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October 20, 2020

The Honorable Joseph V. Cuffari
Office of Inspector General
Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528-0305

The Honorable Patricia Nation
The Office for Civil Rights and Civil Liberties
Department of Homeland Security
2707 Martin Luther King, Jr. Avenue SE
Washington, D.C. 20528-0190

RE: Request for Investigation on Misconduct and Mistreatment of Unaccompanied Children in the United States During the Removal Process

Dear Inspector General Cuffari and Senior Officer Nation:

We, the undersigned 56 organizations, write to request an investigation into serious and flagrant problems in the Department of Homeland Security's (DHS) expulsion of unaccompanied children (UCs). We are especially concerned by DHS's use of extended involuntary stays for UCs in hotels under the custody of the contractor MVM Inc. DHS has confirmed the practice of detaining immigrant children in hotels prior to expelling them in ongoing filings in *Flores* Settlement Agreement litigation.[1] This practice is known as "hotelling" or alternatively as the Temporary Housing Program.

Unaccompanied children comprise one of the most vulnerable groups seeking help and protection. Congress has designated special protections for UCs, which include safeguards in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. Further, the government is bound by the *Flores* Settlement Agreement. In August, the *Flores* Independent Monitor recommended that "all single minors be excluded from the Temporary Housing Program"—in other words, that no UC be held in any hotel for any reason.[2] In opposition, DHS has argued that hotelling is legal and that *Flores*

protections do not apply to the minors in custody, whose removals DHS justifies under Title 42 of the United States Code.

On September 4, the Central District of California held that hotelling children for a prolonged length of time is not legally allowable. The court found that "the hotel program is not safe with respect to preventing minors from contracting COVID-19 or providing the type of care and supervision suitable for unaccompanied minors."[3] The factual findings and the legal decision of the court entail that DHS violated the rights of all UCs it subjected to hotelling in that it violated civil rights and legal rights of UCs and others. The court also remarked on the deficiencies in DHS's administration and oversight of the program, including the use of private contractor MVM Transportation. The court ordered DHS to end the use of prolonged hotel stays for all children in federal immigration custody as a violation of the *Flores* Settlement Agreement.

In light of the above, we ask that OIG and CRCL immediately pursue investigations into DHS policies and practices regarding the expulsion of UCs, including but not limited to the process of hotelling and the use of Title 42 to subvert legal protections, including the right to seek asylum. The attached document details eight areas of acute concern. In brief, they are:

- the prevalence and duration of "hotelling";
- the treatment of UCs confined within unlicensed hotel facilities;
- waste and abuse in DHS contracting and subcontracting for the purpose of hotelling;
- DHS oversight of the hotelling program;
- active attempts to conceal the existence of the hotelling program from legal advocates for children and from the court;
- inadequate training and certification by DHS contractors in the area of child welfare;
- civil rights violations, misconduct, and abuses against UCs and others; and
- consequences for agency and/or contractor misconduct.

Our country's laws define the norms that U.S. citizens have agreed to, and our laws proscribe conduct that falls outside community norms. But our laws also function as moral instruments that explain how it is acceptable and unacceptable to treat other people. When the government or its agents violate the law, that violation is also an assertion that the violator is not bound by the same norms that cohere us as a community. Likewise, when rights violations are pervasive—like those in the practice of hotelling—the scope itself implies that those whose rights are violated do

[1] See *Flores* Independent Monitor's report, July 22, https://www.documentcloud.org/documents/7008752-Independent-Monitor-Report-7-22.html; Judge Gee's Order Re: August 7 Status Conference, https://youthlaw.org/wp-content/uploads/2020/07/Dkt-912-Flores-Order-re-August-7-Status-Conference.pdf; and *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view.

[2] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 17.

[3] Order RE: Plaintiffs' Motion to Enforce Settlement as to "Title 42" Class Members, September 4, https://youthlaw.org/wp-content/uploads/2020/07/976-Flores-Order-re-Hotel-MTE.pdf, page 15.

not fully count as people. In this case, DHS and its contractors have violated the rights of unaccompanied children. It is imperative that OIG and CRCL give as full an account as possible as to these practices and how they have been committed.

We thank you, and look forward to your investigation. If you require further information, please contact Mario Bruzzone, Policy Analyst, U.S. Committee for Refugees and Immigrants, at mbruzzone@uscrimail.org.

Sincerely,

Eskinder Negash, CEO and President
U.S. Committee for Refugees and Immigrants

And the undersigned organizations,

Accountable.US
ADL (Anti-Defamation League)
American Academy of Pediatrics
Association of Children's Residential Centers (ACRC)
Bethany Christian Services
Board of Child Care
Bridges Faith Initiative
Center For Family Services
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for the Study of Social Policy
Child Welfare League of America
ChildFund International
Children's Defense Fund
Children's Defense Fund Texas
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Columbia Law School Immigrants' Rights Clinic

Connecticut Institute for Refugees and Immigrants
Disability Rights Tennessee (DRT)
Empowerment Collaborative of Long Island, Inc.
Exodus Refugee Immigration, Inc.
First Focus on Children
Florence Immigrant & Refugee Rights Project
Freedom Network USA
Friends Committee on National Legislation
Heartland Human Care Services
Human Rights First
Immigration Counseling Service
Julia M. Toro Law Firm, PLLC
Latinas Unidas por un Nuevo Amanecer (L.U.N.A.)
Lutheran Immigration and Refugee Service
MercyFirst
National Association of Counsel for Children
National Association of Pediatric Nurse Practitioners
National Council of Jewish Women
National Immigration Litigation Alliance
National Network for Immigrant and Refugee Rights
National Youth Advocate Program, Inc.
Nationalities Service Center
NETWORK Lobby for Catholic Social Justice
Oxfam America
Physicians for Human Rights
Rocky Mountain Immigrant Advocacy Network
Save the Children Action Network
Sojourner House
Southern Poverty Law Center
Sueños Sin Fronteras de Tejas
The Episcopal Church
U.S. Conference of Catholic Bishops Migration and Refugee Services
Union for Reform Judaism
United Stateless
Witness at The Border
Young Center for Immigrant Children's Rights
YouthCare

And the following individuals,

Adriana Bialostozky
Blanca Suarez

Detailed Request for Investigation on Misconduct and Mistreatment of Unaccompanied Children from the United States During the Removal Process

On July 22, the Associated Press broke a story in which it reported that a minimum of 169 children were held at three hotels in the states of Texas and Arizona. Further reporting by the *New York Times* found evidence that ICE has held 972 individuals in seven hotels in the states of Arizona, California, Florida, Texas, and Washington, all of whom are likely to be UCs.[4] (The 972 figure includes the 169 children held in hotels in Texas and Arizona.) The children held were young—at least two children were under the age of two[5]—and have been held in hotels for as long as 28 days.[6] The *Flores* Independent Monitor has confirmed at least 660 UCs have been held in 25 hotels in three states, but noted that DHS provided data that is inconsistent and incomplete.[7] DHS does not dispute the facts in the Associated Press report nor the facts given here.[8] Instead, DHS has argued that the practice of "hotelling" is legal and that *Flores* protections do not apply to the minors in custody, whose removals DHS justifies through a novel invocation of public-health law in Title 42, United States Code.

Unaccompanied children comprise one of the most vulnerable groups seeking help and protection. Congress has designated special protections for UCs, which include safeguards in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. Further, the government is bound by the *Flores* Settlement Agreement. In July, the Independent Monitor charged with enforcing the *Flores* Settlement Agreement found that DHS "hotelling," known as the Temporary Housing Program (THP), lacked proper safeguards and oversight. The Independent Monitor identified, among others, a lack of "sufficient oversight of the practices, performance, and adequacy of staffing" for Title 42 expulsions. Additionally, the Independent Monitor noted that "consistent or formal care requirements have not been developed regarding the special needs of young children." [9] In August, the Independent Monitor recommended that "all single minors be excluded from the Temporary Housing Program"—in other words, that no UC be held in any hotel for any reason.[10]

On September 4 and again on September 21, the Central District of California settled any question of whether prolonged hotelling is legally allowable. It is not. The court found that "the

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[4] Caitlin Dickerson, "A Private Security Company Is Detaining Migrant Children at Hotels," *New York Times*, August 16, 2020, https://www.nytimes.com/2020/08/16/us/migrant-children-hotels-coronavirus.html.

[5] Nomaan Merchant, "Migrant kids held in US hotels, then expelled," *Associated Press*, July 22, 2020, https://apnews.com/c9b671b206060f2e9654f0a4eaeb6388.

[6] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 12.

[7] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 8.

[8] https://youthlaw.org/wp-content/uploads/2020/07/Dkt-912-Flores-Order-re-August-7-Status-Conference.pdf

[9] https://www.documentcloud.org/documents/7008752-Independent-Monitor-Report-7-22.html

[10] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 17.

hotel program is not safe with respect to preventing minors from contracting COVID-19 or providing the type of care and supervision suitable for unaccompanied minors."[11] Further, the court ordered DHS to end the prolonged use of hotelling for all children in federal immigration custody as a violation of the *Flores* Settlement Agreement. The factual findings and the legal decision of the court entail that DHS violated the rights of all UCs it subjected to hotelling—serious and flagrant problems with the Temporary Housing Program, which violated civil rights and legal rights of UCs and others. The court also remarked on the deficiencies in DHS's administration and oversight of the program, including the use of MVM and any other contractor.

These sources above sketch a program that violates UCs' rights, traumatizes UCs, and allows opportunities for mistreatment and abuse that will never be discovered without thorough and immediate investigation. In light of the above, we ask that OIG and CRCL immediately pursue investigations into DHS policies and practices regarding the expulsion of UCs, including but not limited to the process of hotelling and the use of Title 42 to subvert legal protections.

Further, we request that OIG and CRCL investigate the following, and make findings publicly available:

(a) **The prevalence and duration of hotelling.** DHS has not given a public accounting of how many minors and how many families have been subject to enforced stays in hotels. Nor has DHS disclosed how many of the stays took place under the custody of MVM Inc—the contractor disclosed in the "shadow immigration system"[12]—or any other contractor or subcontractor. The Independent Monitor of the *Flores* Settlement Agreement found that half of UCs held in hotels were held for five days or longer, but noted serious deficiencies in DHS data.[13] CRCL and OIG must report how many children are subject to hotelling, how often hotelling occurs, on what basis children are selected, whether selection criteria may be inferred from demographic characteristics of the children subject to the program, and how long children remain in custody. CRCL should give special attention to stays of more than three days and more than five days, which violate *Flores* standards, as well as a general accounting of all rights violations that occurred as part of the hotelling program.

(b) **The conditions of the stays, and the treatment of UCs in hotels.** The *Flores* Independent Monitor has compiled information for the Court but has not been able to give an independent account of the conditions of the stays or the treatment that UCs have

[11] Order RE: Plaintiffs' Motion to Enforce Settlement as to "Title 42" Class Members, September 4, https://youthlaw.org/wp-content/uploads/2020/07/976-Flores-Order-re-Hotel-MTE.pdf, page 15.

[12] Joel Rose and Marisa Peñalosa, "Shadow Immigration System: Migrant Children Detained In Hotels By Private Contractors," National Public Radio, August 20, https://www.npr.org/2020/08/20/904027735/shadow-immigration-system-migrant-children-detained-in-hotels-by-private-contrac.

[13] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 13.

received in hotels.[14] The very process of keeping UCs in hotels for extended periods before expelling them makes it difficult for UCs to report any potential rights violation or abuse. The Independent Monitor noted that "There remains no assurance that the THP can provide adequate custodial care for single minors,"[15] and oversight is insufficient for ensuring required standards are met. In the Motion to Enforce from *Flores* counsel, several organizations that work with children suggest that the conditions of stays are inherently harmful.[16] It is only through OIG and CRCL involvement that a fuller picture will be possible, focusing on the experiences of children subject to hotelling and including information collected from UCs who have been expelled to their countries of origin.

(c) **DHS use of contracting and subcontracting that allows for hotelling of UCs.** The terms of the contract between DHS and MVM only became available in mid-September *Flores* filings,[17] as DHS had not complied previously with statutory obligations to release its contract with MVM under the Freedom of Information Act.[18] MVM was previously sanctioned in 2018 for holding detained children overnight in an office park in Phoenix, Arizona.[19] It remains unclear whether DHS uses any other contractors for hotelling UCs in nonstandard facilities, or for any substantially similar practice.

OIG investigation is required to know whether DHS uses MVM's services, and/or any other contractor's services, in a manner consistent with the terms and limits of DHS's statutory and delegated authority; in a manner consistent with the requirements that Congress has obligated for DHS, including but not limited to TVPRA of 2008 and the Prison Rape Elimination Act of 2003; in a manner consistent with MVM's obligations under its contract with DHS; and in a manner consistent with MVM's ability and legal authorization to operate on DHS's behalf.

Further investigation is required to know if the use of third parties, such as hotels, followed a manner consistent with DHS authority; with the authority vested in MVM and/or any other contractor; with the contractual obligations of MVM and/or any other contractor to DHS; and with the ability and legal authorization of MVM and/or any other

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[14] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 15.

[15] *Flores* Independent Monitor's report, August 26, https://drive.google.com/file/d/1Vkkf7VkP4ncZUcRC7b-hbedf5RJUe30n/view, page 17.

[16] See, e.g., Nagda Declaration, Exhibit C, https://youthlaw.org/wp-content/uploads/2020/07/920_Motion-to-Enforce-Settlement-re-TItle-42-Class-Members.pdf#page=63, page 63.

[17] Defendants' Ex Parte Application to Stay Order, September 7, 2020, https://youthlaw.org/wp-content/uploads/2020/07/985_Govt-Ex-Parte-App-to-Stay-with-Exhibits.pdf#page=51.

[18] http://foiaproject.org/dc_view/?id=6326290-CAN-3-2019cv00909-opinion

[19] Pamela Ren Larson, "Federal contractor operating second unlicensed facility for immigrant kids in Phoenix" Arizona Republic, July 17, 2018, https://www.azcentral.com/story/news/politics/immigration/2018/07/17/unaccompanied-children-stationed-phoenix-office-building-federal-contractor-mvm-inc/792621002/.

contractor to operate on DHS's behalf. Finally, investigation is required to determine the extent to which MVM violations of law, not limited to violation of civil rights and civil liberties, expose DHS or any other government agency to liability.

(d) **DHS oversight for hotelling and for all contractors and subcontractors who implement the practice.** Although the THP was begun in March, the *Flores* Independent Monitor became aware of DHS's use of hotels as de facto detention facilities for UCs during her COVID-19 monitoring activities in July.[20] This lack of disclosure alone is deeply troubling. OIG should investigate whether MVM and/or any other contractor was in compliance with contractual terms at the outset of the contract, including but not limited to the number of employees with experience and specialized knowledge of child welfare; whether MVM and/or any other contractor has upheld the terms of its contract, particularly the duty of care to minors and obligations to follow applicable law in the execution of its contract; and whether any and all contracts with third parties, such as hotels, were executed in good faith, including an honest representation by DHS, MVM, and/or any other contractor of the uses for contracted hotel rooms or other non-standard facilities for detaining UCs.

(e) **DHS attempts to conceal the practice of extended hotel detentions for UCs.** As noted in (d), DHS failed to proactively disclose the use of hotels for the detention of children, including to the *Flores* Independent Monitor. In addition, legal service providers indicate that in some circumstances, DHS has made it difficult or impossible to represent UCs with strong claims for legal protection by transferring the UCs between facilities and locations without notification, including to unlicensed facilities.[21] The August 26 declaration of the *Flores* Independent Monitor noted deficiencies and inconsistencies in DHS record-keeping around the placement of UCs in hotels. OIG and CRCL have good cause to suspect that DHS and/or its contractor(s) may be willfully failing to disclose aspects of the program, and should investigate whether DHS has taken steps to conceal its practices from the courts, Congressional oversight, UCs' legal representatives, advocates, and the public at large.

(f) **Contractors' training and certification for child welfare and the prevention of sexual abuse and exploitation.** Abuse prevention standards ensure both that children receive an adequate standard of care to their cognitive and social development, and forfend abuse. DHS has given inconsistent public statements about whether MVM "specialists" are certified to provide child care, inclusive of whether the individuals have passed background checks and whether the individuals have received training on and been evaluated for understanding of the minimum practices for the prevention of sexual abuse and exploitation of children. In the September 21 order by the Central District, the court concluded that "the fact that MVM personnel receive a mere two days of training,

[20] See Flores Independent Monitor's report, July 22, https://www.documentcloud.org/documents/7008752-Independent-Monitor-Report-7-22.html

[21] See Order RE: Plaintiffs' Motion to Enforce Settlement as to "Title 42" Class Members, September 4, https://youthlaw.org/wp-content/uploads/2020/07/976-Flores-Order-re-Hotel-MTE.pdf, page 7.

only a fraction of which are dedicated to child development and care, before being placed alone in a room with a tender age child for hours at a time reaffirms the Court's finding that hoteling is not suitable for unaccompanied minors."[22]

UCs are a vulnerable population even among children generally. Given that the *Flores* Independent Monitor has found that minimum child-welfare standards have not been met within DHS's practice of hotelling UCs and other immigrant children, OIG and CRCL have cause to investigate whether DHS and any contractors used in this process are properly vetted, trained, and certified to care for UCs and children in detention.

(g) **Civil-rights violations, misconduct, and abuses against UCs and others.** As noted in (b) above, the structure of the hotelling process presents a challenge to oversight. Any rights violations will occur in a structure that lacks safeguards and accountability, and likewise a structure that is entirely without recourse for UCs and other detained individuals to report abuses and misconduct. DHS does not deny that it has no longer afforded UCs the rights granted to them under the TVPRA and *Flores* Settlement Agreement, claiming that the CDC order under Title 42 supersedes both. The signees of this letter hold that the CDC order is unlawful and all expulsions that take place under the CDC order are unlawful. Regardless, the TVPRA and *Flores* Settlement Agreement both define standards of care for UCs within custody. Under the practice of hotelling, many UCs are in custody for extended periods; the CDC order does not vacate or even mention any standards of care. Further, individuals not in custody may have had rights violated in civil and criminal ways under the hotelling program. It is therefore imperative that OIG and CRCL investigate the scope of rights and widespread potential violations of rights afforded to UCs, immigrants in families, and members of the public under DHS practices. These include:

i. **TVPRA violations against UCs.** When Congress passed the TVPRA, it recognized the extraordinary vulnerability of unaccompanied children to human trafficking and other forms of exploitation. The TVPRA created a legal process to minimize the risk that UCs return to or are placed into trafficking situations, in which children from non-contiguous countries must be transferred to the Office of Refugee Resettlement (ORR) within 72 hours by any other government agency. The claimed authority under Title 42 has denied UCs the due-process rights they are owed under TVPRA. Among other rights, TVPRA also provides legal orientation proceedings and access to counsel for UCs. The Central District has found that hotelling "denies them [UCs] adequate access to counsel" as required under the TVPRA, for UCs both with and without counsel.[23] OIG and CRCL must investigate and publicly disclose which rights for UCs were violated in the

[22] Order RE: Defendants' *Ex Parte* Application to Stay, September 21, https://youthlaw.org/wp-content/uploads/2020/07/990_Order-Denying-Govt-Ex-Parte-Application-to-Stay.pdf, page 2.

[23] Order RE: Defendants' Ex Parte Application to Stay, September 21, https://youthlaw.org/wp-content/uploads/2020/07/990_Order-Denying-Govt-Ex-Parte-Application-to-Stay.pdf, page 2fn1.

process of hotelling and Title 42 expulsions broadly, and which legal rights under TVPRA (if any) were retained during this process.

ii. ***Flores* violations against UCs.** No hotel in the United States is federally licensed to care for UCs. The *Flores* Settlement Agreement requires that UCs must be placed in federally licensed programs within 3 days or 72 hours when UCs are apprehended in states with federally licensed programs and 5 days when UCs are apprehended in other locations. Even in an "emergency," DHS must place UCs in federally licensed programs "as expeditiously as possible." The *Flores* Independent Monitor found that the median hotel stay was 4 days, meaning that more than 50% of the 660 UCs confirmed to have been hotelled were detained in violation of the stipulated time limitations in *Flores.*

The *Flores* Settlement Agreement enacts numerous standards of care beyond a maximum length of stay in detention and licensing requirements for care facilities. OIG and CRCL have good reason to believe that other *Flores* standards have been violated. Because the *Flores* Independent Monitor lacks full access to records and facilities, OIG and CRCL should investigate what practices required by *Flores* are not met under the practice of hotelling.

iii. **Title 42 violations against UCs.** The signers of this letter continue to assert that Title 42 expulsions are broadly unlawful. In addition, the signers of this letter continue to assert that Title 42 expulsions are bureaucratic evasions that deny UCs the protections clearly due to them in the TVPRA, *Flores* Settlement Agreement, and elsewhere. The *Flores* Court has held that DHS cannot exploit Title 42 to "evade its obligations" under the *Flores* Agreement and the TVPRA.[24] Irrespective of the legal status of Title 42 expulsions, the CDC Order under Title 42 requires that removals occur "as rapidly as possible, with as little time spent in congregate settings as practicable."[25] The *Flores* Independent Monitor has noted that "there does not appear to be any formal limit on the LOS [length of stay] in the THP and that even relatively young children can be held in the hotels for extended periods of time." The OIG and CRCL should investigate whether extended stays during hotelling comply with the government's own requirement in the Title 42 order that expulsions take place "as rapidly as possible, with as little time spent in congregate settings as practicable," regardless of the legality of the CDC order; and whether violation of the CDC order requires the government to provide remedies to children held without justification. Further, avoidance of congregate care is the sole public-health justification in the CDC order. The OIG

[24] Order RE: Plaintiffs' Motion to Enforce Settlement as to "Title 42" Class Members, September 4, https://youthlaw.org/wp-content/uploads/2020/07/976-Flores-Order-re-Hotel-MTE.pdf.

[25] https://www.federalregister.gov/documents/2020/03/26/2020-06327/notice-of-order-under-sections-362-and-365-of-the-public-health-service-act-suspending-introduction

and CRCL should also investigate whether hotelling qualifies in some instances as congregate care, for instance if unrelated children have been placed together.

iv. **Misconduct against members of the public, including the use of force.** OIG and CRCL have good cause to investigate whether DHS and/or MVM engaged in misconduct against members of the public. On July 23, attorney Andrew Udelsman attempted to contact children held in a Hampton Inn in McAllen, Texas. The Texas Civil Rights Project recorded the attempt.[26] On video, an unnamed individual—whom DHS later confirmed to be an MVM employee[27]—commits a battery against Udelsman to prevent him from accessing the floor on which children were being detained. After the incident, a DHS statement identified MVM contractors who carry out the THP as "non-law enforcement staff members trained to work with minors and to ensure that all aspects of the transport or stay are compliant."[28]

Use of force by government is strictly regulated under U.S. law and rarely devolved to non-deputized individuals. OIG and CRCL should investigate whether MVM and any other contractor has the legal authority to engage in use of force against members of the public, including but not limited to individuals who are attempting to contact UCs and others who have been subject to hotelling in order to provide legal representation or act as legal observers. If use of force is unauthorized but has been used, OIG and CRCL should report whether violations of federal law have occurred in the hotelling program, how often they may have occurred, by whom, and whether DHS oversight is sufficient to curtail violations of law.

(h) Consequences for agency and/or contractor misconduct. The above points, taken collectively, suggest that both DHS and its contractor(s) have taken actions that put children at risk of harm. Many actions by both DHS and its contractor(s) may also be unlawful. OIG and CRCL should investigate and disclose if DHS and/or its contractor(s) have violated protections in the TVPRA, *Flores* Settlement Agreement, the detention standards of the 2003 Prison Rape Elimination Act, and any DHS or subagency policy to prevent the sexual abuse and exploitation of minors.

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[26] See the videos posted to https://twitter.com/TXCivilRights/status/1286445319056654336?s=20 and https://twitter.com/TXCivilRights/status/1286445858180014081?s=20 on July 23, 2020.

[27] Valerie Gomez, "Special Report: Guatemalan teenager held in network of hotels, hidden from her own attorney," KRGV-TV, July 28, 2020, https://www.krgv.com/news/special-report-guatemalan-teenager-held-in-network-of-hotels-hidden-from-her-own-attorney/

[28] Nomaan Merchant and Evens Sanon, "US detaining more migrant children in hotels despite outcry," *Associated Press*, August 27, 2020, https://apnews.com/ae51966763a7d6ddf6a8a17d78cbc874 .

In the event of findings adverse to DHS, OIG and CRCL should further investigate and disclose the following. First, what specific actions DHS has taken and how the actions taken will prevent or deter future violations. Second, whether DHS has referred any actions taken by its employees or contractors to DHS to an investigative authority outside of DHS's purview and authority so that adjudication can be made impartially. Third, whether DHS has taken corrective action with the contractor(s), including but not limited to sanctions enforceable under federal law, the terms of the contract, or both. Fourth, whether DHS has sufficiently identified the individual or individuals responsible for violations, or, if violations are widespread, which units within DHS are responsible for violations. Fifth, whether DHS has reprimanded, sanctioned, or otherwise disciplined the individual or individuals responsible for violation of policy; or, if the responsible individuals are employees of contractors to the federal government, whether the contractor has reprimanded, sanctioned, or otherwise disciplined the individual or individuals responsible for violations.