

1 AMERICAN CIVIL LIBERTIES UNION
 2 FOUNDATION OF NORTHERN CALIFORNIA
 3 JULIA HARUMI MASS (SBN 189649)
 4 WILLIAM S. FREEMAN (SBN 82002)
 5 39 Drumm Street
 6 San Francisco, CA 94111
 7 Telephone: (415) 621-2493
 8 Facsimile: (415) 255-8437
 9 Email: jmass@aclunc.org
 10 wfreeman@aclunc.org

COOLEY LLP
 MARTIN S. SCHENKER (SBN 109828)
 NATHANIEL R. COOPER (SBN 262098)
 ASHLEY K. CORKERY (SBN 301380)
 TREVOR M. KEMPNER (SBN 310853)
 101 California Street, 5th Floor
 San Francisco, CA 94111
 Telephone: (415) 693-2000
 Facsimile: (415) 693-2222
 Email: mschenker@cooley.com
 ncooper@cooley.com
 acorkery@cooley.com
 tkempner@cooley.com

11 ACLU FOUNDATION
 12 IMMIGRANTS' RIGHTS PROJECT
 13 JUDY RABINOVITZ*
 14 125 Broad Street, 18th Floor
 15 New York, NY 10004
 16 Telephone: (212) 549-2660
 17 Facsimile: (212) 549-2654
 18 E-mail: jrabinovitz@aclu.org

ACLU FOUNDATION
 IMMIGRANTS' RIGHTS PROJECT
 STEPHEN B. KANG (SBN 292280)
 39 Drumm Street
 San Francisco, CA 94111
 Telephone: (415) 343-0770
 Facsimile: (212) 395-0950
 E-mail: skang@aclu.org

19 *Pro Hac Vice Forthcoming

20 Attorneys for Petitioners/Plaintiffs, Lorenza Gomez, Ilsa Saravia, and Wilfredo Velasquez, on behalf
 21 of themselves individually and others similarly situated.

22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA

24 Lorenza Gomez, as next friend for J.G., a
 25 minor, and on her own behalf, et al.,

26 Petitioners/Plaintiffs, on behalf of
 27 themselves individually and others
 28 similarly situated,

v.

Jefferson B. Sessions, et al.,

Respondents/Defendants.

Case No. 3:17-cv-03615-VC

**[PROPOSED] ORDER GRANTING LETTER
 MOTION FOR EXPEDITED DISCOVERY**

Trial Date: Not Yet Set
 Location: Courtroom #4
 Judge: Hon. Vince Chhabria

1 **THIS MATTER** came before the Court on September 1, 2017 on the Letter re: Expedited
2 Discovery (“the Letter”), filed jointly by Plaintiffs Gomez et al. and Defendants Sessions et al. on
3 August 28, 2017, and on the Status Report Regarding Expedited Discovery, filed jointly by the
4 parties on August 31, 2017. The Court, having considered the Letter, the Requests for Production of
5 Documents submitted therewith, the Status Report, and oral argument by the parties on September 1,
6 2017, finds that good cause exists to grant Plaintiffs’ request for expedited discovery. Accordingly,

7 IT IS ORDERED that:

8 1. Defendants United States Department of Homeland Security (“DHS”) and United
9 States Department of Health and Human Services (“HHS”) produce all documents relevant to the
10 decisions to arrest, detain, or retain in custody (including any documents relevant to Defendants’
11 decisions as to location and security level of custody placements of) the three named children,
12 including documents in DHS’s or HHS’s possession that originated with, or reflect communications
13 with, other law enforcement agencies;

14 2. DHS and HHS produce:

- 15 a. Any criteria or guidance used to identify any and all unaccompanied alien children
16 (“UCs”) that were targeted for arrest as part of Operation Matador;
- 17 b. Any policy, procedure or instruction directing ICE or other federal agents to “arrest,
18 among others, teenagers who entered the country without guardians and are
19 suspected gang members,” and to “identify people in their areas that meet the
20 criteria,” as alleged in ¶ 41 of the Plaintiffs’ Amended Petition, Dkt. No. 31;
- 21 c. Any memoranda instructing ICE field offices to prepare for immigration enforcement
22 actions targeting suspected gang members, as alleged in ¶ 41 of Plaintiffs’ Amended
23 Petition, Dkt. No. 31;
- 24 d. Documents and communications related to the June 12, 2017 amendment to § 1.2.4
25 of the Office of Refugee Resettlement Guide: “Children Entering the United States
26 Unaccompanied” (“ORR” and “ORR Guide”), which added to the criteria for
27 determining whether to place a UC in secure care whether a UC “Has reported gang
28 involvement or displays gang affiliation while in care” or “Has self-disclosed violent

1 criminal history or gang involvement”;

2 e. Documents sufficient to show the identities, dates of arrest, locations of arrest, and
3 locations of subsequent detention of any UCs previously released from HHS custody
4 pursuant to a sponsorship agreement, but who have since been arrested by DHS since
5 April 1, 2017 and transferred to a secure or staff secure facility, as defined in the
6 ORR Guide, under the authority of the San Francisco-based ORR Federal Field
7 Specialist, where an allegation of “gang involvement” or “gang affiliation” has been
8 made as to the UCs;

9 f. Documents sufficient to show any and all revisions to policies, procedures and
10 practices, or any other measures, undertaken since July 5, 2017 by ORR to comply
11 with the Ninth Circuit’s recent decision, *Flores, et al. v. Sessions, et al.*, 862 F.3d 863
12 (9th Cir. Jul. 5, 2017);

13 g. Any policies and procedures used to determine whether a UC in DHS or HHS
14 custody should be placed in a secure facility or staff secure facility, as defined in the
15 ORR Guide.

16 3. DHS and HHS make a good faith effort to locate and turn over these documents at the
17 earliest possible time, and on a rolling basis, with HHS complete case files for the named children
18 produced by September 8, 2017, and a significant portion of the remaining responsive documents
19 produced well before September 18, 2017;

20 4. DHS and HHS may assert any applicable privileges, including but not limited to
21 deliberative process privilege and law enforcement privilege, over responsive documents (or specific
22 portions thereof), and will maintain a privilege log which will be updated and provided to Plaintiffs
23 on a rolling basis;

24 5. In complying with this Order, in lieu of conducting a complete review of all ESI at
25 this time, DHS and HHS shall make a good faith effort to identify key custodians who have
26 documents responsive to the above Requests (including communicating with Plaintiffs regarding the
27 selection of custodians), and shall conduct a good faith review of the e-mails of these custodians to
28 locate responsive documents.

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

Dated: September 8, 2017



The Hon. Vince Chhabria
U.S. District Court, Northern District of California