interview With NPR, supra note 3.
23 Id. (emphasis added).
24 Bump, supra note 1.
26 Donald Trump, supra note 4 (emphasis in original).
Once the policy was implemented and immigration officers separated children from their parents, DHS deemed separated children to be unaccompanied and transferred them to the HHS Office of Refugee Resettlement ("ORR"), which is responsible for the long-term custodial care and placement of "unaccompanied [noncitizen] children." But DHS failed to take even the most basic steps to record which children belonged to which parents, highlighting the government’s utter indifference to the dire consequences of the policy on the separated families. The DHS Office of Inspector General ("DHS OIG") noted that the "lack of integration between CBP’s, ICE’s and HHS’ respective information technology systems hindered efforts to identify, track, and reunify parents and children separated under the Zero Tolerance policy" and that "[a] result, DHS has struggled to provide accurate, complete, reliable data in family separations and reunifications, raising concerns about the accuracy of its reporting."  

Generally, CBP officers—the first to encounter individuals entering the United States—were the officers who separated parents and children. Following the separation, CBP transferred many of the parents into ICE custody. When the "Zero Tolerance" policy went into effect, ICE’s system "did not display data from CBP’s systems that would have indicated whether a detainee had been separated from a child." As a result, when ICE was processing detained individuals for removal, "no additional effort was made to identify and reunite families prior to removal." Even more alarming, in order to keep track of the children, ICE manually entered the child’s identifying information into a Microsoft Word document, which was then e-mailed as an attachment to HHS, a process described by the DHS OIG as particularly "vulnerable to human error," and one which "increas[ed] the risk that a child could become lost in the system."  

As emphasized by Judge Sabraw in Ms. L. v. Immigration and Customs Enforcement, the agencies’ failure to coordinate tracking of separated families was a "startling reality" given that: 

> [t]he government readily keeps track of personal property of detainees in criminal and immigration proceedings. Money, important documents, and automobiles, to name a few, are routinely catalogued, stored, tracked and produced upon a detainee’s release, at all levels—state and federal, citizen and alien. Yet, the government has no system in place to keep track of, provide effective communication with, and promptly produce alien children. The unfortunate reality is that under the present system migrant children are not accounted for with the same efficiency and accuracy as property. Certainly, that cannot satisfy the requirements of due process.

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28 See id. at 9–10 (noting, among other things, that agencies’ incompatible computer systems erased data that connected children with their families); see also HHS OIG REPORT, supra note 5, at 2, 13 (reporting that the lack of an integrated data system to track separated families across HHS and DHS added to the difficulty in HHS’s identification of separated children).
29 DHS OIG Report, supra note 27, at 2.
30 Id. at 9–10.
31 Id. at 10.
32 Id.
33 Ms. L., 310 F. Supp. 3d at 1144 (emphasis in original).
The government’s inhumane treatment of separated families described by Judge Sabraw was not merely the result of indifference or incompetence. Commander Jonathan White, a former senior HHS official, testified before Congress that he repeatedly warned those devising the policy that separating children from their parents would have harmful effects on the children, including “significant potential for traumatic psychological injury to the child.”34 But those in charge willfully disregarded Commander White’s warnings. Imposing trauma on these parents and children was their very goal.

Only after the family separation policy garnered widespread condemnation and became bad politics did President Trump, on June 20, 2018, sign an executive order ("EO") purporting to end it. The EO states that it is the “policy of this Administration to maintain family unity, including by detaining alien families together where appropriate and consistent with law and available resources.”35 The EO, however, did not explain whether or how the federal government would reunify families who had been previously separated. In fact, on June 22, 2018, the government admitted that it had no reunification procedure in place.36

It was not until a federal judge ordered the government on June 26, 2018 to reunite families that the government began taking steps to do so.37 What followed was chaos. DHS claimed that DHS and HHS had created a centralized database containing all relevant information regarding parents separated from their children; however, the DHS OIG found “no evidence that such a database exists.”38 According to the DHS OIG, whatever data was collected was incomplete, contradictory, and unreliable.39 Because no single database with reliable information existed, the Government Accountability Office found that agencies were left to resort to a variety of inefficient and ineffective methods to determine which children were subject to Judge Sabraw’s injunction.40 These methods included officers hand sifting through agency data looking for any indication that a child in HHS custody had been separated from his or her parent41 and calling in the Office of the Assistant Secretary for Preparedness and Responses, an HHS agency whose normal prerogative involves response to hurricanes and other disasters, to review data provided by CBP, ICE, and

34 Stahl, supra note 17.
36 See Ms. L., 310 F. Supp. 3d at 1140–41; see also U.S. GOV’T ACCOUNTABILITY OFF., GAO-19-163, UNACCOMPANIED CHILDREN: AGENCY EFFORTS TO REUNIFY CHILDREN SEPARATED FROM PARENTS AT THE BORDER 21 (2018) [hereinafter GAO REPORT] (“HHS officials told [the GAO] that there were no specific procedures to reunite children with parents from whom they were separated at the border prior to the June 2018 court order.”). The only procedure in place capable of reuniting children with their parents was the procedure developed to place unaccompanied children with sponsors in compliance with the Trafficking Victims Protection Reauthorization Act. Under this procedure, however, a parent could only be reunited with his or her child if the government deemed them eligible to be a sponsor. Id. Judge Sabraw noted that this procedure was inadequate because it was created to address “a different situation, namely what to do with alien children who were apprehended without their parents at the border or otherwise,” and further, that the procedure was not developed to address situations such as this one where family units were separated by government officials after they crossed the border together. Id. at 27 (quoting Order Following Status Conference, Ms. L. v. Immigration and Customs Enforcement, No. 18-0428-DMS-MDD (S.D. Cal. July 10, 2018)).
37 Ms. L., 310 F. Supp. 3d at 1149–50.
38 DHS OIG REPORT, supra note 27, at 10.
39 Id. at 11–12.
40 GAO REPORT, supra note 36, at 23–25.
41 Id. at 24.
The method for determining which family units required reunification changed frequently, sometimes more than once a day, with staff at one ORR shelter reporting that “there were times when [they] would be following one process in the morning but a different one in the afternoon.” Judge Sabraw criticized the agencies for their lack of preparation and coordination at a status conference proceeding on July 27, 2018: “[W]hat was lost in the process was the family. The parents didn’t know where the children were, and the children didn’t know where the parents were. And the government didn’t know, either.”

The government’s cruel policy of separating children from their parents, and its failure to track the children once they were separated, violated the claimants’ constitutional right to family integrity. The government instituted and implemented this policy to intentionally inflict emotional distress on the parents and children who were separated. It succeeded, with devastating consequences for parents and children like [redacted] and his son.

**Answer 10: Nature and Extent of Injury**

Please see the facts described above in the Basis of Claim. As a result of the actions of the federal government, its employees, and its contractors, [redacted] and his minor son [redacted] suffered physical and emotional injury, humiliation, discrimination, emotional distress, physical pain, loss of enjoyment of life, loss of personal property, and damages from their separation, detention and restrictions on liberty.

This is not intended to be an exhaustive list of possible causes of action.

**Answer 11: Witnesses**

- Roberto Silva, U.S. Customs and Border Protection Agent
- Mario Longoria, U.S. Customs and Border Protection Agent
- Jose R. Dimas, U.S. Customs and Border Protection Agent
- Eduardo Cortez, U.S. Customs and Border Protection Agent
- Manuel Padilla, Border Patrol Sector Chief at the Rio Grande Valley Central Processing Center, McAllen Texas

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42 *Id.* at 23.
43 *Id.* at 27.
45 See *Ms. L.*, 302 F. Supp. 3d at 1161–67 (finding that plaintiffs had stated a legally cognizable claim for a violation of their substantive due process rights to family integrity under the Fifth Amendment to the United States Constitution based on their allegations that the Government had separated them from their minor children while they were held in immigration detention and without a showing that they were unfit parents or otherwise presented a danger to their children); *Ms. L.*, 310 F. Supp. 3d at 1142–46 (finding that plaintiffs were likely to succeed on their substantive due process claim when assessing their motion for a preliminary injunction). See also *Smith v. Organization of Foster Families*, 431 U.S. 816, 845 (1977) (liberty interest in family relationships has its source in “intrinsic human rights”). DHS employees are responsible for supervising and managing detainees at CBP and ICE facilities, including those located in Texas. And HHS employees are responsible for supervising and managing the detention of unaccompanied children, including at facilities in Michigan. DHS and HHS employees are federal employees for the purposes of the Federal Tort Claims Act.

Attachment to Claim re: [redacted]
- Michael J. Pitts, Field Office Director, Enforcement and Removal Operations, Port Isabel Service Processing Center in Los Fresnos, Texas
- Francisco J. Quintana, Federal Correctional Institution Victorville Medium II, Victorville, California
- James Janecka, Warden, Adelanto Detention Center, Adelanto, California
- Alexia Rodriguez, Vice President of Immigrant Children’s Services & Legal Counsel Southwest Key Programs, Department of Health and Human Services “Casa Padre” Shelter operated by Southwest Key in Brownsville, Texas
- Former Secretary Kirstjen Michele Nielsen, Department of Homeland Security
- Acting Secretary Kevin K. McAleenan

Possible witnesses also include multiple employees of DHS, CBP, ICE, and DHHS, and each entity’s contractors who had contact with or reviewed records related to [redacted] and his son [redacted], and their apprehension, separation, and detention; federal government officials involved in developing and implementing the separation policy; and the many individuals with whom Mr. [redacted] was detained in California.

This is not intended to be an exhaustive list of possible witnesses.