



UNITED STATES COMMISSION ON CIVIL RIGHTS

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September 11, 2015

The President
The White House
Washington, D.C. 20500

The Honorable Loretta Lynch
U.S. Attorney General
Washington, D.C. 20530-0001

The Honorable Jeh Johnson
Secretary of Homeland Security
Washington, D.C. 20528

RE: **Jenny L. Flores, et al. v. Jeh Johnson, et al. CV 85-4544 DMG (AGRx)**

Dear Mr. President, Madam Attorney General and Mr. Secretary:

The undersigned commissioners of the United States Commission on Civil Rights respectfully urge you to comply with the orders issued by the Honorable Dolly M. Gee of the United States District Court, Central District of California in the above-entitled matter.

The health, safety and welfare of immigrant children and their parents depend on the United States complying with the Flores Settlement Agreement.

On August 14, 2015, the Commission approved a report with findings and recommendations concerning the conditions of civil detention for immigrant children and families. We found the conditions similar to those described by Judge Gee in her Order of July 24, 2015.

The Commission's report with our findings and recommendations will be released to the public on September 17, 2015.

During our investigation, the Commission visited Karnes County Residential Center, a family detention facility in Texas. We were told children and families often stay in civil detention in unlicensed child care facilities for more than four months. The government



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places several families in a room the size of your average motel room with no privacy. More importantly, the government's setting of bail is without standards and is at the broad discretion of the Immigration Judge. Further, we found family facilities not to be in compliance with the original Flores Settlement Agreement dated January 28, 1997. The government has had more than 18 years to comply with this agreement. It has failed to do so.

Government lawyers have gone even further, stating the purpose of this detention is to deter families (a parent and child(ren)) from coming to the United States when they seek asylum because of conditions in their home countries (P.23, Flores v. Johnson, Judge Gee, Order of July 24, 2015).

U.S. Attorneys sought to modify this agreement unilaterally because, according to them, the agreement allegedly caused the surge of immigrants in the summer of 2014. Further, they argued that enforcement of the agreement without modification would be detrimental to the public interest.

Yet, Judge Gee found, as did we:

With respect to whether the Agreement's provisions caused the surge, Defendants do not satisfactorily explain why the Agreement, after being in effect since 1997, should only now encourage others to enter the United States without authorization. Nor do Defendants proffer *any* competent evidence that ICE's detention of a subset of class members in secure, unlicensed facilities has deterred or will deter others from attempting to enter the United States. As discussed *supra*, the Court has considered in detail the evidence Defendants presented of the deterrent effect of the detention policy and finds the evidence distinctly lacking in



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scientific rigor. It is astonishing that Defendants have enacted a policy requiring such expensive infrastructure without more evidence to show that it would be compliant with an Agreement that has been in effect for nearly 20 years or effective at achieving what Defendants hoped it would accomplish. It is even more shocking that after nearly *two decades* Defendants have not implemented appropriate regulations to deal with this complicated area of immigration law. In light of the evidence, or lack thereof, the Court finds that Defendants have failed to meet their burden of showing that a change in factual circumstances requires modification of the Agreement.

Judge Gee's order accurately reflects the conditions on the ground at these facilities. The United States must comply with the Flores Settlement Agreement.

No children, with or without an accompanying adult, should be forced to live in these facilities. The detrimental effect on these children far outweighs the government's wish to deter others from flee life-threatening conditions in their home countries.

Respectfully,

Handwritten signature of Martin R. Castro in black ink.

Martin R. Castro, Chairman

Handwritten signature of David Kladney in blue ink.

David Kladney, Commissioner

Handwritten signature of Michael Yaki in black ink.

Michael Yaki, Commissioner

Handwritten signature of Patricia Timmons-Goodson in black ink.

Patricia Timmons-Goodson, Vice Chair

Handwritten signature of Roberta Achtenberg in black ink.

Roberta Achtenberg, Commissioner