

1 CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW  
2 Carlos R. Holguín (Cal. Bar No. 90754)  
3 Sarah E. Kahn (Cal. Bar No. 341901)  
4 256 South Occidental Boulevard  
5 Los Angeles, CA 90057  
6 Telephone: (213) 388-8693  
7 Email: crholguin@centerforhumanrights.org

8 *Attorneys for Plaintiffs*

9 *Additional counsel listed on following page*

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

JENNY LISETTE FLORES, *et al.*,  
Plaintiffs,  
v.  
MERRICK GARLAND, Attorney General  
the United States, *et al.*,  
Defendants.

No. CV 85-4544-DMG-AGR<sub>x</sub>  
NOTICE OF MOTION AND MOTION  
TO ENFORCE SETTLEMENT RE  
PARAGRAPH 28A DATA  
Hearing: November 15, 2024  
Time: 9:30 a.m.  
Hon. Dolly M. Gee

1 NATIONAL CENTER FOR YOUTH LAW  
2 Mishan Wroe (Cal. Bar No. 299296)  
3 Diane de Gramont (Cal. Bar No. 324360)  
4 1212 Broadway, Suite 600  
5 Oakland, CA 94612  
6 Telephone: (510) 835-8098  
7 Email: mwroe@youthlaw.org

8 NATIONAL CENTER FOR YOUTH LAW  
9 Rebecca Wolozin (admitted *pro hac vice*)  
10 818 Connecticut Ave. NW, Suite 425  
11 Washington, DC 20006  
12 Telephone: (202) 868-4792  
13 Email: bwolozin@youthlaw.org

14 CHILDREN’S RIGHTS  
15 Leecia Welch (Cal. Bar No. 208741)  
16 2021 Fillmore Street  
17 San Francisco, CA 94115  
18 Telephone: (415) 602-5202  
19 Email: lwelch@childrensrights.org

20 CHILDREN’S RIGHTS  
21 Eleanor Roberts (admitted *pro hac vice*)  
22 88 Pine Street, Suite 800  
23 New York, NY 10005  
24 Telephone: (212) 683-2210  
25 Email: eroberts@childrensrights.org  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

To Defendants and their attorneys of record:

Please take notice that on November 15, 2024, at 9:30 a.m., or as soon thereafter as counsel may be heard, Plaintiffs will and do hereby move the Court for a class-wide order requiring Defendants to cure breaches of the settlement approved by this Court on January 28, 1997 (“Settlement”) and violations of subsequent court orders, as described in the accompanying memorandum of law.

This motion is based upon the memorandum of law filed concurrently herewith, and all other matters of record; it is brought following a meeting of counsel pursuant to Local Rule 7-3 and Paragraph 37 of the Settlement on September 5, 2024, as well as subsequent email communication between the Parties that did not result in an agreement.

Dated: October 16, 2024                      CENTER FOR HUMAN RIGHTS AND  
CONSTITUTIONAL LAW  
Carlos R. Holguín  
Sarah Kahn

NATIONAL CENTER FOR YOUTH LAW  
Mishan Wroe  
Diane de Gramont  
Rebecca Wolozin

CHILDREN’S RIGHTS  
Leecia Welch  
Eleanor Roberts

/s/ Diane de Gramont  
Diane de Gramont  
*One of the Attorneys for Plaintiffs*

1 CENTER FOR HUMAN RIGHTS &  
2 CONSTITUTIONAL LAW  
3 Carlos R. Holguín (Cal. Bar No. 90754)  
4 Sarah E. Kahn (Cal. Bar No. 341901)  
5 256 South Occidental Boulevard  
6 Los Angeles, CA 90057  
7 Telephone: (213) 388-8693  
8 Email: crholguin@centerforhumanrights.org

9 *Attorneys for Plaintiffs*

10 *Additional counsel listed on following page*

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

JENNY LISETTE FLORES, *et al.*,  
Plaintiffs,  
v.  
MERRICK GARLAND, Attorney General  
the United States, *et al.*,  
Defendants.

No. CV 85-4544-DMG-AGR<sub>x</sub>  
MEMORANDUM IN SUPPORT OF  
MOTION TO ENFORCE SETTLEMENT  
RE PARAGRAPH 28A DATA  
Hearing: November 15, 2024  
Time: 9:30 a.m.  
Hon. Dolly M. Gee

1 NATIONAL CENTER FOR YOUTH LAW  
2 Mishan Wroe (Cal. Bar No. 299296)  
3 Diane de Gramont (Cal. Bar No. 324360)  
4 1212 Broadway, Suite 600  
5 Oakland, CA 94612  
6 Telephone: (510) 835-8098  
7 Email: mwroe@youthlaw.org

8 NATIONAL CENTER FOR YOUTH LAW  
9 Rebecca Wolozin (admitted *pro hac vice*)  
10 818 Connecticut Ave. NW, Suite 425  
11 Washington, DC 20006  
12 Telephone: (202) 868-4792  
13 Email: bwolozin@youthlaw.org

14 CHILDREN'S RIGHTS  
15 Leecia Welch (Cal. Bar No. 208741)  
16 2021 Fillmore Street  
17 San Francisco, CA 94115  
18 Telephone: (415) 602-5202  
19 Email: lwelch@childrensrights.org

20 CHILDREN'S RIGHTS  
21 Eleanor Roberts (admitted *pro hac vice*)  
22 88 Pine Street, Suite 800  
23 New York, NY 10005  
24 Telephone: (212) 683-2210  
25 Email: eroberts@childrensrights.org  
26  
27  
28

1 **I. INTRODUCTION**

2 Defendants have long been required to “provide Class Counsel on a monthly  
3 basis statistical information collected pursuant to Paragraph 28A of the [*Flores*]  
4 Agreement.” Order re Response to Order to Show Cause, August 21, 2015 [Doc.  
5 # 189] (“August 2015 Order”). Although Paragraph 28A of the *Flores* Settlement  
6 remains intact, Defendants are failing to comply with their data reporting  
7 obligations as to children in the custody of the Department of Health and Human  
8 Services (“HHS”).

9 In its order partially terminating the *Flores* Settlement as to HHS, the Court  
10 explicitly preserved Plaintiffs’ access to information regarding children held in  
11 Office of Refugee Resettlement (“ORR”) facilities under Paragraphs 28A, 32, and  
12 33 of the Settlement. *See* Order re Motion to Terminate *Flores* Settlement  
13 Agreement as to Defendant HHS at 17, 20-21, June 28, 2024 [Doc. # 1447]  
14 (“Partial Termination Order”). The Court also preserved the Settlement as to  
15 children placed in secure, heightened supervision, and out-of-network facilities. *Id.*  
16 at 20-21. Yet Defendants now refuse to provide Plaintiffs’ counsel with *any*  
17 monthly statistical data regarding children in ORR custody, including any data  
18 regarding children held in restrictive and out-of-network facilities.

19 Defendants maintain that such data is no longer required because the Court  
20 terminated Paragraph 29 of the Settlement as to HHS. But Defendants fail to  
21 acknowledge that Paragraph 28A is the source of the monthly data reporting  
22 requirements, *not* Paragraph 29. Plaintiffs therefore move for an order requiring  
23 Defendants to promptly resume providing monthly data collected under Paragraph  
24 28A for all children in Defendants’ custody, including those in ORR custody, as  
25 well as produce reports for all months during which this monthly data was  
26 withheld.

1 **II. PROCEDURAL BACKGROUND**

2 Over nine years ago, on August 21, 2015, the Court granted Plaintiffs’  
3 Motion to Enforce and ordered six remedies, including that Defendants “shall  
4 monitor compliance with the Agreement and this Order and shall provide Class  
5 Counsel on a monthly basis statistical information collected pursuant to Paragraph  
6 28A of the Agreement.” August 2015 Order at 15. The Court issued the August  
7 2015 order after giving Defendants an opportunity to respond to the Court’s  
8 proposed remedies, including the new monthly reporting requirement. *Id.* at 2; *see*  
9 *also* Order re Pls.’ Motion to Enforce Settlement at 24-25, July 24, 2015 [Doc.  
10 # 177]. Defendants did not specifically object to the monthly reporting requirement  
11 in their response to the Court’s Order to Show Cause or in their brief on appeal.  
12 *See* Defs.’ Response to the Court’s Order to Show Cause, August 6, 2015 [Doc. #  
13 184] (“Defs.’ Response to OSC”); Appellants’ Opening Brief, Case No. 15-56434,  
14 ECF 10-3 (9th Cir. Jan. 15, 2016).<sup>1</sup>

15 Since the Court’s 2015 order, Defendants have produced monthly statistical  
16 data on children in the custody of HHS and the Department of Homeland Security  
17 (“DHS”). The Parties have met and conferred numerous times over the years  
18 regarding the accuracy and completeness of the statistical data provided pursuant  
19 to Paragraph 28A. *See, e.g.*, Joint Status Report at 1, June 15, 2020 [Doc. # 820].

20 On June 28, 2024, the Court partially terminated the Settlement as to HHS,  
21 “except Paragraphs 28A, 32, and 33 of the FSA, and those FSA provisions  
22 governing secure, heightened supervision, and out-of-network facilities . . . .”  
23 Partial Termination Order at 21. The Court explained that it was not terminating  
24 Paragraphs 28A, 32, and 33 because:

25 \_\_\_\_\_  
26 <sup>1</sup> The Ninth Circuit noted the Court had ordered Defendants to “provide class  
27 counsel with monthly statistical information” but did not substantively address this  
28 part of the Court’s order as it was not raised on appeal. *See Flores v. Lynch*, 828  
F.3d 898, 901 (9th Cir. 2016).

1 It is not clear from the Rule who will have access to the data being  
2 collected under sections 1303, 1500, and 1501 of the Rule (Paragraph  
3 28A of the FSA), or how they are meant to access that information. At  
4 least while the FSA remains partially in effect as to HHS, Plaintiffs’  
5 counsel’s access to ORR facilities and to information about the  
6 children held at those facilities should be no different than it has been  
7 for the last 27 years under Paragraphs 32 and 33 of the FSA.

8 *Id.* at 17.

9 On July 19, 2024, Defendants provided June 2024 monthly data reports for  
10 HHS and DHS. On August 22, 2024, Defendants provided July 2024 monthly data  
11 reports for DHS only. When Plaintiffs inquired as to the status of the HHS monthly  
12 data report for July 2024, Defendants informed Plaintiffs they would no longer  
13 provide any data related to children in HHS custody. The Parties’ subsequent meet  
14 and confer efforts were unsuccessful in resolving this dispute.

### 15 **III. ARGUMENT**

16 Defendants’ monthly data reporting obligation is tied to Paragraph 28A of  
17 the Settlement and therefore remains intact as to both HHS and DHS. When the  
18 Court ordered monthly data reporting in 2015, it referenced only Paragraph 28A.  
19 *See* August 2015 Order at 15; *see also* Defs.’ Response to OSC at 3-4 (reflecting  
20 Defendants’ understanding at the time that the Court was proposing ordering  
21 Defendants to “provide monthly statistical information *under Paragraph 28A* of  
22 the Agreement.”) (emphasis added).

23 Subsequent orders confirmed that the monthly data reports are required  
24 under Paragraph 28A. In 2020, for example, the Court repeatedly ordered the  
25 Parties to “meet and confer regarding . . . the quality of the data that Defendants  
26 provide to Class Counsel *pursuant to Paragraph 28A* of the FSA.” *See* Order  
27 Extending TRO at 6, April 10, 2020 [Doc. # 768] (emphasis added); *see also* Order  
28 re Pls.’ Motion to Enforce at 21, April 24, 2020 [Doc. # 784]; Order re Updated

1 Juvenile Coordinator Reports at 6, June 26, 2020 [Doc. # 833]; Order re August 7,  
2 2020 Status Conference at 4, August 7, 2020 [Doc. # 912].

3 In the Partial Termination Order, the Court’s plain purpose in preserving  
4 Paragraph 28A as to HHS was to ensure Plaintiffs’ continued access to that data.  
5 The Court acknowledged that sections 1303, 1500, and 1501 of the ORR  
6 Foundational Rule require data collection similar to Paragraph 28A but explained  
7 that “[i]t is not clear from the Rule who will have access to the data being  
8 collected” and that Plaintiffs’ counsel should continue to have access to  
9 information about children in ORR facilities. *See* Partial Termination Order at 17.  
10 Monthly data reports are critical to protecting the rights of Plaintiffs in custody by  
11 enabling, for example, Plaintiffs’ counsel to plan visits to children in ORR custody  
12 under Paragraphs 32 and 33, track children transferred in and out of restrictive and  
13 out-of-network placements, and investigate whether ORR facilities are accurately  
14 classified as secure, medium-secure, or non-secure.

15 Defendants contend they are no longer required to share monthly statistical  
16 data as to children in ORR custody because the Court terminated Paragraph 29 of  
17 the Settlement as to HHS. Paragraph 29 provides for data reporting “[o]n a semi-  
18 annual basis, until two years after the court determines, pursuant to Paragraph 31,  
19 that the INS has achieved substantial compliance with the terms of this  
20 Agreement.” This paragraph does not require monthly data reporting and is not  
21 mentioned in the Court’s August 2015 order requiring monthly reporting. *See*  
22 August 2015 Order at 15. Thus, terminating Paragraph 29 does not terminate  
23 Defendants’ monthly reporting obligation.<sup>2</sup>

---

24  
25 <sup>2</sup> To the extent the Court believes Paragraphs 28A and 29 work together and should  
26 both be left in effect to enable monthly data reporting, Plaintiffs request the Court  
27 reinstate Paragraph 29 to effectuate the Court’s intent that Plaintiffs’ counsel have  
28 access to information about children in ORR custody “[a]t least while the FSA

1 Further, the Settlement unambiguously still applies to children in secure,  
2 heightened supervision, and out-of-network facilities. *See* Partial Termination  
3 Order at 20-21. Defendants’ withholding data reports regarding these children is  
4 therefore a particularly blatant violation of the Court’s orders.

5  
6 **IV. CONCLUSION**

7 Plaintiffs respectfully request the Court grant this motion and order  
8 Defendants to provide Plaintiffs’ counsel with monthly data regarding children in  
9 HHS custody pursuant to Paragraph 28A of the Settlement, including curing all  
10 previously withheld data reports beginning with July 2024.

11  
12  
13 Dated: October 16, 2024 CENTER FOR HUMAN RIGHTS AND  
14 CONSTITUTIONAL LAW  
15 Carlos R. Holguín  
16 Sarah Kahn

16 NATIONAL CENTER FOR YOUTH LAW  
17 Mishan Wroe  
18 Diane de Gramont  
19 Rebecca Wolozin

20 CHILDREN’S RIGHTS  
21 Leecia Welch  
22 Eleanor Roberts

22 /s/ Diane de Gramont  
23 Diane de Gramont  
24 *One of the Attorneys for Plaintiffs*

25  
26 \_\_\_\_\_  
27 remains partially in effect as to HHS.” *See* Partial Termination Order at 17; *see*  
28 *also id.* at 20-21 (ordering *conditional* termination of certain provisions of the  
Settlement as to HHS).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF COMPLIANCE**

I, the undersigned counsel of record for Plaintiffs, certify that this brief contains 1,362 words, which complies with the word limit of Local Rule 11-6.1.

Dated: October 16, 2024

/s/ Diane de Gramont  
Diane de Gramont

**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2024, I caused a copy of Plaintiffs’ Motion to Enforce Settlement Regarding Paragraph 28A Data to be served to all counsel through the Court’s CM/ECF system.

Dated: October 16, 2024

/s/ Diane de Gramont  
Diane de Gramont

1 CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW  
2 Carlos R. Holguín (Cal. Bar No. 90754)  
3 Sarah E. Kahn (Cal. Bar No. 341901)  
4 256 South Occidental Boulevard  
5 Los Angeles, CA 90057  
6 Telephone: (213) 388-8693  
7 Email: crholguin@centerforhumanrights.org

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11  
12 JENNY LISETTE FLORES, *et al.*,  
13 Plaintiffs,  
14 v.  
15 MERRICK GARLAND, Attorney General  
16 of the United States, *et al.*,  
17  
18 Defendants.

No. CV 85-4544-DMG-AGRx  
[PROPOSED] ORDER GRANTING  
MOTION TO ENFORCE  
SETTLEMENT RE PARAGRAPH 28A  
DATA  
Hearing: November 15, 2024  
Time: 9:30 a.m.  
Hon. Dolly M. Gee

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 NATIONAL CENTER FOR YOUTH LAW  
2 Mishan Wroe (Cal. Bar No. 299296)  
3 Diane de Gramont (Cal. Bar No. 324360)  
4 1212 Broadway, Suite 600  
5 Oakland, CA 94612  
6 Telephone: (510) 835-8098  
7 Email: mwroe@youthlaw.org

8 NATIONAL CENTER FOR YOUTH LAW  
9 Rebecca Wolozin (admitted *pro hac vice*)  
10 818 Connecticut Ave. NW, Suite 425  
11 Washington, DC 20006  
12 Telephone: (202) 868-4792  
13 Email: bwolozin@youthlaw.org

14 CHILDREN'S RIGHTS  
15 Leecia Welch (Cal. Bar No. 208741)  
16 2021 Fillmore Street  
17 San Francisco, CA 94115  
18 Telephone: (415) 602-5202  
19 Email: lwelch@childrensrights.org

20 CHILDREN'S RIGHTS  
21 Eleanor Roberts (admitted *pro hac vice*)  
22 88 Pine Street, Suite 800  
23 New York, NY 10005  
24 Telephone: (212) 683-2210  
25 Email: eroberts@childrensrights.org  
26  
27  
28

1 Plaintiffs’ Motion to Enforce Settlement Regarding Paragraph 28A Data,  
2 which seeks a class-wide order requiring Defendants to comply with the settlement  
3 approved by this Court on January 28, 1997 (“Settlement”) and subsequent court  
4 orders, came on regularly for hearing on November 15, 2024.

5 The Court, having read and considered the parties’ respective memoranda of  
6 law in support of and in opposition to Plaintiffs’ motion, and having heard oral  
7 argument from counsel, now GRANTS Plaintiffs’ motion.

8 IT IS HEREBY ORDERED as follows:

- 9 1. As previously ordered on August 21, 2015, Defendants shall provide Class  
10 Counsel on a monthly basis statistical information collected pursuant to Paragraph  
11 28A of the Agreement.
- 12 2. Defendants shall, within seven (7) days of this order, cure prior breaches of the  
13 Court’s orders and provide Class Counsel all previously withheld monthly  
14 statistical reports, beginning with July 2024.

15  
16 Dated: October 16, 2024

17  
18  
19 \_\_\_\_\_  
DOLLY M. GEE  
20 UNITED STATES DISTRICT JUDGE

21 Presented by:

22  
23 /s/ Diane de Gramont  
24 Diane de Gramont  
25 *One of the Attorneys for Plaintiffs*  
26  
27  
28