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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE HUMAN RIGHTS DEFENSE
CENTER and MICHELLE DILLON,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, ADMINISTRATION
FOR CHILDREN AND FAMILIES, and
OFFICE OF REFUGEE RESETTLEMENT,

Defendants.

No.

COMPLAINT

1. This lawsuit is an action under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*, seeking production of records responsive to requests submitted by Ms. Michelle Dillon, an employee of the Human Rights Defense Center, to the U.S. Department of Health and Human Services and to the Office of Refugee Resettlement, an office within the Administration for Children and Families.

JURISDICTION AND VENUE

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendants under 5 U.S.C. §§ 552(a)(4)(B) and 2201(a).

1 **FACTS**

2 **Human Rights Defense Center’s Background and Mission**

3 9. The Human Rights Defense Center was founded in 1990. It is dedicated to
4 public education, prisoner education, advocacy, and outreach to support the rights of
5 prisoners and to further basic human rights.

6 10. The Human Rights Defense Center’s publishing project distributes books to
7 prisoners and other customers. It also publishes two monthly magazines, *Criminal Legal*
8 *News* and *Prison Legal News*.

9 11. In addition to publishing, the Human Rights Defense Center engages in
10 advocacy and education.

11 12. Prior to a 2009 name change, the entire organization was known as
12 Prisoners’ Legal News.

13 **U.S. Department of Health and Human Services**

14 13. The U.S. Department of Health and Human Services (“HHS”) has a mission
15 to enhance and protect the health and well-being of all Americans.

16 **Administration for Children and Families**

17 14. The Administration for Children and Families is a division within HHS.

18 **Office of Refugee Resettlement**

19 15. The Office of Refugee Resettlement (“ORR”) is an office within the
20 Administration for Children and Families.

21 16. ORR has responsibility for non-citizen children who arrive in the United
22 States unaccompanied.

23 17. ORR also takes responsibility for non-citizen children who have been
24 forcibly separated from the adults with whom they arrived in the United States.

25 18. The mistreatment of these children has been widely covered in the media.
26 For example:

- 1 • Ginger Thompson, Listen to Children Who've Just Been Separated
2 From Their Parents at the Border,
3 [https://www.propublica.org/article/children-separated-from-parents-](https://www.propublica.org/article/children-separated-from-parents-border-patrol-cbp-trump-immigration-policy)
4 [border-patrol-cbp-trump-immigration-policy](https://www.propublica.org/article/children-separated-from-parents-border-patrol-cbp-trump-immigration-policy);
- 5 • NBC29, Young Immigrants Detained in Shenandoah Valley Juvenile
6 Center Allege Abuse, [http://www.nbc29.com/story/38475890/young-](http://www.nbc29.com/story/38475890/young-immigrants-detained-in-virginia-center-allege-abuse)
7 [immigrants-detained-in-virginia-center-allege-abuse](http://www.nbc29.com/story/38475890/young-immigrants-detained-in-virginia-center-allege-abuse);
- 8 • Bree Burkitt, Ex-Migrant Shelter Employee Found Guilty of
9 Molesting Unaccompanied Minors,
10 [https://www.usatoday.com/story/news/nation-](https://www.usatoday.com/story/news/nation-now/2018/09/11/southwest-key-worker-convicted-abusing-minors-arizona-migrant-shelter/1267100002/)
11 [now/2018/09/11/southwest-key-worker-convicted-abusing-minors-](https://www.usatoday.com/story/news/nation-now/2018/09/11/southwest-key-worker-convicted-abusing-minors-arizona-migrant-shelter/1267100002/)
12 [arizona-migrant-shelter/1267100002/](https://www.usatoday.com/story/news/nation-now/2018/09/11/southwest-key-worker-convicted-abusing-minors-arizona-migrant-shelter/1267100002/).

13 19. Because of the widespread concern, the Human Rights Defense Center is
14 interested in documents regarding the potential ill treatment of children and other civil
15 rights violations.

16 **The Requests for Information at Issue**

17 20. On August 20, 2018, Ms. Dillon sent a request via web portal to HHS for
18 certain records related to litigation that the agency has resolved.

19 21. On behalf of the Human Rights Defense Center, Ms. Dillon requested
20 records regarding litigation against HHS and its employees or agents created since
21 January 1, 2010. She limited her request to claims and cases in which the government paid
22 \$1,000 or more.

23 22. In each case or claim described above, she asked to be provided:

- 24 • The Complaint or Claim Form and any amended versions;
- 25 • The Verdict Form, Final Judgment, Settlement Agreement, Consent
26 Decree, or other paper that resolved the case;

- A record that shows the amount of money involved in the resolution and to whom it was paid.

23. Ms. Dillon also requested a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (iii).

24. Via immediate acknowledgement email, HHS informed Ms. Dillon that her request was assigned Request Number 2018-01423-FOIA-OS.

25. Although HHS did not ever invoke the agency's right to ten-day extension under 5 U.S.C. § 552(a)(6)(B), as of the date of this filing, HHS's web portal simply shows that this request is "Assigned for Processing."

26. As of the date of this filing, HHS has not provided any further response.

27. Also, on August 20, 2018, Ms. Dillon sent a request to the Office of Refugee Resettlement of the Administration for Children and Families via email address FOIA@acf.hhs.gov requesting all emails, including attachments, sent from ORR-authorized care providers which include a Sexual Abuse/Significant Incident Report (SA/SIR) since January 1, 2015 to any of the following email addresses:

- VCACU_ORR_Reporting@ic.fbi.gov
- UAC@oig.hhs.gov
- PSAC@acf.hhs.gov
- Hotline@oig@dhs.gov
- CRCLCompliance@hq.dhs.gov
- ERO.SexualAssault@ice.dhs.gov
- PDOTASKING@cbp.dhs.gov

28. Ms. Dillon also requested a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (iii).

29. As of the date of this filing, no response of any kind has been received.

1 30. Per 5 U.S.C. § 552(a)(6)(A)(ii), any agency has twenty working days to
2 provide documents in response to a FOIA request.

3 31. For both requests, this period expired on September 18, 2018.

4 **THE HUMAN RIGHTS DEFENSE CENTER AND MS. DILLON'S**
5 **CLAIMS FOR RELIEF**

6 **COUNT I:**

7 **Violation of the Freedom of Information Act, 5 U.S.C. § 552**

8 32. This claim incorporates paragraphs 1 – 30 by reference.

9 33. HHS, The Administration for Children and Families, and ORR wrongly
10 withheld documents responsive to the properly submitted requests.

11 34. The Human Rights Defense Center and Ms. Dillon have a statutory right to
12 all the records sought, and there is no basis to withhold them.

13 35. By failing to release all the records specifically requested, HHS, The
14 Administration for Children and Families, and ORR have violated the Freedom of
15 Information Act.

16 **COUNT II:**

17 **Violation of the Freedom of Information Act Fee Waiver Provisions**

18 36. This claim incorporates paragraphs 1 – 30 by reference.

19 37. HHS, The Administration for Children and Families, and ORR wrongly did
20 not grant Ms. Dillon's request for a full fee waiver.

21 38. The Human Rights Defense Center and Ms. Dillon have a statutory right to a
22 full fee waiver.

23 39. By failing to grant a fee waiver, HHS, The Administration for Children and
24 Families, and ORR have violated the Freedom of Information Act.

REQUESTED RELIEF

The Human Rights Defense Center and Ms. Dillon therefore respectfully request that this Court:

1. Declare that the records they seek are subject to disclosure under the Freedom of Information Act;
2. Declare that they are entitled to a full fee waiver;
3. Order HHS, The Administration for Families and Children, and ORR to disclose the requested records;
4. Award costs and attorneys' fees under 5 U.S.C. § 552(a)(4)(E); and
5. Grant such other relief as the Court may consider just and proper.

Dated: October 1, 2018.

Respectfully submitted,

YARMUTH WILSDON PLLC

By: s/Jeremy E. Roller

Jeremy E. Roller, WSBA #32021
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
Telephone (206) 516-3800
Fax (206) 516-3888
jroller@yarmuth.com

Deborah M. Golden (*pro hac vice* application
to be filed)

Human Rights Defense Center
316 F Street, NE #107
Washington, DC 20002
Telephone (202) 543-8100
dgolden@humanrightsdefensecenter.org

*Attorneys for Plaintiffs The Human Rights
Defense Center and Michelle Dillon*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

THE HUMAN RIGHTS DEFENSE CENTER and MICHELLE DILLON

(b) County of Residence of First Listed Plaintiff King (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Jeremy E. Roller / YARMUTH WILSDON PLLC 1420 Fifth Avenue, Suite 1400, Seattle, WA 98101 (206) 516-3800

DEFENDANTS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, and OFFICE OF REFUGEE RESETTLEMENT

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant (Indicate Citizenship of Parties in Item III)
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 5 U.S.C. § 552

Brief description of cause: Freedom of Information Act case seeking records

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/01/2018 SIGNATURE OF ATTORNEY OF RECORD s/Jeremy E. Roller

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

THE HUMAN RIGHTS DEFENSE CENTER and
MICHELLE DILLON,

Plaintiff(s)

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES, ADMINISTRATION FOR CHILDREN
AND FAMILIES, and OFFICE OF REFUGEE
RESETTLEMENT,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
c/o Office of the General Counsel
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Jeremy E. Roller
Yarmuth Wilsdon PLLC
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
(206) 516-3800

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

THE HUMAN RIGHTS DEFENSE CENTER and
MICHELLE DILLON,

Plaintiff(s)

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES, ADMINISTRATION FOR CHILDREN
AND FAMILIES, and OFFICE OF REFUGEE
RESETTLEMENT,

Defendant(s)

Civil Action No.

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c/o Office of the General Counsel
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Jeremy E. Roller
Yarmuth Wilsdon PLLC
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
(206) 516-3800

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CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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UNITED STATES DISTRICT COURT

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Plaintiff(s)

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SERVICES, ADMINISTRATION FOR CHILDREN
AND FAMILIES, and OFFICE OF REFUGEE
RESETTLEMENT,

Defendant(s)

Civil Action No.

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To: (Defendant's name and address) OFFICE OF REFUGEE RESETTLEMENT
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U.S. Department of Health and Human Services
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Washington, DC 20201

A lawsuit has been filed against you.

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P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
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whose name and address are:

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Date:

Signature of Clerk or Deputy Clerk

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_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: