

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA;
DONALD TRUMP, in his official capacity as
President of the United States of America,
et al.,

Defendants.

NO. 2:18-cv-00939-MJP

ORDER GRANTING STATES' MOTION
FOR EXPEDITED DISCOVERY AND
REGULAR STATUS CONFERENCES

[PROPOSED]

Upon consideration of the States' Motion for Expedited Discovery and Regular Status Conferences, the supporting papers filed therewith, the Defendants' Response, the States' Reply, and all other filings herein, the States' Motion for Expedited Discovery and Regular Status Conferences is GRANTED.

Accordingly, it is ORDERED:

The States may conduct expedited discovery on the following topics:

1. The development and implementation of Defendants' policy of separating families who enter the United States along the Southwestern border, including communications

1 to Defendant employees (e.g., Customs and Border Patrol (CBP) and Immigration and Customs
2 Enforcement (ICE) officers) at the border ports of entry regarding same.

3 2. The number of Separated Children¹ placed by the Office of Refugee Resettlement
4 (ORR) - or any other Defendant - in each Plaintiff State from January 1, 2018 to the present, by
5 month and facility (or, for individual sponsor placements, the county in which the child resides
6 with such sponsor).

7 3. The number of Separated Parents² who are or were detained in each Plaintiff State
8 from January 1, 2018, to the present, by month and facility.

9 4. The number of Separated Parents in each Plaintiff State released from DHS
10 custody from January 1, 2018, to the present, including the facility from which they were
11 released, the conditions of release, and current location.

12 5. As to every Separated Parent who is present in any Plaintiff State (or who was
13 present in a Plaintiff State on the day this lawsuit was filed):

- 14 a. The date that each Separated Parent was taken into DHS custody;
15 b. The current placement and location of every Separated Parent (e.g., held
16 in the federal prison in SeaTac, Washington);
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22 ¹ “Separated Child” or “Separated Children,” for purposes of this Order, shall mean any child
23 under the age of 18 who was traveling with an adult family member, who entered the United States along
24 the Southwestern border in the company of such family member, and who the Department of Homeland
25 Security (DHS) or any other Defendant separated from their family member thereafter.

26 ² “Separated Parent,” for purposes of this Order, shall mean any adult who was traveling with a
family member under the age of 18, who entered the United States along the Southwestern border in the
company of such child or children, and who DHS or any other Defendant separated from the child or
children thereafter.

- 1 c. Whether the Separated Parent expressed fear for their safety in their home
2 country to Defendants at any point, and if so, whether and when the
3 Separated Parent was provided with a credible fear interview;
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5 d. Whether the Separated Parent has withdrawn any claim to lawful status
6 while in DHS custody;
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8 e. The contact that Defendants have provided between the Separated Parent
9 and his or her child(ren);
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11 f. The location of that Separated Parent's children (if in an ORR placement
12 or custody); and
13
14 g. DHS' plan to reunify the Separated Parent with the child.

15 6. As to every Separated Child who is present in any Plaintiff State (or who was
16 present in a Plaintiff State on the day this lawsuit was filed):

- 17 a. The current placement and location of every such child (e.g., living with
18 a sponsor in Seattle, Washington);
19
20 b. The contact that Defendants have provided between the child and their
21 Separated Parent(s) or other family members;
22
23 c. The location of that Separated Child's Separated Parent(s);
24
25 d. DHS' plan to reunify the Separated Child with the Separated Parent(s);
26 and
 e. Information concerning the circumstances and progress of such
 reunification efforts.

1 7. The development and implementation of Defendants’ practice of refusing to
2 allow entry to asylum seekers presenting themselves at ports of entry along the Southwestern
3 border, including all communications to Defendant employees (e.g., CBP and ICE officers)
4 working near those border ports of entry that discuss this practice, including but not limited to
5 discussion of “metering,” numerical or space limits on asylum claims, administrative or other
6 limits on asylum claim processing, and requiring asylum seekers to return to ports of entry at a
7 later day or time.
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9 8. Since January 1, 2018, the number of persons presenting at Southwestern border
10 ports of entry who expressed fear for their safety in their home country, but who Defendants
11 refused to allow to enter the United States, and all information concerning the circumstances of
12 Defendants’ refusal.
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14 9. Since January 1, 2018, the number of persons presenting at Southwestern border
15 ports of entry who expressed fear for their safety in their home country, and who Defendants
16 detained in federal custody, and all information concerning the circumstances of Defendants’
17 choice to detain them.
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19 10. Since January 1, 2018, the number of persons presenting at Southwestern border
20 ports of entry who expressed fear for their safety in their home country, who were traveling with
21 their child or children at the time they arrived at the port of entry, but who Defendants then
22 separated from their child(ren); and all information concerning the circumstances of such
23 separation.
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1 11. For all Separated Parents who entered the United States along the Southwestern
2 border from January 1, 2018, information regarding:

- 3 a. The number and circumstances under which Separated Parents agreed to
4 relinquish a claim for lawful status while in DHS custody;
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6 b. The number and circumstances under which Separated Parents agreed to
7 voluntary removal while in DHS custody;
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9 c. The number and circumstances under which DHS removed Separated
10 Parents from the United States without their Separated Child; and
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12 d. All reunification efforts the Defendants have made concerning Separated
13 Parents who were removed from the United States without their Separated
14 Children.

14 12. For all Separated Parents who have been released from DHS custody since
15 January 1, 2018, all information regarding DHS and HHS efforts to reunite Separated Parents
16 and Separated Children, including but not limited to:

- 17 a. Information regarding the paperwork required of Separated Parents who
18 want to reunite with their Separated Children, including any requirement
19 that Separated Parent complete Family Reunification Applications,
20 including background checks, DNA testing, or fingerprinting, before
21 reunification with their Separated Children;
22
23 b. Information regarding any financial requests or demands made of
24 Separated Parents who want to reunite with their Separated Children,
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1 including demands that Separated Parents pay the airfare for Separated
2 Children and escorts as a condition of reunification; and

3 c. Information regarding any other conditions or requirements the
4 Defendants are placing on Separated Parents who want to reunite with
5 their Separated Children.
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7 13. As to Defendants' stated intentions to detain families who enter along the
8 Southwestern border together in detention centers or similar facilities, all information as to any
9 sites under consideration that are located in any Plaintiff States and any regulatory changes
10 intended to facilitate family detention.

11 14. As to Defendants' stated intentions to conduct summary deportations of
12 individuals who enter along the Southwestern border without hearing or process, all information
13 as to the existence and implementation of such policy or practice.
14

15 Plaintiffs will serve Defendants with formal discovery requests on these subjects. During
16 the period of expedited discovery, Defendants shall have seven days from the date of service to
17 object to the States' discovery requests, and 14 days from the date of service to respond to
18 requests for production, interrogatories, and requests for admission. Defendants will expedite
19 the production of responsive information and documents, and will confer with Plaintiffs as to
20 any questions regarding the scope and meaning of the requests.
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22 Further, it is ORDERED that:

23 As to every Separated Parent in DHS custody in any of the Plaintiff States, the
24 Defendants will facilitate access to detained Separated Parents for interviews by
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1 State Representatives, either at the facilities where the Parents are detained or in other mutually
2 agreeable locations;

3 The Plaintiff States, through their designated lead the State of Washington, and the
4 Defendants will appear before the Court for regular status conferences, to be set on a weekly
5 basis pending further Order of the Court, at which time the Parties will report on the progress of
6 discovery as well as any other matter requiring the Court's attention.
7

8 DATED this _____ day of _____, 2018.
9

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11 _____
12 THE HONORABLE MARSHA J. PECHMAN

13 ROBERT W. FERGUSON
14 Attorney General

15 /s/ Laura K. Clinton

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