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FOIA EXEMPT

By FedEx Overnight Delivery

July 24, 2019

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U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Mail Stop 0485
Washington, DC 20528-0485

Office of the Principal Legal Advisor
Immigration and Customs Enforcement
500 12th Street, S.W.
Washington, DC 20536

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

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

U.S. Customs and Border Protection
Tucson Field Office
4760 N. Oracle Road
Suite 316
Tucson, AZ 85705

**Re: Notice of Claims Under the Federal Tort Claims Act —
[REDACTED], on behalf of himself and his minor
son, [REDACTED]**

Counsel:

Enclosed please find administrative claims against the United States government filed pursuant to the Federal Tort Claims Act on behalf of [REDACTED] and his minor child, [REDACTED] (age 8). The enclosed claims consist of: (1) an executed claim authorization; (2) [REDACTED] birth certificate; and (3) SF-95 Forms completed on behalf of Mr. [REDACTED] and [REDACTED], including Attachment A thereto.

Covington & Burling LLP and the Southern Poverty Law Center represent Mr. [REDACTED] and his son in this matter. We are submitting these claims without the benefit of formal discovery. Claimants reserve the right to amend or supplement their claims.

Please be advised that this submission (including the attachments) contains information about the claimants that is private and confidential, including the claimants' names. Such information is exempt from the public access provisions of the Freedom of Information Act, 5

COVINGTON

U.S.C. § 552 (“FOIA”). Should any U.S. government agency receive a request for disclosure related to these claims, we ask that the government: (1) notify the undersigned before responding to the requestor; and (2) redact any information, including but not limited to the claimants’ names, that is exempt from disclosure under FOIA or any other applicable statute or regulation protecting the privacy of the claimants.

We look forward to discussing any proposals you may have for the prompt and fair resolution of these claims. Please feel free to contact us at any time.

Sincerely,



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Enclosures (Claim Authorization Form, Birth Certificate, SF-95 Forms, SF-95 Attachment)

ATTACHMENT A

1. Submit to Appropriate Federal Agency

Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

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U.S. Customs and Border Protection
Tucson Field Office
4760 N. Oracle Road
Suite 316
Tucson, AZ 85705

2. Claimant's Personal Representative

Counsel: Matthew Schlesinger, Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, DC 20001-4956.

Counsel: Michelle Lapointe, Southern Poverty Law Center, P.O. Box 1287, Decatur, GA 30031-1281.

6. Date and Day of Accident

M.C.L. and his son, A.C.R., then seven years old, were forcibly separated by agents of the U.S. Department of Homeland Security ("DHS") on or about November 21, 2017. A.C.R. was put into the custody of the U.S. Department of Health and Human Services ("HHS"), Office for Refugee Resettlement ("ORR"), while M.C.L. remained in DHS custody. M.C.L. and his son were not reunited until July 26, 2018.

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

M.C.L. believes he was separated from A.C.R. at night.

8. Basis of Claims

A. The Government Forcibly Separated M.C.L. from A.C.R.

Between mid-2017 and late 2018, the United States government forcibly took thousands of children from their parents, sending them to facilities and foster homes hundreds of miles away. These families often had fled persecution in their home countries only to encounter it in the very place they sought refuge. After being separated, children and their parents often were unable to communicate for weeks or months. Parents did not know whether their children were safe—or even where their children were. Children could not understand what had happened to them. The government tore apart families, subjecting children and parents to months of terror, anguish, and torment.

The government understood the harm that it was inflicting on these families. It took children from their parents not in spite of the harm, but *because* of it, intending that the terror inflicted on these families would deter other families from migrating to the United States.

M.C.L. and his then seven-year-old son, A.C.R., are among the families who were torn apart by the U.S. government. M.C.L. and A.C.R. suffered physical, mental, and emotional harm because of a multitude of unconstitutional, intentional, reckless, and negligent acts and omissions by a range of U.S. government actors, some of whom operate at the highest levels of the government, whose goal was to cause harm and instill fear and terror. Among other things, these federal actors unnecessarily and unreasonably separated M.C.L. from his son, employing excessive force and cruelty, and failed to exercise the basic care and decency that are hallmarks of a civilized society.

M.C.L. and A.C.R. will carry the trauma of forcible separation with them for the rest of their lives. They seek redress from the government for the harm the government has caused them.

1. M.C.L. and A.C.R. Present Themselves at a Port of Entry Seeking Asylum but are Taken into Custody.

On or about the morning of November 19, 2017, M.C.L. and his son A.C.R. presented themselves at the DeConcini Port of Entry in Nogales, Arizona, seeking refuge from violence in their village located in the San Marcos Department of Guatemala. At the port of entry, M.C.L. told an officer that he needed help. He presented his Guatemalan identification card and A.C.R.'s birth certificate.

M.C.L. intended to explain to the border patrol officer the circumstances that had led M.C.L. and A.C.R. to seek asylum in the United States. Frequent land disputes in his community had grown increasingly violent and community leaders were relentless against those who refused to participate in the violence. But M.C.L. did not have the opportunity to explain why he and his son were presenting at the port of entry, in part because the officer spoke limited Spanish.

Thereafter, a second officer asked M.C.L. questions. M.C.L. provided the officer his name, government identification card, and A.C.R.'s birth certificate. Without warning, the

Claimant: M.C.L., on behalf of himself and his minor son, A.C.R.

officer said he needed to take A.C.R. M.C.L. was shocked. He told the officer no, that A.C.R. was his son and that the government could not take him away. The officer approached A.C.R., who began darting from one place to another in an effort to avoid the officer. M.C.L. could see the fear in A.C.R.'s eyes as he tried to avoid the officer. After a few seconds, the officer gave up. The officer asked M.C.L. and A.C.R. to return to a waiting room. M.C.L. was relieved that A.C.R. was not taken from him.

Over the course of the next two days, M.C.L. and A.C.R. were kept in various cells within the facility. They were offered at most a thin blanket, which did little to shield them from the facility's extremely cold temperatures, and a single mattress pad to share. The lights were always kept on, which made it difficult to keep track of time. M.C.L. and A.C.R. were offered only burritos to eat, which was an unfamiliar food that A.C.R. refused. Throughout this time, M.C.L. could see that A.C.R. continued to be frightened by the officer's attempt to remove him from his father. A.C.R. always stayed close to his father, even following M.C.L. to the bathroom, and curling up against his father as they attempted to sleep.

2. The U.S. Government Takes A.C.R. from M.C.L.

About two days after M.C.L. and A.C.R. arrived in United States, an officer called them to an office. The officer asked M.C.L. his name, where he was from, and where he was planning to stay. She then told M.C.L. that the officers would take A.C.R. in two hours and that M.C.L. should tell A.C.R. to behave. M.C.L. was in a state of disbelief. He started to cry at the prospect of being separated from A.C.R., but tried to calm down by reminding himself that he had presented officers with A.C.R.'s birth certificate and his own Guatemalan identification card to prove that he was A.C.R.'s father. He thought that the officers could not have authority to take his own son away from him. M.C.L. told the officer no—that he was not going to be separated from his son. But the officer told M.C.L., “It doesn't matter what you want, it's going to happen.” With great pain, M.C.L. turned to A.C.R. and told him that they were going to be separated. A.C.R. started to cry as well.

M.C.L. and A.C.R. were returned to the cell where they had been staying. M.C.L. felt helpless: to him, these officers represented the law, and he could not disobey them. M.C.L. and A.C.R. held each other and cried themselves to sleep. After about two hours, three officers returned to the cell with chains and handcuffs. They ordered M.C.L. and A.C.R. to follow them to the office.

In the office, the officers told M.C.L. again that they were going to take his child. M.C.L. asked if they were sending A.C.R. back to Guatemala and pleaded with them that he needed to go with his son if A.C.R. was being deported. M.C.L. heard an officer say, “I'm sorry for you.” An officer stood on each side of M.C.L., grabbed M.C.L.'s arms, and forced him down onto a bench in the office. A.C.R. cried desperately, and M.C.L. felt as if he were going crazy. M.C.L.'s head began to hurt, and he felt anger towards himself. Feeling hopeless and frustrated, M.C.L. slapped his hands down on the bench where he had been forced to sit. An officer warned him that if he didn't calm down, they would put handcuffs on him. M.C.L. could not bear to watch as the officers grabbed A.C.R. to take him away. He hunched over, feeling powerless. He

heard A.C.R. crying in despair until A.C.R.'s cries became distant and he could not hear his son anymore.

3. M.C.L. Tirelessly Tries to Locate His Son.

After A.C.R. was taken from his father, officers led M.C.L. to another cell within the same facility. M.C.L. remained there for about five hours, weeping the entire time. When an officer came to take M.C.L., M.C.L. thought he would be taken to A.C.R. Instead, he was handcuffed, with his hands chained to his waist and feet chained together, and taken on a bus with other detainees to the Eloy Detention Center.

When M.C.L. arrived at the Eloy Detention Center on or around November 21, 2017, other detainees told him that he could submit a request in writing to inquire about his case or any other matters, but that the request had to be in English. M.C.L. does not know how to speak, read, or write in English. He relied on the help of other detainees who did speak English to submit a written request asking for information about his son's whereabouts. In response to this request, an officer promised to investigate.

M.C.L. made another written request the next day. The response to his second request stated: "There is no record of your son being in ICE [i.e., Immigration and Customs Enforcement] custody. You will need to reach out to your family or consulate in order to locate him." This response caused M.C.L. extreme shock and pain. He had personally seen government officials take his son away and knew that the U.S government had to know where his son was. He made several attempts to reach his consulate and his family. His calls to the consulate went unanswered and his wife had even less knowledge of A.C.R.'s whereabouts than M.C.L. did.

On or around November 26, 2017, M.C.L. made a third written request asking for his son's whereabouts, to which he received a similar response: "Your son is not in ICE custody. You will need to call your consulate or family to assist you with locating your son."

Determined to not give up, three days later, M.C.L. made a fourth written request to speak to an ICE officer to inquire about his son. Finally, over a week after their separation, M.C.L. received some information about A.C.R. M.C.L. was informed that A.C.R. had been taken to New York and that someone would coordinate phone calls between him and his son.

This promise proved false: no one coordinated a phone call for M.C.L. and his son. After about nine more days passed, M.C.L. made another request with the assistance of a translator, stating: "Please I need the right directions and contacts to get ahold of my son [A.C.R.]." He received a written response indicating that arrangements were being made with A.C.R.'s case manager.

After these multiple requests, an ICE officer finally gave M.C.L. a phone number to the facility where A.C.R. was being held in New York. Because M.C.L. did not have any personal funds to make calls, M.C.L. had to request permission in order to place a call to the facility where his son was being held, which he did several times a day.

On December 8, 2017, after numerous attempts, someone finally answered the phone at the facility where A.C.R. was being held, but the call ended abruptly before M.C.L. learned anything about his son. M.C.L. called again immediately and was able to speak with A.C.R.'s case worker. He learned that A.C.R. had been placed at Cayuga Centers in New York City. He asked the case manager about A.C.R.'s well-being, and the case manager told M.C.L. that A.C.R. had been crying most of the time he had been at the facility. When the case manager put A.C.R. on the phone, A.C.R. just cried and was unable to speak to M.C.L. M.C.L. told A.C.R. not to cry or worry, and that he and A.C.R. would get out together, just as they had come together. A.C.R. finally answered, saying, "Yes, it's okay dad, I'm okay." Hearing his son's voice after more than two weeks brought M.C.L. some measure of relief, but at the same time, hearing A.C.R.'s obvious distress caused him great pain.

M.C.L. wanted to talk to his son as often as possible, but he did not have the personal funds required by the government to place calls from ICE detention. M.C.L. pleaded with officers to allow him to call his son. Though the officers often denied M.C.L.'s requests, sometimes they would relent and would allow M.C.L. to call A.C.R. These calls were short, lasting about five minutes at most. A.C.R. cried throughout most of that time. And when A.C.R. finally was composed enough to speak, the allotted call time ended. Despite A.C.R.'s having told his father that he was okay during their first call, M.C.L. knew that his son was not doing well.

4. Believing It Will Expedite Reunification with His Son, M.C.L. Agrees to Deportation.

When he and A.C.R. arrived in the United States, M.C.L. intended to present a claim for asylum. But after his son was taken from him, M.C.L.'s priorities shifted—his primary concern was being reunified with his son as quickly as possible. M.C.L. came to believe that deportation offered the surest route to reunification with A.C.R. When he appeared before an immigration judge in early December, M.C.L. recalls telling the judge that he wanted to be reunited with his son, and that if he and A.C.R. were not permitted to stay in the United States together, he wanted to return to Guatemala with A.C.R. The judge told M.C.L. that his and his son's cases were separate matters.

At some point soon afterward, an ICE official presented M.C.L. with papers that the officer said were related to M.C.L.'s deportation. M.C.L. asked what would happen with A.C.R., and the officer told M.C.L. that his son would be returned to him immediately after he was deported. M.C.L. signed the documents, believing the official's assurances that he and A.C.R. would be reunited in Guatemala.

M.C.L. felt relief after signing the documents, believing that he would be able to see and hold his son again very soon. M.C.L. was deported to Guatemala in January 2018.

Before boarding the flight to Guatemala, officers returned M.C.L.'s belongings, including his backpack, which contained A.C.R.'s clothes. The return of his son's clothes was heart-wrenching, as the clothing reminded M.C.L. of his extended separation from A.C.R. During his

Claimant: M.C.L., on behalf of himself and his minor son, A.C.R.

entire flight back to Guatemala, M.C.L. thought only of A.C.R. He was extremely distressed by the fact that, in order facilitate their reunification, he was being forced to leave his son by himself in a foreign country. M.C.L. could only hope that he would see his son very soon.

When M.C.L. landed in Guatemala City, he felt lost and without direction. He could not imagine returning to his village without his son. He felt ashamed for not having done more to prevent officers from taking his son and for returning to Guatemala without him. He feared calling home to tell his wife that he had returned without A.C.R. He eventually found the strength to call his wife, M.T.C.L., from Guatemala City. He told her that he had been deported and that A.C.R. was not with him, but that he had been told their son would be sent back very soon. His wife was devastated and cried inconsolably. At that moment, M.C.L. felt worthless.

5. M.C.L. Learns of His Wife's Efforts to Get A.C.R. Back.

Upon his return to Guatemala, M.C.L. learned that his wife had received a call from A.C.R.'s case manager in early December informing her that their son was crying incessantly. A.C.R. and his mother were supposed to talk twice per week, but sometimes over 20 days would pass before they could talk on the phone. M.T.C.L. called the shelter many times, but often no one answered her calls. She was so worried by this silence that at times she wondered if her son was dead or had been given up for adoption.

The case manager told M.T.C.L. that she needed to complete many forms in order to get her son back. M.T.C.L. traveled to a neighboring town to obtain assistance with letters and certificates to prove that she was A.C.R.'s mother. She paid to fax these documents to the case manager in New York. When the case manager informed M.T.C.L. that she had not received the documents, M.T.C.L. returned to the adjacent town to fax the documents again. A month passed before the case manager responded, again claiming that she had not received the documents.

Given A.C.R.'s obvious state of distress, M.T.C.L. considered traveling to the United States to get her son back, but she had no funds to pay for the trip and a daughter who had become severely ill. She was thus forced to remain in Guatemala, living in what seemed to her like hell.

6. Despite the Government's Promises, A.C.R. is Not Returned to His Family.

Despite the assurances from the ICE official that A.C.R. would be deported to Guatemala soon after his father, three weeks came and went without A.C.R.'s return. Communication with the facility where A.C.R. was being held continued to be infrequent. When M.C.L. and M.T.C.L. were able to talk to A.C.R.'s case manager, they asked for their son to be returned to Guatemala as soon as possible.

After months had passed without a call from the case manager, M.C.L. and his wife feared that they had lost A.C.R. forever. Desperate, M.C.L. and M.T.C.L. borrowed money to travel to Guatemala City in June 2018 to seek assistance from the Guatemalan government. The trip took over seven hours and cost 1,500 Quetzales (approximately \$196). As M.C.L. and M.T.C.L. arrived in the capital, they received a call from A.C.R.'s case manager. She told them

Claimant: M.C.L., on behalf of himself and his minor son, A.C.R.

that A.C.R. would be returned to Guatemala on July 9, 2018. Ecstatic, M.C.L. and M.T.C.L. decided to return to their village and await A.C.R.'s return.

On July 9, 2018, M.C.L. and M.T.C.L. again traveled to Guatemala City on borrowed funds, expecting to be reunited with their son. M.C.L. and M.T.C.L. arrived at *Casa del Migrante*, as instructed by A.C.R.'s case manager. There, an employee informed them that A.C.R. had not arrived that day because his flight had been canceled for unknown reasons. She directed M.C.L. and M.T.C.L. to contact A.C.R.'s case manager in New York, promised to call them if she received news of A.C.R.'s return, and explained that there was nothing else she could do to help them. M.C.L. and his wife were completely devastated. They felt as if they had been lied to. They were afraid that A.C.R. had been hurt, or that the United States government no longer had custody of him. They called A.C.R.'s case manager several times, but she did not return any of their calls.

7. After Eight Months of Separation, A.C.R. is Finally Reunited with His Father.

A couple of weeks later, on or about July 24, 2018, the *Casa del Migrante* employee called M.C.L. and his wife to tell them that A.C.R. would be returned to Guatemala on July 26, 2018. At that point, it had been about eight months since M.C.L. had seen his son and about six months since M.C.L. had been deported to Guatemala. M.C.L. again borrowed money and traveled to Guatemala City with his family. They waited at *Casa del Migrante* along with other anxious parents who were hoping to be reunited with their children. A.C.R. was finally brought into the room where M.C.L. and his family were nervously waiting. M.C.L. and his wife rushed to hug A.C.R., who held his mother's hand tightly, refusing to let go. M.C.L. thought that A.C.R. had grown taller in the eight months since he had last seen him. The family was overjoyed at being reunited. They were so exuberant and so focused on bringing A.C.R. home that they forgot A.C.R.'s suitcase at the site of reunification and had to return a short time later to collect his belongings.

On the way back to their village, A.C.R. asked about his grandmother and took toys out of his backpack to share with his little sister. In that moment, M.C.L. felt like his life had returned to him and that everything would return to normal.

8. M.C.L. and A.C.R. Continue to Suffer After Being Reunited.

However, it was not long before M.C.L. and his wife noticed that the A.C.R. who had returned to them was very different from the A.C.R. who had traveled to the United States with M.C.L. A.C.R. now seemed to live in a perpetual state of fright. He was generally reluctant to talk to M.C.L. and his mother, and in particular, did not want to talk about his time in the United States.

M.C.L. and his wife became worried when, on the third night after his return, A.C.R. woke up in the middle of the night sobbing. He walked to the front door and tried to leave his family's home. A.C.R.'s nighttime sobbing and attempts to leave the house have happened many times and continue to the present. As a result, M.C.L. and M.T.C.L. remain on alert throughout the night, worried that A.C.R. might try to leave and hurt himself. Every time this

Claimant: M.C.L., on behalf of himself and his minor son, A.C.R.

happens, M.C.L. or his wife gently carry A.C.R. back to bed and hold him and comfort him until he falls asleep. M.C.L. and M.T.C.L. have asked A.C.R. what is wrong, but he does not respond and simply continues to cry. In the morning, A.C.R. cannot remember anything about what happened during the previous night.

A.C.R. also has become nervous around people who look and dress differently from the people in his village. The community in their village is formed largely of indigenous Mam-speaking people. The women traditionally wear handwoven dresses and blouses. On his first day of school after his return, A.C.R. refused to enter his classroom because his teacher did not wear the traditional clothing of the women in his village. A.C.R. told M.C.L. that he is afraid of his teacher because she dresses like the nurses in the United States. He remembers the nurses giving him many shots and the memory fills him with fear. To this day, nearly a year after his return to Guatemala, A.C.R. still struggles with attending school. M.C.L. and his wife regularly request accommodations from A.C.R.'s instructors and the school director to reduce A.C.R.'s distress. Similarly, A.C.R. cries in desperation and fear when taken to the local health clinic. A.C.R. also is afraid of police officers and runs and hides whenever he sees an officer.

Since returning to Guatemala, A.C.R. becomes upset very easily. He often is unable to cope with things that most children his age would find trivial. For example, he cries when his parents ask him to do a chore. He also cries when other children tease him. A.C.R. frequently refuses to eat and cries when someone asks him what he would like to eat. M.C.L. and M.T.C.L. worry because A.C.R.'s crying episodes are not like typical temper tantrums. Instead, A.C.R. often cries to himself without asking for anything or saying much. Sometimes, he cries for no apparent reason. In February of this year, when a tremor struck the village, A.C.R. started screaming and crying hysterically, even though his younger sister and other children living in the home were hardly startled. When other children ask him if he has been to the United States, he breaks down in tears. A.C.R. spends a lot of time by himself and does not play with his sister or cousins who are close in age and live in the same house.

M.C.L. and his wife have also noticed that A.C.R. has difficulty with his memory. Often when they ask him to bring them something, he will come back empty-handed, unable to remember what his parents asked him to bring.

This is a stark difference from the child A.C.R. was before he was separated from his father. Before the separation, A.C.R. was a normal, happy child. He did not fear people from outside his community. He attended school with little protest. He might have complained about a trip to the health clinic, but it did not overwhelm him with fear. He ate well and slept well. He played with his cousins at all hours of the day and was curious and expressive. M.C.L. and M.T.C.L. worry that A.C.R. will not overcome the lasting effects of the separation.

Although M.C.L. has some relief now that his son is with him, he is tormented by the memories of being separated from his son. He cannot forget A.C.R.'s cries as he was carried away by immigration officers. M.C.L. feels guilty and saddened at the realization that his son is not the same happy boy that he was before the separation. M.C.L. also is tormented by the fact that he may never know exactly what happened to A.C.R. during the eight months that they were

separated. A.C.R. refuses to talk about his time in the United States and tells his parents that he does not want to remember it.

M.C.L. also has changed as a result of the separation from his son. He has trouble remembering basic information and is forgetful about what he is doing or is supposed to do. He spends a lot of time thinking about how distressed and helpless he felt when A.C.R. was taken from him and during their separation. His wife often finds him sitting alone, lost in thought. M.C.L. struggles with feelings of guilt and shame over not having done more to prevent the separation from his son.

B. The Government Illegally Separated Families for the Purpose of Deterring Future Migrants.

Since 2017, the Administration has taken thousands of children from their parents, intending to cause terror, anguish and harm, and to use that cruelty to deter future migrants from seeking to enter the United States. Both the practice of separating families itself and its implementation violate the Constitution, the law, and basic human decency.

The many harms that the Administration inflicted on M.C.L. and A.C.R., as described in Section A, were not only foreseeable, but intentional. Forcible parent-child separations have long been known to cause significant short- and long-term damage to mental, physical, and emotional health. Knowing this, and indeed because of this, the government cruelly separated M.C.L. and A.C.R. and others like them for the purpose of deterring future migrants from entering the United States. It made the harm far worse by implementing a policy with carelessness and callous disregard for the physical safety and emotional well-being of M.C.L. and A.C.R. Administration officials have yet to acknowledge or accept any responsibility for the harms they caused. For all of these reasons, M.C.L. and A.C.R. seek relief through these claims.

1. The Government's Forcible Separation of Families Violated the Constitution, the Law, and Norms of Basic Human Decency.

The government's policy of separating families who, like M.C.L. and A.C.R., sought to enter the United States through the U.S. southern border in 2017 and 2018 deliberately violated the constitutional rights of those separated, including the right to family integrity. For decades, this nation's highest court has recognized the fundamental right to family integrity protected by the Constitution: "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."¹ These constitutional protections extend to citizens and non-citizens alike, even when confined by the government.²

¹ *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

² *Jacinto-Castanon de Nolasco v. U.S. Immigration & Customs Enft*, 319 F. Supp. 3d 491, 500 (D.D.C. 2018) ("The fact that [families are] lawfully detained in immigration custody does not eliminate [their] due process right to family integrity.").

In the name of deterrence, the government indiscriminately tore immigrant children from their parents, sent the children thousands of miles away, refused to inform parents and children of each other's whereabouts or well-being, refused to provide adequate means for parents and children to talk with each other, and failed to have any system for tracking the children or ensuring that families could ever be reunited.

As Judge Sabraw concluded in *Ms. L v. U.S. Immigration and Customs Enforcement*, the government's actions "shock[] the conscience."³ The *Jacinto-Castanon de Nolasco* court further stated that "nothing in federal law suggests that deterring immigration by indefinitely separating families once the parents have been transferred to immigration custody is a compelling or legitimate government objective."⁴ Both the policy itself and its callous implementation violate the Constitution, the law, and norms of human decency.

2. Forcibly Separating Families Causes Irreparable Harm to Children and Parents.

Keeping parents separated from their children with "little or no direct access to basic information about their health or general well-being, *plainly causes irreparable harm.*"⁵ Children attach to their caregiver from the time they are born, and the children's sense of safety "depends on that relationship."⁶ Disrupting that relationship causes "the parts of the brain that deal with attachment and fear" to "develop differently."⁷

It is not surprising, then, that the *Jacinto-Castanon de Nolasco* court found that "[s]eparation irreparably harms [families] every minute it persists."⁸ This finding is firmly anchored in scientific studies and literature. As an expert physician testified to Congress, "[a] *century of countless studies* across the behavioral and social sciences provide *extensive evidence* of the consequences of separating children from their parents, especially if that separation is unexpected, abrupt, or in a frightening context."⁹ For example, research into World War II separations shows "documented far reaching effects of these separations into adulthood, including increased risk for mental health problems, poor social functioning, insecure attachment, disrupted stress reactivity, and mortality."¹⁰

³ 310 F. Supp. 3d 1133, 1142.

⁴ *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 502.

⁵ *Id.* (emphasis added).

⁶ William Wan, *What Separation from Parents Does to Children: 'The Effect is Catastrophic'*, WASH. POST (June 18, 2018), <http://tinyurl.com/yxf6en34>.

⁷ *Id.*

⁸ *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 503.

⁹ *Examining the Failures of the Trump Administration's Inhumane Family Separation Policy: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce*, 116th Cong. (2019) [hereinafter *Oversight & Investigations Hearing*] (testimony of Jack P. Shonkoff, M.D., Director, Center on the Developing Child at Harvard University, at 1) (emphasis added).

¹⁰ Johayra Bouza et. al., *The Science is Clear: Separating Families has Long-term Damaging Psychological and Health Consequences for Children, Families, and Communities*, Soc'y for Res. in Child Dev. Statement of the Evid., Jun. 20, 2018, <https://tinyurl.com/y3fkofpb>; see also, e.g., Wan, *supra* note 6 (describing the psychological

The American Academy of Pediatrics (“AAP”) explained the effects of separation on children: “[H]ighly stressful experiences, like family separation, can . . . disrupt[] a child’s brain architecture and affect[] his or her short- and long-term health. This type of prolonged exposure to serious stress — known as toxic stress — can carry lifelong consequences for children.”¹¹ Children who experience trauma like forced separation from a parent “are at a much greater risk of developing mental health disorders such as depression, anxiety, addiction, ADHD and PTSD. Their physical health is also negatively affected.”¹² The materials cited here barely scratch the surface of the wealth of expert material describing the harms caused by family separation. Given the “extensive evidence,” the irreparable harm caused by forcibly separating parents and children is indisputable.¹³

3. The Government Knew of the Harm It Would Cause by Tearing Children from Their Parents at the Border.

Moreover, the federal government knew of the harm caused by separating children from their parents long before it began separating families like M.C.L. and A.C.R. Evidence of that is plentiful, both in internal agency comments and in the government’s reaction to the public outcry against the policy when it was initially proposed in 2017. For example:

and physiological responses that “wreak[] dramatic and long-term damage” on children who are forcibly separated from their parents).

¹¹ *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 503 (quoting Colleen Kraft, Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Children and Parents at the Border (May 8, 2018), <https://tinyurl.com/ycr3rjqh>); see also Brittny Mejia, *A 3-Year-Old was Separated from his Father at the Border. Now His Parents are Dealing with his Trauma*, L.A. TIMES (July 3, 2018), <https://tinyurl.com/y79ra9un> (“A child taken from a parent is flooded with anxiety, which quickly turns into panic. . . . Children’s bodies and brains, ‘are absolutely not built to withstand that level of stress.’” (quoting child psychiatrist Dr. Amy Cohen)); Allison Abrams, LCSW-R, *Damage of Separating Families: The Psychological Effects on Children*, PSYCHOL. TODAY (June 22, 2018), <http://tinyurl.com/y844pqsk> (Because a child’s “secure attachment comes from the child’s perceptions of his or her caregiver’s availability (physical accessibility) . . . separations as brief as one week in duration could negatively impact the quality of attachments.”); *id.* (Children who are separated from a parent “develop insecure/disorganized attachment and persisting high levels of stress.”) (quotations omitted).

¹² Abrams, *supra* note 11; see also Sarah Reinstein, *Family Separations and the Intergenerational Transmission of Trauma*, CLINICAL PSYCHIATRY NEWS (July 9, 2018), <https://tinyurl.com/y3h7asek> (“[C]hildhood trauma is associated with emotional dysregulation, aggression against self and others, difficulties in attention and dissociation, medical problems, and difficulty with navigating adult interpersonal relationships.”); *Oversight & Investigations Hearing*, *supra* note 9 (testimony of Cristina Muñoz de la Peña, Ph.D, Terra Firma Mental Health Director, Center for Child Health and Resiliency, on behalf of the American Psychological Association, at 4) (“Sudden and unexpected family separation is also associated with stress and emotional trauma for children, housing instability, food insecurity, interrupted schooling, and behavioral/emotional responses such as fear, anxiety, aggression and changes to sleep and appetite. Parental separation can have a long-term negative impact on children into adulthood.”).

¹³ Moreover, here, the harm caused by the forced separation of the children from their parents was compounded by the harm caused by the resultant detention of the children. See, e.g., Julie M. Linton et al., *Detention of Immigrant Children*, 139 PEDIATRICS e20170483 (2017), <https://tinyurl.com/yc3sco99> (AAP Policy Statement noting that studies of detained unaccompanied minors in the United States found “high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems” and that the AAP has found “no evidence indicating that any time in detention is safe for children” (emphasis added)).

- In 2016, DHS’ Advisory Committee on Family Residential Centers concluded that “the separation of families for purposes of immigration enforcement or management, or detention is *never* in the best interest of children.”¹⁴
- In February 2017, having noticed a marked uptick in young children separated from parents at the border, a high-ranking HHS official expressed his concerns about the harms of family separation directly to then-ORR director Scott Lloyd and other top officials.¹⁵ This same official has testified before Congress that because “[s]eparating children poses significant risk of traumatic psychological injury to the child,’ . . . neither he nor anyone he worked with ‘would ever have supported such a policy.’”¹⁶
- In March 2017, when senior officials at DHS told the press that the agency was considering a deterrence policy of separating migrant parents and children at the border,¹⁷ the announcement was met with an immediate wave of warnings from the medical community. The AAP, among others, warned that such a policy would affect “vulnerable, scared children” and urged policymakers to “exercise caution to ensure that the emotional and physical stress children experience as they seek refuge in the United States is not exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers.”¹⁸

When confronted by public backlash to the then-proposed family separation policy, DHS Secretary John Kelly, who had initially confirmed DHS’ plans to pursue family separation, changed course, assuring the Senate Committee on Homeland Security and Governmental Affairs in April 2017 that children would be separated from their mothers only “if the child’s life is in danger” or if the mother was addicted to drugs,¹⁹ rather than as a matter of due course for families arriving at or crossing the border.

¹⁴ U.S. IMMIGRATION & CUSTOMS ENF’T, DEP’T OF HOMELAND SEC., REPORT OF THE DHS ADVISORY COMMITTEE ON FAMILY RESIDENTIAL CENTERS 2 (2016) (emphasis added), <https://tinyurl.com/y5o9d2wc>.

¹⁵ *Oversight & Investigations Hearing*, *supra* note 9 (testimony of Commander Jonathan White, U.S. Public Health Service Commissioned Corps, U.S. Department of Health and Human Services); see *Migrant Family Separation Policy: Hearing Before the H. Judiciary Comm.*, 116th Cong. 1:11 (2019), <https://www.c-span.org/video/?458199-1/allegations-sexual-abuse-unaccompanied-minors-raised-house-hearing>.

¹⁶ Colleen Long, *Official Who Oversaw Migrant Kids: Separation Causes Trauma*, AP NEWS (Feb. 7, 2019), <https://tinyurl.com/y59zw9xo> (quoting testimony of Commander Jonathan White, U.S. Public Health Service Commissioned Corps).

¹⁷ Julia Edwards Ainsley, *Exclusive: Trump Administration Considering Separating Women, Children at Mexico Border*, REUTERS (Mar. 3, 2017), <http://tinyurl.com/y6qpmrpu>.

¹⁸ Fernando Stein & Karen Remley, *Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Mothers and Children at the Border* (Mar. 4, 2017), <http://tinyurl.com/jzeburx>.

¹⁹ Brooke Singman, *Kelly Says Full-scale Border Wall ‘Unlikely,’ Clarifies Position on Family Detentions*, FOX NEWS (Apr. 5, 2017), <https://tinyurl.com/y425hlq6>.

Given the Administration's own internal comments and the government's response to the many public warnings opposing a family separation policy, there is no question that the Administration was well aware of the harms family separation would cause — before it began separating families in mid-2017.

4. Knowing the Harm, the Government Forcibly Separated Families for the Purpose of Deterring Future Migrants.

Despite Secretary Kelly's public assurance that families crossing the border would be separated only in specific circumstances for the welfare of the child, in 2017 the Administration began indiscriminately separating families who crossed the southern U.S. border—even those who, like M.C.L. and A.C.R. presented at a port of entry seeking asylum and who were not charged with improper entry. It did so knowing the separations would cause harm, and intending to leverage that harm to deter future immigrants from seeking to enter the United States.

Between October 2017 and April 2018, news reports estimate that 700 children were separated from their parents at the U.S.-Mexico border,²⁰ with later estimates indicating that this number could have reached into the thousands.²¹ As M.C.L. and A.C.R.'s experience illustrates, the practice of separating families was not limited to individuals who were found crossing the border without authorization, but rather included families who lawfully presented at a port of entry seeking asylum.²² Like many families fleeing to the United States from Central America, M.C.L. and A.C.R. arrived here seeking asylum and lawfully presented themselves at an official port of entry. M.C.L. was not referred for any criminal proceeding. Yet M.C.L. and A.C.R. were cruelly and without any justification forced apart and made to endure eight months of separation, with minimal phone contact and no assurance of ever being reunited. Indeed, M.C.L.

²⁰ Caitlin Dickerson, *Hundreds of Immigrant Children Have Been Taken From Parents at U.S. Border*, N.Y. TIMES (Apr. 20, 2018), <https://www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html>.

The roots of the federal government's practice of separating families include a pilot program of the U.S. Border Patrol's El Paso sector between July and October 2017. Under the program, the government targeted for criminal prosecution parents who unlawfully crossed the border into the United States with young children. It detained parents as criminals, and forcibly took their children away from them. CBP placed the children in the custody of ORR, which dispersed the children into institutionalized settings and foster homes throughout the country. See OFF. OF INSPECTOR GEN., U.S. DEP'T OF HEALTH AND HUMAN SERVS., OEI-BL-18-00511, SEPARATED CHILDREN PLACED IN OFFICE OF REFUGEE RESETTLEMENT CARE 3 (2019), <https://oig.hhs.gov/oei/reports/oei-BL-18-00511.pdf> [hereinafter HHS OIG Report] ("From July through November 2017, the El Paso sector of Customs and Border Protection (CBP), an agency within DHS, implemented new policies that resulted in 281 individuals in families being separated."); see also Lisa Riordan Seville & Hannah Rapple, *Trump Admin Ran 'Pilot Program' for Separating Migrant Families in 2017*, NBC NEWS (June 29, 2018), <https://tinyurl.com/y7sk25mv>; Katherine Hawkins, *Where Family Separation Began: A Case in El Paso Shows Flores is the Solution, Not the Problem, Just Security* (June 22, 2018), <https://tinyurl.com/y3zpdkdl>.

²¹ See *Child Separations by The Trump Administration, Staff Report, Committee on Oversight and Reform*, U.S. House of Representatives (July 2019) at 1, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-07-2019.%20Immigrant%20Child%20Separations-%20Staff%20Report.pdf>.

²² See, e.g., Paloma Esquivel & Brittny Mejia, *The Trump Administration Says It's a 'Myth' that Families that Ask for Asylum at Ports of Entry are Separated. It Happens Frequently, Records Show*, L. A. TIMES (Jul. 1, 2018), <https://www.latimes.com/local/lanow/la-me-ln-port-of-entry-separations-20180701-story.html>.

and A.C.R. are not alone in this experience; many other families who lawfully presented at a port of entry in 2017 and 2018 were nonetheless separated.²³

The federal government's policy and practice of separating families at the border culminated in the U.S. Attorney General's announcement, on April 6, 2018, of a "Zero Tolerance Policy." The Zero Tolerance Policy "fundamentally changed DHS' approach to immigration enforcement," which, until 2017, did not separate a child from an accompanying adult except in very limited circumstances, such as where Customs and Border Protection ("CBP") determined that the adult was not the child's parent or guardian or the adult posed a danger to the child.²⁴ Several aspects of the U.S. Government's policy and practice of separating families in 2017 and 2018 reveal that its goal was to deter future immigrants from seeking entry to the United States by harming families through forcible separation.

For example, a December 2017 internal DHS memo confirms that "prosecution of family units" and "separat[ion] [of] family units" (as well as the publicity that would accompany such actions) were viewed as differing pathways to deterring future migration.²⁵ Similarly, the fact that many families lawfully presented themselves for asylum at ports of entry yet were separated nonetheless²⁶ further illustrates that the primary purpose of family separation was deterrence, and not concern for the enforcement of immigration laws.²⁷

All of this evidence shows that the government intentionally inflicted the severe harm caused by forcible separation on families, like M.C.L. and A.C.R., who crossed the U.S. border.

²³ See, e.g., Katie Shepherd, *Border Patrol Agents May Have Separated Families at Legal Ports of Entry Despite Promises Not To*, WILLAMETTE WEEK (Jun. 19, 2018), <https://www.wweek.com/news/courts/2018/06/19/border-patrol-agents-may-have-separated-families-at-legal-ports-of-entry-despite-promises-not-to/>; Colleen Long, *Figures Show About 2,000 Minors Separated From Families*, AP NEWS (Jun. 16, 2018) (citing DHS figures and noting, "[t]here were an additional 38 minors separated at ports of entry in May through June 6. There were more than 55 in April and a high of 64 in March, according to the figures."), <https://apnews.com/227a90dbf32a46bf9545b4524aa7af64>.

²⁴ See, e.g., OFF. OF INSPECTOR GEN., U.S. DEP'T OF HOMELAND SEC., OIG-18-84, SPECIAL REVIEW - INITIAL OBSERVATIONS REGARDING FAMILY SEPARATION ISSUES UNDER THE ZERO TOLERANCE POLICY 3 (2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf> [hereinafter DHS OIG REPORT].

²⁵ Policy Options to Respond to Border Surge of Illegal Immigration, <https://assets.documentcloud.org/documents/5688664/Merkleydocs2.pdf>; see Anne Flaherty & Quinn Owen, *Leaked Memo Shows Trump Administration Weighed Separating Families at Border, Sen. Merkley Wants Nielsen Investigated for Perjury*, ABC NEWS (Jan. 18, 2019), <https://tinyurl.com/y48npsbe>.

²⁶ See *Ms. L.*, 310 F. Supp. 3d at 1143 ("[T]he practice of family separation was occurring before the zero tolerance policy was announced, and that practice has resulted in the casual, if not deliberate, separation of families that lawfully present at the port of entry, not just those who cross into the country illegally.").

²⁷ Philip Bump, *Here Are the Administration Officials Who Have Said That Family Separation Is Meant as a Deterrent*, WASH. POST (June 19, 2018), <https://tinyurl.com/y5kcxv18>; Rafael Bernal, *HHS Official Says Family Separation Policy Will Have 'Deterrence Effect'*, THE HILL (June 19, 2018), <https://tinyurl.com/y69w9b3r>.

5. The Government's Deliberate Lack of Planning Intensified the Harms, Prolonging Separation and Delaying Reunification.

The Administration multiplied the harm it intended to cause by the shocking carelessness with which it implemented its policy and practice of separating families. Among other things, a deliberate lack of planning resulted in the Administration failing to adequately track separated families, failing to communicate with parents about their children's welfare, and failing to take care to comply with child welfare standards, all of which compounded the harms already inflicted on families who had been forcibly separated.

Failure to adequately track separations. Despite the fact that tracking whether a child had been separated from his or her parent merely required adding a checkbox to an ORR / DHS referral page,²⁸ these two agencies primarily responsible for implementing the policy instituted no "consistent way to indicate in their data systems children and parents separated at the border" until at least the summer of 2018.²⁹ The most staggering result of this failure was that the Administration had no ready records of where thousands of parents' children were located, and could not promptly reunite parents and children,³⁰ even when ordered to do so by a U.S. District Court.³¹ The Administration's failure to track separated children meant that, immediately after being separated from their parents, many children were held in CBP short-term detention facilities for longer than the 72-hour period permissible under federal law,³² in some cases for as long as 25 days,³³ before being transferred to ORR custody.

Failure to communicate with parents about children's whereabouts and safety. After separation, parents and children often did not know each other's whereabouts for weeks, as was the case with M.C.L. and A.C.R. When the children were taken, "officers often failed to fully explain to parents what was happening and how the adults could get in touch with their kids."³⁴

²⁸ *Oversight of the Trump Administration's Family Separation Policy: Hearing Before the H. Comm. on the Judiciary* (Feb. 26, 2019) (statement of Scott Lloyd, Senior Advisor, Center for Faith and Opportunity Initiatives, U.S. Department of Health and Human Services, at 4), <https://docs.house.gov/meetings/JU/JU00/20190226/108872/HHRG-116-JU00-Wstate-LloydS-20190226.pdf>.

²⁹ GOV'T ACCOUNTABILITY OFFICE, UNACCOMPANIED CHILDREN: AGENCY EFFORTS TO IDENTIFY AND REUNIFY CHILDREN SEPARATED FROM PARENTS AT THE BORDER, *Highlights*; *see also id.* at 16-18.

³⁰ DHS OIG REPORT, *supra* note 24, at 9-11; *see* Kevin Sieff, *The Chaotic Effort to Reunite Immigrant Parents with Their Separated Kids*, WASH. POST (June 21, 2018), <https://tinyurl.com/y4wpora7>; Miriam Jordan, *Torn Apart by Zero Tolerance, Kept Apart by Red Tape*, N.Y. TIMES (June 24, 2018), <https://tinyurl.com/y9t2mnyt>.

³¹ *See* Evan Halper, *Federal Investigators Find Many Failures in Trump's Family Separation Policy*, L.A. TIMES (Oct. 2, 2018), <https://tinyurl.com/y2srdo9q>. These circumstances led the court to conclude that the "unfortunate reality" of the family separation policy was that "migrant children [were] not accounted for with the same efficiency and accuracy as *property*." *Ms. L.*, 310 F. Supp. 3d at 1144.

³² Trafficking Victims Protection Reauthorization Act, 8 U.S.C.A. § 1232(b)(3); *see* SARAH HERMAN PECK & BEN HARRINGTON, CONGRESSIONAL RESEARCH SERVICE, THE "FLORES SETTLEMENT" AND ALIEN FAMILIES APPREHENDED AT THE U.S. BORDER: FREQUENTLY ASKED QUESTIONS, at 5 (Sep. 17, 2018), <https://fas.org/sgp/crs/homesecc/R45297.pdf>.

³³ DHS OIG REPORT, *supra* note 24, at 8.

³⁴ Halper, *supra* note 31.

The government failed to provide parents with any “paperwork” documenting the location or well-being of their children, or to enable communication between parents and their separated children.³⁵ One Texas federal district court observed that “[t]he practical effect” of these failures was “to create a ‘blackout’ period where parent and child are wholly incommunicado from each other.”³⁶ And even if parents found out where their children were and a correct phone number for that location, phone calls were logistically difficult and expensive to make, severely limiting the few precious minutes that parents and children could hear each other’s voices.³⁷ The anguish of not knowing for weeks where their family members were or how they were doing, and then not being able to spend meaningful time talking once they made contact, further exacerbated the anguish and harm parents and children suffered from being torn apart.

Child welfare standards ignored in the rush to expand detention capacity. ORR was completely unprepared and unable to properly care for the thousands of vulnerable children referred to its custody by DHS. The shortcuts approved by high-level government officials and implemented by rank-and-file agents and contractors to try to deal with the influx of children led to a shocking series of abuses of children. For example, the rush to set up make-shift facilities resulted in one facility hiring over one thousand staff members without conducting FBI background fingerprint checks and having a “dangerously low number of clinicians serving children” at that facility.³⁸ A spokeswoman for the HHS’ Inspector General’s Office stated that these deficiencies posed “serious safety and health vulnerabilities.”³⁹ At one detention center, a staff member was drunk while he was involved with care for separated children.⁴⁰ The Justice Department has received reports of unwanted sexual touching, staff members having sexual relationships with children detainees, and staff members showing children pornographic videos.⁴¹ In addition to the pervasive sexual abuse of detained children, there are reports of widespread denial of medical care, including for a burn injury, a broken wrist, and a sexually transmitted disease.⁴² In another reported case, staff gave a child medicine to which she was allergic despite warnings on the child’s medical bracelet.⁴³

³⁵ See *United States v. Dominguez-Portillo*, No. EP-17-MJ-4409-MAT, 2018 WL 315759, at *1-*2, *9 (W.D. Tex. Jan. 5, 2018).

³⁶ *Id.* at *9.

³⁷ See Halper, *supra* note 31; Jordan, *supra* note 30; Jack Herrera, *A New Report Reveals How Family Separation Led Border Officials to Break the Law*, PACIFIC STANDARD (Oct. 4, 2018), <https://tinyurl.com/y7x44kz6>.

³⁸ Daniella Silva, *Trump Administration Waived Strict Background Checks for Staff at Migrant Child Detention Camp*, NBC NEWS (Nov. 27, 2018), <http://tinyurl.com/y4asqmw7>.

³⁹ *Id.*

⁴⁰ Aura Bogado et al., *Separated Migrant Children Are Headed Toward Shelters that Have a History of Abuse and Neglect*, TEX. TRIB. (June 20, 2018), <https://tinyurl.com/ydyl6wvb>.

⁴¹ *Id.* From 2014 to 2018, HHS received more than 4,500 complaints of sexual abuse against unaccompanied minors, often involving staff. Sophie Tatum, *HHS Docs Show Thousands of Alleged Incidents of Sexual Abuse Against Unaccompanied Minors in Custody*, CNN (Feb. 26, 2019), <https://tinyurl.com/y65zrqql>.

⁴² Aura Bogado et al., *supra* note 40; see also Shefali Luthra & Marisa Taylor, *Immigrant Families Placed in Detention Centers Face Health Care Challenges*, WASH. POST (July 2, 2018), <http://tinyurl.com/y5ezbqk3>.

⁴³ Bogado, Michels & Swales, *supra* note 40.

Claimant: M.C.L., on behalf of himself and his minor son, A.C.R.

The Administration's express intent to inflict the trauma of family separation as a deterrent — followed by its failures to track children, tell their parents anything about their whereabouts and well-being, and provide them with safe and appropriate care — evidence at best a callous disregard for the anguish of separated parents and children, and at worst an intent to increase their suffering to maximize the deterrent effect of the family separation policy.

10. 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.

The federal government deliberately violated M.C.L.'s and A.C.R.'s constitutional rights, including their right to family integrity, and failed in its basic duties not to harm those in its custody. The government's actions and failures were designed to and did cause M.C.L. and A.C.R. severe trauma and emotional distress.⁴⁴

The government knew that forcibly taking M.C.L. from A.C.R. would fill them with terror, desperation, and anguish. It purposefully inflicted that trauma on M.C.L. and A.C.R. to instill fear in others. It then compounded that trauma by keeping M.C.L. and A.C.R. apart for approximately eight months, without allowing them even to speak to one another for more than two weeks, and without any plan for reuniting them.

M.C.L. and A.C.R. will carry the harm done to them for the rest of their lives. The government's conduct here is unconscionable, and it cannot be excused in a civilized society.

11. Witnesses

[Redacted]

13b. Phone Number of Person Signing the Form

Matthew Schlesinger, Covington & Burling LLP, (202) 662-5581.
Michelle L. Lapointe, Southern Poverty Law Center, (404) 521-6700.

⁴⁴ Among other causes of action, the facts related herein support claims for infliction of emotional distress (whether intentional or negligent), interference with the parent-child relationship, fraud, negligence, battery and/or assault, false imprisonment, and violations of the Fourth and Fifth Amendments to the United States Constitution.