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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 Jenny Flores, *et al.*,
18
19 Plaintiffs,

20 v.

21 Todd Blanche, Acting Attorney General
22 of the United States, *et al.*,
23 Defendants.

No. CV 85-4544-DMG-AGRx

**PLAINTIFFS' RESPONSE TO JULY 1,
2026 JUVENILE COORDINATOR CBP
ANNUAL REPORT**

Honorable Dolly M. Gee
Chief United States District Judge

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**PLAINTIFFS' RESPONSE TO CBP JUVENILE COORDINATOR ANNUAL
REPORT**

The Juvenile Coordinator Division ("JCD") reports that Customs and Border Protection ("CBP") is "not just meeting, but exceeding, all required standards." 2026 CBP Juv. Coord. Annual Rep., July 1, 2026 at 2, Dkt. 1801-1 ("CBP Annual Report"). However, its annual report, the many supplemental reports before it, and dozens of interviews with class members contradict that rosy analysis and reveal that CBP is not even meeting, let alone "exceeding, required standards."

Indeed, CBP admits in its Annual Report that it continues to violate the *Flores* Settlement Agreement ("Settlement" or "FSA") by detaining children in inadequate conditions for prolonged periods. Internal monitoring alone has not resolved these ongoing violations. This is at least in part because the JCD conducts monitoring according to internal standards that do not meet the requirements of the FSA. For example, in monitoring time in custody, the JCD considers routine credible fear interviews and making travel arrangements to be reasonable justifications for the detention of children for as long as a month. The JCD also asserts that access to the outdoors, a constitutional minimum for adults on death row, is "above and beyond" the requirements of the FSA and that, while providing age-appropriate food may be a best practice, it is not required by the FSA. CBP's monitoring benchmarks therefore conflict with the Settlement and this Court's orders, undermining the reliability of CBP's internal monitoring.

The JCD's monitoring is also insufficient and ineffective for at least two additional reasons. First, it is limited to the Southwest Border, leaving out irregular holding cells, many ports of entry, and Border Patrol stations across the rest of the country. Second, the JCD's communication with the Court, with Plaintiffs' counsel, and with the public is restricted by CBP leadership and its counsel.

A. CBP is not appropriately monitoring time in custody under the FSA.

Detaining a child for prolonged periods in CBP facilities solely because they express fear of return to their country or lack travel documents – both routine, recurring circumstances – does not constitute expeditious processing in good faith and violates the Settlement. FSA ¶¶ 12.A., 14, 18; *see, e.g.*, Order re Plaintiffs’ Motion to Enforce [919] and August 2020 ICE Juvenile Coordinator Interim Report [943], Sept. 18, 2020 at 4, Dkt. 987.

Nonetheless, CBP continues applying a general policy against *any* release.¹ CBP’s and the JCD’s stated position is that the expeditious processing requirement of the FSA is fulfilled even where CBP keeps children in destitute conditions for a month while arranging a flight. *See* Declaration of V.O., March 19, 2026, Chula Vista, Dkt. 1747-1 (“V.O. Decl.”) (detained 28 days with her 15-year-old, 11-year-old, 2-year-old, and 5-month-old children); Status Conf. Tr., March 30, 2026 at 7:13-17, Dkt. 1753 (JC Moak explaining that V.O. and her family were detained for a month because “That [family] was awaiting travel documentation . . . That’s somewhat out of our control.”); CBP Annual Report at 7 (justifying prolonged CBP detention because of “the need to procure travel documents for children and families being repatriated; the number of and cadence of repatriation flights.”); Declaration of Colin Lane ¶ 7, Dkt. 1803-1 (justifying prolonged CBP detention because of “the availability of repatriation flights and the cadence of such flights, and the time it takes to receive travel documents for [noncitizens] being repatriated.”). The fact that CBP consistently relies on such routine processes as acceptable justification for prolonged detention undermines the agency’s ability to

¹ US Border Patrol Instagram Post, March 19, 2026, available at https://www.instagram.com/p/DWFaJPIEdg-/?utm_source=ig_web_button_share_sheet (“Another major milestone: The U.S. Border Patrol has reached 10 consecutive months of zero releases into the United States. We have seen the consequences of releasing those who refuse to enter lawfully. That era is over! Our borders are CLOSED to lawbreakers and drug cartels.”).

1 objectively monitor and assess CBP’s compliance with time in custody (“TIC”)
2 requirements. The JCD asserts that these “factors beyond CBP’s control can affect time
3 in custody (TIC), notwithstanding CBP’s efforts and desire to minimize TIC.” CBP
4 Annual Report at 2. In other words, CBP believes the only way to minimize TIC is to
5 deport children faster, and when routine removal processes delay those efforts, it
6 imprisons them longer rather than expeditiously processing them out of CBP custody in
7 any other way.

8 However, as this Court has repeatedly held, such routine factors cannot justify
9 children’s prolonged custody in CBP detention because Defendants can and often do
10 complete these processes after transferring the child to less restrictive settings or while
11 the child is free. Order re Plaintiffs’ Motion to Enforce and Appoint a Special Monitor
12 [201, 202] at 27, June 27, 2017, Dkt. 363 (holding that neither the expedited removal
13 statute’s mandatory detention provision nor DHS’s claim that “is not authorized to
14 expend resources to conduct suitability analyses” justify prolonged detention without an
15 individualized assessment of flight risk; “This purported lack of institutional resources to
16 screen is no excuse for non-performance. Defendants entered into the Flores Agreement
17 and now they do not want to perform—but want this Court to bless the breach. That is not
18 how contracts work.”).

19 The TIC data provided in the annual report underscores that the JCD’s monitoring
20 has not been effective. The *average* time in custody in CBP for family units remains over
21 72 hours. CBP Annual Report at 7. This is especially inexcusable given the
22 comparatively low numbers of children in CBP custody. As one example, in March 2026,
23 family units in Border Patrol stations were detained, on average, for over six days
24 (146.37 hours). *Id.* Yet the average daily population was just 887 – an average of 13
25 individuals per station across 66 Southwest Border (“SWB”) stations,² many of which

26
27 ² CBP Sectors and Stations, [https://www.cbp.gov/border-security/along-us-](https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors)
28 [borders/border-patrol-sectors](https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors)

likely often did not include any children. *Id.* at 6. In May 2026, family units in Border Patrol stations were detained, on average, for over four days (105.71 hours). *Id.* at 7. Yet the average daily population was 1,294 – an average of 19 individuals per station across 66 SWB stations, which may not always include *any* children. *Id.* at 6. It is unreasonable to claim it is “operationally infeasible” for a facility to release or transfer the few children in families it detains while Defendants engage in routine removal procedures.

When today’s TIC numbers are compared with data from previous years, the disingenuousness of Defendants’ reliance on “operational reasons” to justify long lengths of detention becomes crystal clear. In December 2023, for example, the average daily population in SWB Border Patrol stations was 19,199. July 1, 2024 CBP Juv. Coord. Annual Report at 4, Dkt. 1449-2 (“2024 CBP Annual Report”). Yet in the same month, family members spent an average of 52.8 hours in CBP custody. The table below shows a comparison of the numbers in the July 1, 2024 CBP Annual Report and the July 1, 2026 CBP Annual Report. 2024 CBP Annual Report at 4-5; 2026 CBP Annual Report at 5-7.

Date	FMU Encounters	Daily Ind. In Custody	FMU Average TIC
December 2023	123,501	19,199	53.84
March 2024	66,645	9,241	36.93
May 2024	64,724	9,080	35.91
March 2026	242	887	146.37
May 2026	328	1,294	105.71

Among those hundreds of children detained over three days, many spend weeks in these prisons. *See* Declaration of Avneet Chhabra, Ex. A, Dkt. 1811-3 (baby L.B.O, 2-year-old E.N.B., and 11-year-old E.A.B., held 28 days in February 2026; baby M.G.T., 2-year-old J.J.T.D., and 12-year-old A.M.G.T., held 17 days in March 2026; 17-year-old M.J.F. and 1-year-old M.G.A.F., held for 16 days in April 2026; 4-year-old K.O.A.R. and baby L.A.R. held 16 days in May 2026).

1 Nor does the “Rapid Removal Task Force” (“RRTF”) appear to be meaningfully
2 addressing TIC violations. The JCD assures that the RRTF “do not *only* attempt to
3 repatriate migrants, but also to transfer them out of CBP custody to ICE/ERO or HHS
4 depending on their demographics.” CBP Annual Report at 9 (emphasis added). Without
5 more information, this statement and the task force’s very name, “Rapid Removal,”
6 suggests that the RRTF favors “repatriat[ion]” over transfer, and that it *never* releases
7 children to sponsors or with their parents into the community. Furthermore, CBP
8 provides no information why so many children are not promptly transferred to ICE/ERO
9 or HHS that the average TIC in CBP is over four days, which only affirms that RRTF
10 generally refuses to take the steps most likely to expedite processing when a “rapid
11 removal” proves difficult – transfer to another facility or release. This is not compliance.

12 Indeed, to avoid FSA violations, “[o]ne facility implemented a policy of not
13 detaining children, opting for their immediate transfer to the sector’s CPC.” *Id.* at 22.
14 This single facility’s efforts to comply with the FSA show that a reasonable, efficient,
15 and humane decision to promptly transfer children to less restrictive settings is possible.
16 Prompt transfer out of inhumane temporary detention settings must be the rule across
17 CBP facilities.

18 **B. Wide-spread non-compliance with the FSA’s conditions requirements**
19 **persists.**

20 Under the FSA, “[f]ollowing arrest, the INS shall hold minors in facilities that are
21 ... consistent with the INS’s concern for the particular vulnerability of minors.” FSA ¶
22 12.A; FSA Exh. 2(b) (DHS shall “treat[] and shall continue to treat minors with dignity,
23 respect and special concern for their particular vulnerability.”). The FSA requires DHS to
24 “place each detained minor in the least restrictive setting appropriate to the minor’s age
25 and special needs.” FSA ¶ 11. Across monitoring categories, the JCD routinely finds
26 compliance where there is none. This includes violations related to ready access to soap,
27 hygiene items, and showers; clean and safe drinking water; age-appropriate food; contact
28

1 with family members; access to legal services; appropriate temperature control; and
2 outdoor access. Plaintiffs address the JCD's compliance findings for each issue in turn.

3 *Hygiene*: It has long been established that the safe and sanitary provision requires
4 adequate access to hygiene items, including "soap, towels, showers, dry clothing, [and]
5 toothbrushes." *Flores v. Sessions*, 394 F. Supp. 3d 1041, 1057 (C.D. Cal. 2017). The
6 Ninth Circuit has affirmed that Paragraph 12.A encompasses safeguards that "reflect a
7 commonsense understanding" of what constitutes safe and sanitary conditions, with
8 concern for the particular vulnerability of minors. *Flores v. Barr*, 934 F.3d 910, 916 (9th
9 Cir. 2019).

10 The JCD notes that its monitoring "found 15 locations that did not have soap or
11 hand sanitizer in the hold rooms," yet states this needed no improvement because hand
12 sanitizer was in most cases "available upon request." CBP Annual Report at 20. The JCD
13 explains that, although the Fort Brown and Brownfield "[f]acilit[ies] did not have
14 showers onsite," this was somehow mitigated because they "did have Paper Showers
15 available." *Id.* at 36. Whatever "Paper Showers" are, they certainly violate any
16 "commonsense understanding" of safe and sanitary conditions for children detained for
17 weeks at a time.

18 In another example of the unlawfully low standards by which the JCD monitors
19 CBP, the JCD touts its effective monitoring by referring to the Santa Teresa Station
20 (STN) in the El Paso Sector, where it raised "a consistent issue with the cold-water button
21 in one of the cells, observed over several recent visits" and "suggested elevating the
22 maintenance request for a permanent solution." *Id.* at 18. The JCD treats what should be a
23 routine maintenance matter as an extraordinary response, stating that STN "not only
24 ensured prompt repair, but also immediately tasked personnel to seek a long-term
25 solution." *Id.* An intent to repair access to water, which had been a "consistent" problem
26 across "several recent visits," does not stand out to Plaintiffs as exemplary, and further
27 raises concerns about the quality of CBP's self-monitoring.
28

1 *Drinking Water:* The Settlement’s requirement that children be held in “safe and
2 sanitary” conditions necessarily requires that children be provided clean, safe drinking
3 water. FSA ¶ 12.A (“Facilities will provide access to . . . drinking water and food as
4 appropriate.”). In one facility, “a hose [] was being used to fill 5-gallon heavy duty water
5 coolers.” CBP Annual Report at 21. Although “[t]he MCA facility now uses bottled
6 water,” it is alarming that such a serious violation of the FSA was routine as recently as
7 May 2026. *Id.* Further, it appears that this practice was likely discovered because the JCD
8 “made extensive efforts to surge to the San Diego Sector for additional inspections,” due
9 to “the court’s expressed concerns about this sector.” *Id.* at 18. Had Plaintiffs’ counsel
10 not conducted independent monitoring, prompting this Court to instruct the “CBP
11 Juvenile Coordinator [to] give particular attention to conditions of detention and minors’
12 time in custody at CBP’s Chula Vista Station,” the facility may still be causing these
13 “sanitary concerns at MCA.” In Chambers Order re March 30, 2026 Status Conference,
14 April 3, 2026 at 3, Dkt. 1755; CBP Annual Report at 21.

15 *Age-Appropriate Food:* The 2022 CBP Settlement explicitly constitutes the
16 “Parties’ understanding of the meaning of certain provisions,” specifically Paragraphs 11
17 and 12.A, “of the Flores Settlement Agreement (“Settlement”), as they apply to
18 conditions of CBP detention.” 2022 CBP Settlement, May 21, 2022, Dkt. 1254-1. The
19 2022 Settlement interpreted the FSA to require that “CBP shall ensure that all class
20 members have access to age-appropriate food . . . Food must be appropriate for class
21 members’ age and capabilities.” *Id.* § VII(4)(A)(5). Providing food that is edible for a
22 child based on their age is also necessary part of safe and sanitary conditions and the
23 requirement that “[f]acilities will provide access to . . . drinking water and food as
24 appropriate.” FSA ¶ 12.A.

25
26 Yet the JCD asserts that these are merely “best practice, not a requirement” of the
27 FSA, stating that basic necessities like the provision of baby formula, bottles, and tender-
28 age food are merely “an important aspect of the care and custody of children, despite the

1 requirement being limited to the RGV and EPT Sectors as part of the 2022 Agreement.”
2 CBP Annual Report at 19.

3 Likely because CBP does not view age-appropriate food as a requirement, the JCD
4 Report shows that CBP continues to fail to provide it. It notes that at some facilities,
5 children were not provided tender-age food but were “offered edible food that was not
6 bite-sized,” simply claiming staff “did not report any instances of children being unable
7 to eat the meals provided.” *Id.* The JCD cannot effectively monitor conditions by relying
8 so heavily on self-reporting by employees of monitored facilities while disregarding other
9 evidence of violations. The FSA requires that facilities in any sector understand that they
10 must provide age-appropriate food, whether or not detained families formally complain to
11 facility officials.

12 *Family-member Contact:* The FSA requires the government to ensure “contact
13 with family members who were arrested with the minor.” FSA ¶ 12.A. This requirement
14 is a critical component of recognizing the particular vulnerabilities of minors. As the
15 former Juvenile Care Monitor (“JCM”) noted, “to hold a child separately while in
16 custody is bad for children,” because “[s]eparating a child from a parent can be
17 profoundly traumatic for children and can have lasting, harmful effects.” September 2023
18 JCM Report, Sept. 15, 2023 at 28, Dkt. 1360.

19 The CBP Annual Report shows non-compliance with this requirement as well. “At
20 two inspections, custody logs did not document the reason for holding family members
21 and children apart nor whether any efforts were made to let them interact.” CBP Annual
22 Report at 23. “At four facilities they did document the reason for holding them apart, but
23 not any efforts to facilitate contact.” *Id.*

24 Yet the JCD claims corrective action was effective merely because “[f]acilities
25 took steps to remind employees of the contact requirements for children apprehended
26 with family members and the importance of recording.” *Id.* The Report does not provide
27
28

1 any evidence that these reminders had any lasting impact or changed the actions of the
2 non-compliant sectors.

3 *Legal Services:* Under Paragraph 24.D, CBP must “promptly provide each minor
4 not released” with a “list of free legal services” and a form I-770, which includes “a
5 statement that the minor or UAC may make a telephone call to a parent, close relative, or
6 friend.” FSA ¶ 24.D, 8 C.F.R. § 236.3(g)(i).

7 Yet nowhere in the CBP Annual Report does the JCD even mention access to
8 telephones, legal counsel, or communication with family. It appears that a core
9 component of the FSA—detained children’s access to legal services—went completely
10 *unmonitored* for the year, despite class members’ repeated reports about lack of
11 telephone access in CBP. *See, e.g.,* V.O. Decl. ¶¶ 8-9, 14 (“We asked to use a phone, but
12 they refused . . . In 20 days we have not been able to use a phone. We have family and
13 loved ones who must think we have died,” and after an immigration judge ordered CBP
14 to facilitate seeking a lawyer for the family, “the [CBP agents] had a list of free legal
15 services, but they would not let us use the phone.”); Declaration of J.E.R.V., Dec. 3,
16 2025, Chula Vista, Dkt. 1707-2 (“we have not been able to make a phone call. Others
17 who have been detained here longer said that they have been told that they are not
18 allowed to make phone calls either. As a result, our family has not known where we are
19 for three days and counting. I want to be able to call my children’s fathers to let him
20 know that we are safe and alive. We have not been able to call a lawyer either”).

21 The JCD appears to have mentioned telephone use just once in its 2025 and 2026
22 reports, indicating only that “UACs are permitted access to telephones to call family
23 members.” May 4, 2026 Suppl. Report at 3 [Dkt. 1767-1]. This is despite the fact that the
24 JCD acknowledges that credible fear screening processes, for which children are
25 statutorily entitled to consult with parents or counsel, occur while children are in CBP
26 custody and that children are routinely held separately from their parents. May 4, 2026,
27 CBP Supplemental Report at 2, Dkt.1767-1 (“While in CBP custody, individuals who
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1 make a claim of fear are referred to U.S. Citizenship and Immigration Services (USCIS)
2 for appropriate screening. This may include review of the decision by an immigration
3 judge that can take additional time to adjudicate.”); CBP Annual Report at 23
4 (documenting numerous instances of family members and children being held apart); 8
5 U.S.C. § 1225(b)(1)(B)(iv) (stating individuals undergoing credible fear screenings “may
6 consult with a person or persons of the[ir] choosing prior to the interview or any review
7 thereof”). The traumatic impact of separation from family and of imprisonment make the
8 FSA’s promise of contact with family members imperative. The fact that the fear process
9 and immigration court review routinely occur in CBP facilities makes the FSA’s promise
10 of phone access and the opportunity to call free legal service providers critical. But
11 internal monitoring does not hold CBP accountable for these promises.

12 *Temperature:* The FSA requires CBP to “hold minors in facilities that” have
13 “adequate temperature control and ventilation.” FSA ¶ 12.A. Yet the JCD considers
14 current conditions adequate simply because CBP provides mylar blankets, despite many
15 families and children reporting feeling cold. “Out of 28 interviews, eight interviewees
16 complained about facilities being too cold and one stated it fluctuates,” but the JCD does
17 not identify this as a violation because “[b]lankets and extra clothing are always available
18 for children if they want more warmth.” CBP Annual Report at 28. A few sentences later,
19 the JCD acknowledges that some children “did not know what amenities were available
20 to them.” *Id.*

21
22 Indeed, in class counsel’s interviews with class members, nearly every child
23 reported being cold, and some reported being denied extra clothing. *See, e.g.,* V.O. Decl.,
24 March 19, 2026, Chula Vista ¶ 24 (“We try to use what we wore on our journey to keep
25 the kids warm because they do not give them sweatshirt. The clothes we arrived in we
26 wash in the shower when we are allowed one, and then we hang them in the cell to dry.
27 Our baby has only one onesie that is very thin.”); Declaration of M.S.L.S., February 12,
28 2025 ¶ 8, Dkt. 1748-36 (“It was freezing cold and they only gave us metal blankets, t-

1 shirts, and one pair of pants, so we could not swaddle the babies. The two babies cried the
2 whole time, and we could not sleep.”); Declaration of T. M., June 5, 2025 ¶ 7, Dkt. 1575-
3 5 (“The cell was freezing cold, and there was a fan in the ceiling that constantly blew
4 cold air on all of us. We asked the guards to turn off the fan, because we were worried
5 about the baby getting sick, but they just laughed at us.”); Declaration of A.K., March 26,
6 2025 ¶ 16, Dkt. 1575-24 (“Many kids in the room got sick because of the cold, including
7 fever, diarrhea, and vomiting.”).

8 It is well known that the “blankets” referenced by the JCD are Mylar blankets –
9 essentially foil sheets – which are intended to prevent hypothermia or to assist with
10 slowing the cooling process for an overheated body.³ Studies “confirmed that in the
11 prehospital setting patients can be protected from excessive heat loss by rescue blankets,
12 but *cannot be rewarmed*.” *Id.* (emphasis added). Even to prevent heat loss, mylar
13 blankets are “efficient when the rescue blanket was arranged between two layers of
14 woolen blankets.” *Id.* The provision of Mylar blankets alone is not compliance with the
15 FSA.

16 *Outdoor Access:* The JCD asserts that access to the outdoors, a Constitutional
17 minimum even for adults on death row, goes “above and beyond” the requirements of the
18 Settlement. CBP Annual Report at 21 (“As part of CBP’s Trauma-Informed Care
19 approach, JCD verifies if CBP facilities have a space for outdoor recreation. This is not
20 an FSA nor 2022 Agreement requirement. This internal CBP policy is above and beyond
21 the FSA and 2022 Agreement.”). Not so. Not only is access to fresh air and outdoor space
22 a constitutional requirement for incarcerated people, but prolonged detention in
23 windowless cement cells without access to outdoor recreation violates the FSA’s
24

25
26 ³ Kranebitter, et al., *Rescue Blankets-Transmission and Reflectivity of Electromagnetic*
27 *Radiation* (Apr. 10, 2020),
28 https://www.researchgate.net/publication/340602432_Rescue_Blankets-Transmission_and_Reflectivity_of_Electromagnetic_Radiation.

1 requirement that CBP treat children with “concern” for their “particular vulnerability”
2 and place them in the “least restrictive setting appropriate to the minor’s age.” FSA ¶
3 12.A (Under the FSA, “[f]ollowing arrest, the INS shall hold minors in facilities that are
4 ... consistent with the INS’s concern for the particular vulnerability of minors.”); FSA ¶
5 11 (The FSA requires DHS to “place each detained minor in the least restrictive setting
6 appropriate to the minor’s age and special needs.”); *Spain v. Procunier*, 600 F.2d 189,
7 199 (9th Cir.1979) (“There is substantial agreement among the cases in this area that
8 some form of regular outdoor exercise is extremely important to the psychological and
9 physical well being of the [incarcerated adults.]”); *Keenan v. Hall*, 83 F.3d 1083, 1089
10 (9th Cir.1996) (“Deprivation of outdoor exercise violates the Eighth Amendment rights
11 of [incarcerated adults] confined to continuous and long-term segregation.”); *Lancaster v.*
12 *Tilton*, No. C 79-01630 WHA, 2008 WL 449844, at *12 (N.D. Cal. Feb. 15, 2008)
13 (person on death row entitled to outdoor exercise).

14 Indeed, only “14 of the 32 inspected facilities feature recreation areas,” and “the
15 remaining facilities did not include them due to operational infeasibility.” CBP Annual
16 Report at 22. That nearly half of the facilities inspected lack recreation areas is a clear
17 violation of the FSA. FSA ¶¶ 11, 12.A.

18 In sum, the CBP Annual Report reveals that the monitoring standards that the JCD
19 applies are frequently divorced from the requirements of the FSA, and chronic basic FSA
20 violations persist. Independent monitoring is warranted.

21
22 **C. CBP’s limited self-monitoring cannot bring CBP into compliance with the**
23 **Settlement and this Court’s orders.**

24 CBP’s ongoing violations and self-described processes highlight the structural
25 limitations of CBP’s current internal monitoring.

26 First, the JCD’s monitoring appears to be limited to the Southwest Border sectors.
27 CBP Annual Report at 1 (“This report documents observations across the Southwest
28 Border (SWB) . . . Observations from other border areas are not covered.”). The JCD’s

1 self-imposed limits appear to have persisted despite Plaintiffs’ evidence of extremely
2 concerning conditions of detention at ports of entry across the United States, including
3 irregular detentions such as those at buildings with only temporary holding cells at the
4 Northern Border, port of entry interview hold rooms, and airports. *See, e.g.*, Declaration
5 of A.T., June 27, 2025 ¶ 10, Dkt. 1575-16 (11-year-old boy held in O’Hare airport for
6 five days was “not permitted to flush the toilet” and “had to ask an agent to come and
7 flush the toilet for” him); Declaration of K.V.L., June 17, 2025 ¶¶ 7, 8, Dkt. 1575-6 (“It
8 was not suited for children . . . there was a large window that looked out on the office
9 space and agents working on their computers. All the agents were men. The room had a
10 toilet that was completely visible to anyone walking by the room. We could only go pee
11 because it was so uncomfortable to go to the bathroom within the view of all those
12 men.”). For these reasons, Plaintiffs respectfully request in their concurrently filed
13 Response in Support of Appointment of an Independent Monitor that an Independent
14 Monitor be appointed and authorized to visit facilities outside the SWB where
15 Defendants’ data shows they are detaining children over 72 hours in violation of the
16 Settlement.

17 Second, the interviews the JCD describes appear to differ vastly from those
18 Plaintiffs’ counsel conducts, which raises concerns about the reliability of JCD’s
19 interviews (about which no specific information or documentation is provided). CBP
20 Annual Report at 26-28. Whatever the reason for this disparity, Defendants obstruct
21 Plaintiffs’ counsel from relaying directly to the JCD the disparate experiences of the class
22 members they interview, who frequently raise issues that seem not to be addressed in the
23 JCD’s interviews alone. Without being able to communicate freely with Plaintiffs’
24 counsel, the JCD misses information that could be integral to effective monitoring and is
25 unable to respond in real time to violations.
26

27 In addition, Defendants are actively trying to limit the JCD’s provision of essential
28 information to the Court and to Plaintiffs’ counsel. Defendants’ Objections to Questions

1 Regarding Juvenile Court Monitors' Reports, August 1, 2025 at 2, 5, Dkt. 1620
2 ("Defendants object to the Court's order requiring Defendants to submit data regarding
3 class members who have been in custody for more than 72 hours, along with the reasons
4 for the delay, because this information is outside of the scope of the Juvenile
5 Coordinator's annual report . . . [and] the length of detention and Defendants' lawful
6 authority to detain class members beyond 72 hours are currently issues raised in
7 Plaintiffs' Motion to Enforce, ECF No. 1575, at 17. Because these are questions that the
8 Court must resolve based on the Motion, the Court should consider the evidence
9 submitted in the motions and the evidence that is already in the record."). The ability to
10 share and address violations as they arise is vital, and transparency is a foundation of
11 effective monitoring. This limitation only hinders the effectiveness of the JCD.

12 CONCLUSION

13 CBP's many "noted deficiencies," Defendants claim, "were unremarkable
14 deviations that are to be expected in any large organization undertaking a difficult task."
15 Dft. Resp. at 9. Reports from Defendants and Plaintiffs indicate that these were not
16 "deviations," but the agency norm, in part because CBP does not consider many of these
17 violations of the FSA to even be deficiencies at all. Regardless, Plaintiffs disagree that
18 the suffering of children is "unremarkable."

19 The JCD's Annual Report again shows that children's time in CBP custody and the
20 conditions of that custody remain noncompliant with the FSA, and the JCD's monitoring
21 remains legally and structurally insufficient.
22

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24 Dated: July 15, 2026

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