

# COVINGTON

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## FOIA EXEMPT

**By Fedex Overnight Delivery**

August 28, 2019

Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Office of the General Counsel  
U.S. Department of Homeland Security  
245 Murray Lane, S.W.  
Mail Stop 0485  
Washington, DC 20528-0485

Office of the Principal Legal Advisor  
Immigration and Customs Enforcement  
500 12th Street, S.W.  
Washington, DC 20536

U.S. Customs and Border Protection  
Office of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, DC 20229

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

U.S. Customs and Border Protection  
Tucson Field Office  
4760 N. Oracle Road  
Suite 316  
Tucson, AZ 85705

**Re: Notice of Claims Under the Federal Tort Claims Act —  
[REDACTED], on behalf of himself and  
his minor daughter, [REDACTED]**

Counsel:

Enclosed please find administrative claims against the United States government filed pursuant to the Federal Tort Claims Act on behalf of [REDACTED] and his minor child, [REDACTED] (age 12). The enclosed claims consist of: (1) an executed claim authorization; (2) [REDACTED] birth certificate; and (3) SF-95 Forms completed on behalf of Mr. [REDACTED] and [REDACTED], including Attachment A thereto.

Covington & Burling LLP and the Southern Poverty Law Center represent Mr. [REDACTED] and his daughter in this matter. We are submitting these claims without the benefit of formal discovery. Claimants reserve the right to amend or supplement their claims.

Please be advised that this submission (including the attachments) contains information about the claimants that is private and confidential, including the claimants' names and address.

## COVINGTON

Such information is exempt from the public access provisions of the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). Should any U.S. government agency receive a request for disclosure related to these claims, we ask that the government: (1) notify the undersigned before responding to the requestor; and (2) redact any information, including but not limited to the claimants' names and address, that is exempt from disclosure under FOIA or any other applicable statute or regulation protecting the privacy of the claimants.

We look forward to discussing any proposals you may have for the prompt and fair resolution of these claims. Please feel free to contact us at any time.

Sincerely,



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Enclosures (Claim Authorization Form, Birth Certificate, SF-95 Forms, SF-95 Claim Attachment)

## ATTACHMENT A

### 1. Submit to Appropriate Federal Agency

Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Office of the General Counsel  
U.S. Department of Homeland Security  
245 Murray Lane, S.W.  
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Tucson Field Office  
4760 N. Oracle Road  
Suite 316  
Tucson, AZ 85705

### 2. Claimant's Personal Representative

Counsel: Matthew Schlesinger, Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, DC 20001-4956

Counsel: Michelle Lapointe, Southern Poverty Law Center, P.O. Box 1287, Decatur, GA 30031

### 6. Date and Day of Accident

J.D.G. and his daughter, M.G.G.L., were forcibly separated by agents of the U.S. Department of Homeland Security ("DHS") on or about May 25, 2018. M.G.G.L. was put into the custody of the U.S. Department of Health and Human Services ("HHS"), Office for Refugee Resettlement ("ORR"), while J.D.G. remained in DHS custody. J.D.G. and his daughter were not reunited until approximately July 22, 2018.

### 7. Time (A.M. or P.M.)

J.D.G. believes that he and his daughter were separated in the afternoon.

## 8. Basis of Claims

### A. **The Government Forcibly Separated J.D.G. from M.G.G.L.**

Between mid-2017 and late 2018, the United States government forcibly took thousands of children from their parents, sending them to facilities and foster homes hundreds of miles away. These families often had fled persecution in their home countries, only to encounter it in the very place they sought refuge. After being separated, children and their parents often were unable to communicate for weeks or months. Parents did not know whether their children were safe—or even where their children were. Children could not understand what had happened to them. The government tore apart families, subjecting children and parents to months of terror, anguish, and torment.

The government understood the harm that it was inflicting on these families. It took children from their parents not in spite of the harm, but *because* of it, intending that the terror inflicted on these families would deter other families from migrating to the United States.

J.D.G. and his then eleven-year old daughter, M.G.G.L., are among the families who were torn apart by the U.S. government. J.D.G. and M.G.G.L. suffered physical, mental, and emotional harm because of a multitude of unconstitutional, intentional, reckless, and negligent acts and omissions by a range of U.S. government actors, some of whom operate at the highest levels of the government, whose goal was to cause harm and instill fear and terror. Among other things, these federal actors unnecessarily and unreasonably separated J.D.G. from his daughter, employing excessive force and cruelty when doing so, and failed to exercise the basic care and decency that are the hallmarks of a civilized society.

J.D.G. and M.G.G.L. will carry the trauma of forcible separation with them for the rest of their lives. They seek redress from the government for the harm the government has caused them.

#### 1. J.D.G. and M.G.G.L. Seek Refuge in the United States.

J.D.G. and his eleven-year old daughter, M.G.G.L., arrived at the U.S.-Mexico border on or about May 19, 2018. They had left Guatemala because of targeted threats toward the family after J.D.G.'s niece was raped in their neighborhood. After J.D.G. confronted the alleged perpetrator, that person threatened his daughter, noting that she was “growing up.” J.D.G. became gravely concerned for his daughter’s safety. His concerns grew when M.G.G.L. told him that, while she was playing in front of her house, the same individual had stared at her and winked. J.D.G. was terrified that this individual would rape his daughter too. These concerns for his daughter’s safety led J.D.G. to make the difficult decision to travel to the United States to protect her.

2. J.D.G. and M.G.G.L. Are Taken into Custody by Customs and Border Protection (“CBP”).

Shortly after J.D.G. and M.G.G.L. entered the United States near San Luis, Arizona, with a group of families, three border patrol officers arrived. The officers sat them on the ground and wrote down their information, and then additional officers arrived. The officers hovered over J.D.G. and asked him for his and M.G.G.L.’s names, dates of birth, and why they had traveled to the United States. J.D.G. presented his Guatemalan identification card and M.G.G.L.’s birth certificate to the officers. One of the officers told J.D.G. that he would be deported as soon as possible, but then asked him if he wanted to talk to a judge, to which J.D.G. replied yes.

The officer then put everyone in the back of a truck and took them to a detention center. Worried about how M.G.G.L. was doing, he asked her how she was feeling, and M.G.G.L. replied, “I’m fine. As long as I’m with you, I’m protected.” J.D.G., on the other hand, felt far from fine. He was anxious and nervous because he didn’t know what would happen to them next.

J.D.G. and M.G.G.L. were taken to a detention facility nearby and put in the *hielera* or “icebox,” a term used by immigrants to describe holding cells because of their extremely cold temperatures. About 15 other adults and their children were in the icebox, and no one was allowed to leave. J.D.G. could see other cells through the door’s window, the only window in the cell, containing more children and their parents. As J.D.G. entered the icebox with M.G.G.L., he noticed that it had concrete floors and benches and there was no place to lie down, rest, or bathe. There were so many people crammed into the space that it was difficult to sit comfortably. The air was freezing cold. The detainees were not given pillows or mats for sleeping, no additional clothes or blankets for warmth, and the lights remained on all night long. The bathrooms and sinks were open and exposed to everyone in the room. Neither J.D.G. nor M.G.G.L. were allowed to bathe for the approximately 6 days they were together in the icebox. J.D.G. would go 3 or 4 more days without a bath after that. The only food they were given were Cup Noodle soups. The cups were filled with tepid water that only half cooked the noodles. The drinking water had a repugnant chlorine taste, and most detainees avoided drinking it.

More distressingly, J.D.G. and M.G.G.L. witnessed immigration agents forcibly separating families. J.D.G. saw agents grab children from their parents’ arms. J.D.G. cried when he saw the officers taking babies and small children from their parents, feeling that it “broke [his] soul.” M.G.G.L. began to get upset and worried that the same thing would happen to her and her father. There was a continuous cycle of people entering and leaving the iceboxes, with some people entering and having their child taken on the same day.

J.D.G. began to notice M.G.G.L.’s declining state. M.G.G.L. normally has a fair complexion and a rosy face. As the days went by in the icebox, M.G.G.L. became pale, and J.D.G. was worried that she was becoming dehydrated. She was not sleeping and was constantly cold. It had been a long time since they had a real meal. She became lethargic and despondent.

Claimant: J.D.G., on behalf of himself and his minor daughter, M.G.G.L.

A little girl in the same cell was experiencing a severe stomachache. The child's father tried to get a guard's attention to ask for help. J.D.G. also tried to get the guard to help, but the guard ignored him and the other father. The guard responded dismissively, stating that the facility was not a hospital. While J.D.G. helped the other father attend to the little girl, he looked over to M.G.G.L., who was sitting in a corner crying to herself. J.D.G. tried to be strong, but could not manage to summon the strength. He went over to M.G.G.L. and held her while they both cried. He felt utterly helpless and overwhelmed.

Seeing his child cry because she was suffering broke J.D.G.'s heart. He could not stand to see her suffering in the icebox. He feared that M.G.G.L. too would become seriously sick and denied medical attention. J.D.G. and M.G.G.L. had been in the icebox for almost a week, and with each passing day, M.G.G.L. was deteriorating. J.D.G. asked an officer when they would let them go. The officer said he did not know and expressed surprise that they had not taken M.G.G.L. from J.D.G. yet. A few hours later, two officers and a third person dressed in civilian clothes came to take M.G.G.L. The officers told J.D.G. that they were going to take M.G.G.L. to a "shelter." J.D.G. believed there was no other option for M.G.G.L. M.G.G.L. pleaded with J.D.G. that she didn't want to go and that she wanted to stay with him. M.G.G.L. was crying as J.D.G. hugged her. He did not want to let her go, but felt that he had no other choice. He had traveled a long distance to keep her safe, and he could not fathom losing her to dehydration, hypothermia, and illness in a concrete jail cell.

M.G.G.L. asked her father when she would see him again. J.D.G. told her that they would see each other soon. Still crying, M.G.G.L. walked out with the officers. J.D.G. genuinely believed that he would see his daughter soon. An officer had told him that the separation was temporary and that as soon as J.D.G. resolved his "situation," they would be reunited. He assured J.D.G. that M.G.G.L. would be okay. J.D.G. asked where they were taking her and how to contact her, but no one gave him any information. J.D.G. felt destroyed by the separation. He realized that he no longer had M.G.G.L. in his arms, but wanted to believe that wherever the officers were taking her, she would at least receive better care than in the icebox.

3. J.D.G. Pleads Desperately for His Daughter as He Is Transferred Among Several Detention Facilities. Receiving No Information, He Begins to Feel Suicidal.

While J.D.G. was still in the icebox, he asked several officers where his daughter was taken. The officers told him that they had taken M.G.G.L. because the icebox was not a place for children, they did not have any information about her, and did not know where she was. After spending a few additional days in the icebox after M.G.G.L. was taken from him, J.D.G. was transferred to what he believes was the Florence Detention Center outside of Phoenix, Arizona, where he spent a few days. Here, J.D.G. became severely ill with a fever and body ache. He felt as if his body was giving up on him. His emotional state was deteriorating. He was sad and in despair over his daughter. His pleas for medical attention were repeatedly denied. Despite his physical and mental state, J.D.G. inquired repeatedly about M.G.G.L. He was told that they could not give him any information and that he had to wait. At that moment, J.D.G. was in such deep despair that he considered taking his own life.

J.D.G.'s health worsened when he was placed on an airplane with other detainees and sent to Georgia. He was handcuffed with his hands chained to his waist and his ankles chained together. Throughout the flight, J.D.G. was coughing up blood, with no means to cover his mouth as his hands were shackled and chained to his waist. As soon as the detainees disembarked the plane after their cross-country flight, they were placed on buses headed to Stewart ICE Detention Center in Lumpkin, Georgia. J.D.G. recalls being chained for approximately 15 hours during the journey by plane and bus. The only food that J.D.G. and the other detained immigrants were given during this long and exhausting trip was bread, cheese, and one small cup of water. The men had to figure out on their own how to eat and drink, as their hands remained shackled to their waists, and the officers refused to unchain them. As soon as J.D.G. arrived at Stewart, he was placed in quarantine because medical staff there thought that he had rotavirus. He was coughing up substantial amounts of blood at this point. Debilitated by his illness and in deep distress over having been separated from his daughter, J.D.G. again felt that he did not want to live anymore. He thought death could not be worse than what he was going through at that moment. Medical staff began to provide him with pills for his condition, which he considered saving and then taking all at once to end his life. He soon realized that this plan would not work because the medical staff required him to open his mouth to confirm he had swallowed his pills.

This was the lowest moment in J.D.G.'s life. Before the separation from his daughter, he had never previously experienced suicidal thoughts. He believes that the only thing that gave him the strength to survive was his love for his family and M.G.G.L.

#### 4. In Despair, J.D.G. Relinquishes His Asylum Claim.

When J.D.G. was held in the icebox with M.G.G.L., J.D.G. remembers being interviewed by an immigration officer. The officer asked him several questions, including his name, home country, if he brought documents with him, and why he had traveled to the United States. J.D.G., despite his deteriorating health, recalls that he managed to tell the officer about his niece's rape and the threat that was made against him and M.G.G.L. The officer did not ask any follow up questions and barely acknowledged J.D.G.'s answers. J.D.G. felt that the officer was completely indifferent to his situation.

At Stewart, a different officer conducted a credible fear interview for J.D.G. over the phone. The person who interviewed J.D.G. told him that the asylum process could take several months, during which he would have to wait in detention. J.D.G. could not conceive of being separated from M.G.G.L. for that long. He decided to not proceed with his asylum claim and—believing it was the only way he could be reunited with his daughter—asked to be sent back to his country. At this point, J.D.G. still had no information on where M.G.G.L. was being held or how she was doing. He was particularly concerned about whether, after the unhealthy conditions in the icebox, she was able to start eating and sleeping again, and if the color had returned to her face. His primary concern was to do everything he could to get M.G.G.L. back as soon as possible, even if it meant being deported to Guatemala, where at least they could be together. At this point, J.D.G. pleaded with any official he came into contact with to send him back to Guatemala with his daughter.

5. J.D.G. Desperately Seeks Information About M.G.G.L. and Is Finally Able to Speak to Her After a Month of Separation.

While at Stewart, J.D.G. again inquired about his daughter's location. An officer informed him that he needed to know M.G.G.L.'s identification number in order to locate her. J.D.G. did not have any idea what that number was or how to obtain it. The officers with whom he had previously dealt had not provided him with any information or guidance on what he could do to locate his daughter. When he received funds in his commissary account from an outside deposit, he called his wife. She had been able to speak with M.G.G.L. This was a huge relief for J.D.G. The mere news that M.G.G.L. was alive and in the United States provided him a ray of hope, but he needed to know more. He needed to talk to M.G.G.L. himself and hear her say that she was okay. He needed to know where she was. J.D.G. felt anger and frustration that the United States government, which had taken M.G.G.L. into its custody, did nothing to help him connect with—or even locate—his daughter. When the officers had separated M.G.G.L. from him, they promised that she would be taken to a better place, but he had no way of knowing whether that was true. It was becoming clear that their assurances that he and his daughter would be reunited soon were false.

Over a month passed before J.D.G. was able to speak with his daughter. On or about June 25, 2018, an officer had called him to announce that he would be given an opportunity to talk to his daughter, albeit briefly. J.D.G. was given only a few minutes to speak to M.G.G.L. on the phone. During this short call, M.G.G.L. and J.D.G. both cried as they heard each other's voices for the first time since they were forcefully separated. M.G.G.L. asked J.D.G. when they would be leaving and when J.D.G. would see her. He did not know the answers but attempted to comfort his distressed daughter by telling her he would see her soon. M.G.G.L. told her father that she didn't want to be at the shelter, but would not elaborate. M.G.G.L.'s short answers to J.D.G.'s questions and how scared she sounded gave him the impression that M.G.G.L. was being monitored as she spoke with him. M.G.G.L. did express that other children at the shelter were bothering her. J.D.G. told her that she needed to report it to staff.

After Stewart, J.D.G. was again cuffed by the hands and ankles and taken to a different ICE detention center in Folkston, Georgia. At the detention center in Folkston, J.D.G. was asked to provide a DNA sample to prove that he was M.G.G.L.'s father. He told the officials that he had provided other officers with M.G.G.L.'s birth certificate and his government identification card, but the officials said they needed to confirm he was really the father. The officials warned J.D.G. that without the test, he would not get M.G.G.L. back. Although he felt it was an unnecessary invasion of privacy, J.D.G. agreed to the cheek swab so that he could get his daughter back.

Every day J.D.G. was in detention, he suffered in agony because he had very little knowledge of M.G.G.L.—and at the beginning, none whatsoever. During J.D.G.'s call with M.G.G.L., she sounded desperate, begging her father through tears to take her away from the shelter. Hearing M.G.G.L.'s pleas and recognizing his own powerlessness to end her suffering



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broke J.D.G. He felt that his only option was to ask the government to deport him and M.G.G.L. so that they could finally be together again.

The calls with M.G.G.L. were infrequent. J.D.G. tried to call his daughter on multiple occasions, but no one picked up the phone at the Southwest Key facility where she was being held. This deepened J.D.G.'s anxiety and concern for M.G.G.L.'s well-being. He felt that his calls were being ignored, and that when they did manage to speak, he could not get a full sense of how M.G.G.L. was doing.

He came to believe that he would never again see M.G.G.L. and that the government might put her up for adoption. He was in despair, and the officers' treatment of him in detention only made things worse. When J.D.G. was in Folkston, he and other separated fathers were given a sheet of paper to sign in English. Another detainee advised him not to sign the document. When officers presented J.D.G. with the document, he told them that he did not want to sign it and only wanted to see his daughter. But the officers told him that if he did not sign the document, he would never see his daughter again. Fearing that this threat was true, J.D.G. signed the document even though it was in a language he did not read or understand.

From Folkston, officers transferred J.D.G. for the fourth time, this time to a detention center in Texas. J.D.G. does not recall the name of the center. Again, he was handcuffed, chained to his waist and at the ankles from approximately 8 a.m. to midnight of the following day, a total of about 16 hours. Officers provided the detainees very little food and very little water during the transfer. J.D.G. was eventually transferred to another ICE detention center in Port Isabel, Texas.

#### 6. After Approximately Two Months Apart, J.D.G. and M.G.G.L. Are Reunified.

Late in the night on or about July 21, 2018, an officer at the detention center in Port Isabel ordered J.D.G. to gather his belongings and informed him that he was leaving. The officer did not tell J.D.G. where he was going. J.D.G. had seen other fathers released that same day and had heard that they were being reunified with their children. J.D.G. wanted to be hopeful but thought it was more likely that officers were merely transferring him to another detention center.

The officer took J.D.G. to a room and told him to sign several documents and that they were going to return his daughter to him. J.D.G. couldn't believe what he was hearing. He had every reason to doubt what the officer was telling him, but his excitement got the better of him. He signed several documents in English and Spanish, not fully understanding their contents, because all he could think about was holding M.G.G.L. and telling her how much he loved and missed her.

After signing the documents, J.D.G. and about five other detained fathers changed out of their uniforms and into street clothes. J.D.G. imagined that he would meet M.G.G.L. outside the detention center once he was released but to his surprise, he was led to a different section of the detention center. As the fathers were escorted to this section, an officer whispered to J.D.G. that his daughter was waiting inside. J.D.G. felt the happiest he had been in a very long time.

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The children had been gathered in a waiting room. The fathers were led inside. J.D.G. and M.G.G.L. immediately spotted each other and were both overjoyed. M.G.G.L. ran towards J.D.G. and they hugged and cried together. J.D.G. had thought he was never going to see his daughter again. Before J.D.G. could manage to say anything to her, M.G.G.L. asked him if he had missed her. He told her he had, that he had missed her a lot. After their embrace, M.G.G.L. looked at J.D.G. and immediately asked him where they were going next. She was anxious to leave.

7. J.D.G. and M.G.G.L. Remain Traumatized After Being Reunited.

J.D.G. learned that M.G.G.L. had been held at the Southwest Key Nueva Esperanza facility in Brownsville, Texas, a privately-contracted facility for children in ORR custody. He also learned that in late July 2018, M.G.G.L. reported to shelter staff that four minors were bullying and harassing her. ORR records show that staff removed a minor from M.G.G.L.'s dorm room after this report.

Soon after reunification, J.D.G. noticed changes in M.G.G.L. She wasn't the same child she had been before the separation. She was not eating. She insisted on being with J.D.G. at all times. If he needed to run an errand, she would go with him. If he was in the living room or outside the house, she would follow him. He noted that she seemed sad, distracted, and unable to focus when he spoke to her. She avoided interactions with others and kept to herself. M.G.G.L. was not like this before the separation.

J.D.G. also noted that M.G.G.L. had become combative and even rebellious. Sometimes when M.G.G.L. is asked to help with chores, she becomes suddenly angry and defensive. Before the separation, M.G.G.L. was an obedient child who rarely protested when her elders told her to do something. J.D.G. believes that M.G.G.L.'s time at the shelter caused her to become defensive, because there, she was alone and had no one to look out for her. Other children bullied her there, and if she didn't speak up, she would continue to be victimized.

J.D.G. knows that his daughter suffered a great deal and experienced things no 11-year-old child ever should. He hopes that one day the same girl who left Guatemala with him truly returns to him. Until then, he remains patient with her, telling her how much he loves her every chance he gets.

As for J.D.G., he has never felt more devastated than he did when he was separated from M.G.G.L. J.D.G. never imagined that his daughter would be forcibly taken from him. The entire experience fills him with sadness, especially for his daughter.

This ordeal has had a massive impact on J.D.G.'s mental and physical well-being. He struggles with feelings of guilt and recounting the details of the separation makes him feel depressed and experience extreme headaches. His self-esteem was destroyed due to the powerlessness he felt during the months he was locked in a cage, chained, and completely incapable of doing anything to protect his daughter. He constantly has nightmares of his daughter being taken away and has trouble sleeping. He is haunted by his memories of officers yanking

crying babies from their parents. He remains in fear that the government will find a way to separate him from his daughter again.

### **B. The Government Illegally Separated Families for the Purpose of Deterring Future Migrants.**

Since 2017, the Administration has taken thousands of children from their parents, intending to cause terror, anguish and harm, and to use that cruelty to deter future migrants from seeking to enter the United States. Both the practice of separating families itself, and its implementation, violate the Constitution, the law, and basic human decency.

The many harms that the Administration inflicted on J.D.G. and M.G.G.L., as described in Section A, were not only foreseeable, but intentional. Forcible parent-child separations have long been known to cause significant short- and long-term damage to mental, physical, and emotional health. Knowing this, and indeed because of this, the government cruelly separated J.D.G. and M.G.G.L. and others like them for the purpose of deterring future migrants from entering the United States. It made the harm far worse by implementing a policy with carelessness and callous disregard for the physical safety and emotional well-being of J.D.G. and M.G.G.L. Administration officials have yet to acknowledge or accept any responsibility for the harms they caused. For all of these reasons, J.D.G. and M.G.G.L. seek relief through these claims.

#### 1. The Government's Forcible Separation of Families Violated the Constitution, the Law, and Norms of Basic Human Decency.

The government's policy of separating families who, like J.D.G. and M.G.G.L., sought to enter the United States through the U.S. southern border in 2017 and 2018 deliberately violated the constitutional rights of those separated, including the right to family integrity. For decades, this nation's highest court has recognized the fundamental right to family integrity protected by the Constitution: "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."<sup>1</sup> These constitutional protections extend to citizens and non-citizens alike, even when confined by the government.<sup>2</sup>

In the name of deterrence, the government indiscriminately tore immigrant children from their parents, sent the children thousands of miles away, refused to inform parents and children of each other's whereabouts or well-being, refused to provide adequate means for parents and children to talk with each other, and failed to have any system for tracking the children or ensuring that families could ever be reunited.

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<sup>1</sup> *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

<sup>2</sup> *Jacinto-Castanon de Nolasco v. U.S. Immigration & Customs Enft*, 319 F. Supp. 3d 491, 500 (D.D.C. 2018) ("The fact that [families are] lawfully detained in immigration custody does not eliminate [their] due process right to family integrity.").

As Judge Sabraw concluded in *Ms. L. v. U.S. Immigration and Customs Enforcement*, the government's actions "shock[] the conscience."<sup>3</sup> The *Jacinto-Castanon de Nolasco* court further stated that "nothing in federal law suggests that deterring immigration by indefinitely separating families once the parents have been transferred to immigration custody is a compelling or legitimate government objective."<sup>4</sup> Both the policy itself and its callous implementation violate the Constitution, the law, and norms of human decency.

## 2. Forcibly Separating Families Causes Irreparable Harm to Children and Parents.

Keeping parents separated from their children with "little or no direct access to basic information about their health or general well-being, *plainly causes irreparable harm.*"<sup>5</sup> Children attach to their caregiver from the time they are born, and the children's sense of safety "depends on that relationship."<sup>6</sup> Disrupting that relationship causes "the parts of the brain that deal with attachment and fear" to "develop differently."<sup>7</sup>

It is not surprising, then, that "[s]eparation irreparably harms [families] every minute it persists."<sup>8</sup> This finding of the *Jacinto-Castanon de Nolasco* court is firmly anchored in scientific studies and literature. As an expert physician testified to Congress, "[a] *century of countless studies* across the behavioral and social sciences provide *extensive evidence* of the consequences of separating children from their parents, especially if that separation is unexpected, abrupt, or in a frightening context."<sup>9</sup> For example, research into World War II separations shows "documented far reaching effects of these separations into adulthood, including increased risk for mental health problems, poor social functioning, insecure attachment, disrupted stress reactivity, and mortality."<sup>10</sup>

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<sup>3</sup> 310 F. Supp. 3d 1133, 1142 (S.D. Cal. 2018).

<sup>4</sup> *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 502.

<sup>5</sup> *Id.* (emphasis added).

<sup>6</sup> William Wan, *What Separation from Parents Does to Children: 'The Effect is Catastrophic'*, WASH. POST (June 18, 2018), <http://tinyurl.com/yxf6en34>.

<sup>7</sup> *Id.*

<sup>8</sup> *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 503.

<sup>9</sup> *Examining the Failures of the Trump Administration's Inhumane Family Separation Policy: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce*, 116th Cong. 1 (2019) [hereinafter *Oversight & Investigations Hearing*] (testimony of Jack P. Shonkoff, M.D., Director, Center on the Developing Child at Harvard University) (emphasis added).

<sup>10</sup> Johayra Bouza et. al., *The Science is Clear: Separating Families has Long-term Damaging Psychological and Health Consequences for Children, Families, and Communities*, Soc'y for Res. in Child Dev. Statement of the Evid., June 20, 2018, <https://tinyurl.com/y4oc2uk9>; see also, e.g., Wan, *supra* note 6 (describing the psychological and physiological responses that "wreak[] dramatic and long-term damage" on children who are forcibly separated from their parents).

The American Academy of Pediatrics (“AAP”) explained the effects of separation on children: “[H]ighly stressful experiences, like family separation, can . . . disrupt[] a child’s brain architecture and affect[] his or her short- and long-term health. This type of prolonged exposure to serious stress — known as toxic stress — can carry lifelong consequences for children.”<sup>11</sup> Children who experience trauma like forced separation from a parent “are at a much greater risk of developing mental health disorders such as depression, anxiety, addiction, ADHD and PTSD. Their physical health is also negatively affected.”<sup>12</sup> The materials cited here barely scratch the surface of the wealth of expert material describing the harms caused by family separation. Given the “extensive evidence,” the irreparable harm caused by forcibly separating parents and children is indisputable.<sup>13</sup>

3. The Government Knew of the Harm It Would Cause by Tearing Children from Their Parents at the Border.

Moreover, the federal government knew of the harm caused by separating children from their parents long before it began separating families like J.D.G. and M.G.G.L. Evidence of that is plentiful, both in internal agency comments and in the government’s reaction to the public outcry against the policy when it was initially proposed in 2017. For example:

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<sup>11</sup> *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d at 503 (quoting Colleen Kraft, Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Children and Parents at the Border (May 8, 2018), <https://tinyurl.com/ycr3rjqh>); see also Brittny Mejia, *A 3-Year-Old was Separated from his Father at the Border. Now His Parents are Dealing with His Trauma*, L.A. TIMES (July 3, 2018), <https://tinyurl.com/y79ra9un> (“A child taken from a parent is flooded with anxiety, which quickly turns into panic. . . . Children’s bodies and brains, ‘are absolutely not built to withstand that level of stress.’” (quoting child psychiatrist Dr. Amy Cohen)); Allison Abrams, LCSW-R, *Damage of Separating Families: The Psychological Effects on Children*, PSYCHOL. TODAY (June 22, 2018), <http://tinyurl.com/y844pqsk> (Because a child’s “secure attachment comes from the child’s perceptions of his or her caregiver’s availability (physical accessibility) . . . separations as brief as one week in duration could negatively impact the quality of attachments.”); *id.* (Children who are separated from a parent “develop insecure/disorganized attachment and persisting high levels of stress.”) (quotations omitted).

<sup>12</sup> Abrams, *supra* note 11; see also Sarah Reinstein, *Family Separations and the Intergenerational Transmission of Trauma*, CLINICAL PSYCHIATRY NEWS (July 9, 2018), <https://tinyurl.com/y3h7asek> (“[C]hildhood trauma is associated with emotional dysregulation, aggression against self and others, difficulties in attention and dissociation, medical problems, and difficulty with navigating adult interpersonal relationships.”); *Oversight & Investigations Hearing*, *supra* note 9 (testimony of Cristina Muñoz de la Peña, Ph.D, Terra Firma Mental Health Director, Center for Child Health and Resiliency, on behalf of the American Psychological Association, at 4) (“Sudden and unexpected family separation is also associated with stress and emotional trauma for children, housing instability, food insecurity, interrupted schooling, and behavioral/emotional responses such as fear, anxiety, aggression and changes to sleep and appetite. Parental separation can have a long-term negative impact on children into adulthood.”).

<sup>13</sup> Moreover, here, the harm caused by the forced separation of the children from their parents was compounded by the harm caused by the resultant detention of the children. See, e.g., Julie M. Linton et al., *Detention of Immigrant Children*, 139 PEDIATRICS e20170483 (2017), <https://tinyurl.com/yc3sco99> (AAP Policy Statement noting that studies of detained unaccompanied minors in the United States found “high rates of posttraumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems” and that the AAP has found “no evidence indicating that any time in detention is safe for children” (emphasis added)).

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- In 2016, the U.S. Department of Homeland Security’s (“DHS”) Advisory Committee on Family Residential Centers concluded that “the separation of families for purposes of immigration enforcement or management, or detention is *never* in the best interest of children.”<sup>14</sup>
- In February 2017, having noticed a marked uptick in young children separated from parents at the border, a high-ranking HHS official expressed his concerns about the harms of family separation directly to then-ORR director Scott Lloyd and other top officials.<sup>15</sup> This same official has testified before Congress that because “[s]eparating children poses significant risk of traumatic psychological injury to the child, . . . neither he nor anyone he worked with ‘would ever have supported such a policy.’”<sup>16</sup>
- In March 2017, when senior officials at DHS told the press that the agency was considering a deterrence policy of separating migrant parents and children at the border,<sup>17</sup> the announcement was met with an immediate wave of warnings from the medical community. The AAP, among others, warned that such a policy would affect “vulnerable, scared children” and urged policymakers to “exercise caution to ensure that the emotional and physical stress children experience as they seek refuge in the United States is not exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers.”<sup>18</sup>

When confronted by public backlash to the then-proposed family separation policy, DHS Secretary John Kelly, who had initially confirmed DHS’s plans to pursue family separation, changed course, assuring the Senate Committee on Homeland Security and Governmental Affairs in April 2017 that children would be separated from their mothers only “if the child’s life is in danger” or if the mother was addicted to drugs,<sup>19</sup> rather than as a matter of due course for families arriving at or crossing the border.

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<sup>14</sup> U.S. IMMIGRATION & CUSTOMS ENF’T, DEP’T OF HOMELAND SEC., REPORT OF THE DHS ADVISORY COMMITTEE ON FAMILY RESIDENTIAL CENTERS 2 (2016) (emphasis added), <https://tinyurl.com/y5o9d2wc>.

<sup>15</sup> *Oversight & Investigations Hearing*, *supra* note 9 (testimony of Commander Jonathan White, U.S. Public Health Service Commissioned Corps, U.S. Department of Health and Human Services) *see Migrant Family Separation Policy: Hearing Before the H. Judiciary Comm.*, 116th Cong. 1:11 (2019), <https://tinyurl.com/yxo3sqa>.

<sup>16</sup> Colleen Long, *Official Who Oversaw Migrant Kids: Separation Causes Trauma*, AP NEWS (Feb. 7, 2019), <https://tinyurl.com/y59zw9xo> (quoting testimony of Commander Jonathan White, U.S. Public Health Service Commissioned Corps).

<sup>17</sup> Julia Edwards Ainsley, *Exclusive: Trump Administration Considering Separating Women, Children at Mexico Border*, REUTERS (Mar. 3, 2017), <http://tinyurl.com/y6qpmrpu>.

<sup>18</sup> Fernando Stein & Karen Remley, *Am. Acad. of Pediatrics, AAP Statement Opposing Separation of Mothers and Children at the Border* (Mar. 4, 2017), <http://tinyurl.com/jzeburx>.

<sup>19</sup> Brooke Singman, *Kelly Says Full-scale Border Wall ‘Unlikely,’ Clarifies Position on Family Detentions*, FOX NEWS (Apr. 5, 2017), <https://tinyurl.com/y425hlq6>.

Given the Administration's own internal comments and the government's response to the many public warnings opposing a family separation policy, there is no question that the Administration was well aware of the harms family separation would cause — before it began separating families in mid-2017.

4. Knowing the Harm, the Government Forcibly Separated Families for the Purpose of Deterring Future Migrants.

Despite Secretary Kelly's public assurance that families crossing the border would be separated only in specific circumstances for the welfare of the child, in 2017 the Administration began indiscriminately separating families who crossed the southern U.S. border. It did so knowing the separations would cause harm and intending to leverage that harm to deter future immigrants from seeking to enter the United States.

The roots of the federal government's practice of separating families include a family separation pilot program instituted in the U.S. Border Patrol's El Paso sector between July and October 2017.<sup>20</sup> Under the program, the government purportedly targeted for criminal prosecution parents who unlawfully crossed the border into the United States with young children. It detained parents as criminals, and forcibly took their children away from them. CBP placed the children in the custody of the ORR, which dispersed the children into institutionalized settings and foster homes throughout the country.

The federal government's policy and practice of separating families at the border culminated in the U.S. Attorney General's announcement, on April 6, 2018, of a "Zero Tolerance Policy." The Zero Tolerance Policy "fundamentally changed DHS' approach to immigration enforcement," which, until 2017, did not separate a child from an accompanying adult except in very limited circumstances, such as where CBP determined that the adult was not the child's parent or guardian or the adult posed a danger to the child.<sup>21</sup> Several aspects of the U.S. Government's policy and practice of separating families in 2017 and 2018 reveal that its goal was to deter future immigrants from seeking entry to the United States by harming families through forcible separation.

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<sup>20</sup> OFF. OF INSPECTOR GEN., U.S. DEP'T OF HEALTH AND HUMAN SERVS., OEI-BL-18-00511, SEPARATED CHILDREN PLACED IN OFFICE OF REFUGEE RESETTLEMENT CARE 3 (2019), available at <https://oig.hhs.gov/oei/reports/oei-BL-18-00511.pdf> [hereinafter HHS OIG REPORT] ("From July through November 2017, the El Paso sector of Customs and Border Protection (CBP), an agency within DHS, implemented new policies that resulted in 281 individuals in families being separated."); see also Lisa Riordan Seville & Hannah Rappleye, *Trump Admin Ran 'Pilot Program' for Separating Migrant Families in 2017*, NBC NEWS (June 29, 2018), <https://tinyurl.com/y7sk25mv>; Katherine Hawkins, *Where Family Separation Began: A Case in El Paso Shows Flores is the Solution, Not the Problem*, JUST SECURITY (June 22, 2018), <https://tinyurl.com/y3zpdkdl>.

<sup>21</sup> See, e.g., OFF. OF INSPECTOR GEN., U.S. DEP'T OF HOMELAND SEC., OIG-18-84, SPECIAL REVIEW - INITIAL OBSERVATIONS REGARDING FAMILY SEPARATION ISSUES UNDER THE ZERO TOLERANCE POLICY 3 (2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf> [hereinafter DHS OIG REPORT].

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For example, a December 2017 internal DHS memo confirms that “prosecution of family units” and “separat[ion] [of] family units” (as well as the publicity that would accompany such actions) were viewed as differing pathways to deterring future migration.<sup>22</sup> Despite the “official” federal government policy of “not referring for prosecutions families or individuals arriving at ports of entry or attempting to enter the country through legal means,”<sup>23</sup> many families lawfully crossed the border and yet were separated anyway.<sup>24</sup>

Moreover, while the Zero Tolerance Policy was in effect, CBP limited the number of asylum seekers permitted to lawfully cross the border at ports of entry each day.<sup>25</sup> This drove many families who had fled their home countries in fear “to take other routes into the country, at which point they were prosecuted and had their children taken from them.”<sup>26</sup>

A DHS directive, issued on June 23, 2018, suggested that once families were separated, only parents who were subject to removal would be reunited with their children, and only “for the purposes of removal.”<sup>27</sup> This directive imposed a “Hobson’s choice” on parents, like J.D.G., who had to choose between the hope of seeing their children again or continuing to seek asylum in the United States. The Administration would not allow them to do both.

All of this evidence shows that the government intentionally inflicted the severe harm caused by forcible separation on families, like J.D.G. and M.G.G.L., who crossed the U.S. border. The government did so to deter future immigrants from coming to the United States.<sup>28</sup>

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<sup>22</sup> Policy Options to Respond to Border Surge of Illegal Immigration, <https://assets.documentcloud.org/documents/5688664/Merkleydocs2.pdf>; see Anne Flaherty & Quinn Owen, *Leaked Memo Shows Trump Administration Weighed Separating Families at Border, Sen. Merkley Wants Nielsen Investigated for Perjury*, ABC NEWS (Jan. 18, 2019), <https://tinyurl.com/y48npsbe>.

<sup>23</sup> *Myth vs. Fact: DHS Zero-Tolerance Policy*, U.S. DEP’T OF HOMELAND SEC. (June 18, 2018), <https://www.dhs.gov/news/2018/06/18/myth-vs-fact-dhs-zero-tolerance-policy>; see also Jeff Sessions, Attorney General, U.S. Dep’t of Justice, Attorney General Sessions Addresses Recent Criticisms of Zero Tolerance By Church Leaders (June 14, 2018) (prepared remarks available at <https://www.justice.gov/opa/speech/attorney-general-sessions-addresses-recent-criticisms-zero-tolerance-church-leaders>) (“[I]f the adults go to one of our many ports of entry to claim asylum, they are not prosecuted and the family stays intact pending the legal process.”).

<sup>24</sup> See *Ms. L.*, 310 F. Supp. 3d at 1143 (“[T]he practice of family separation was occurring before the zero tolerance policy was announced, and that practice has resulted in the casual, if not deliberate, separation of families that lawfully present at the port of entry, not just those who cross into the country illegally.”).

<sup>25</sup> See DHS OIG REPORT, *supra* note 21, at 5-7.

<sup>26</sup> Evan Halper, *Federal Investigators Find Many Failures in Trump’s Family Separation Policy*, L.A. TIMES (Oct. 2, 2018), <https://tinyurl.com/y2srdo9q>; see also DHS OIG REPORT, *supra* note 21, at 5-7.

<sup>27</sup> *Fact Sheet: Zero-Tolerance Prosecution and Family Reunification*, U.S. DEP’T OF HOMELAND SEC. (June 23, 2018), <https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification>.

<sup>28</sup> Philip Bump, *Here Are the Administration Officials Who Have Said That Family Separation Is Meant as a Deterrent*, WASH. POST (June 19, 2018), <https://tinyurl.com/y5kcxv18>; Rafael Bernal, *HHS Official Says Family Separation Policy Will Have ‘Deterrence Effect’*, THE HILL (June 19, 2018), <https://tinyurl.com/y69w9b3r>.



5. The Government's Deliberate Lack of Planning Intensified the Harms, Prolonging Separation and Delaying Reunification.

The Administration then multiplied the harm it intended to cause by the shocking carelessness with which it implemented its policy and practice of separating families. Among other things, a deliberate lack of planning resulted in the Administration failing to adequately track separated families, failing to communicate with parents about their children's welfare, and failing to take care to comply with child welfare standards, all of which compounded the harms already inflicted on families who had been forcibly separated.

*Failure to adequately track separations.* Despite the fact that tracking whether a child had been separated from his or her parent merely required adding a checkbox to an ORR / DHS referral page,<sup>29</sup> these two agencies primarily responsible for implementing the policy instituted no "consistent way to indicate in their data systems children and parents separated at the border" until at least the summer of 2018.<sup>30</sup> The most staggering result of this failure was that the Administration had no ready records of where thousands of parents' children were located and could not promptly reunite parents and children,<sup>31</sup> even when ordered to do so by a U.S. District Court.<sup>32</sup> The Administration's failure to track separated children meant that, immediately after being separated from their parents, many children were held in CBP short-term detention facilities for longer than the 72-hour period permissible under federal law,<sup>33</sup> in some cases for as long as 25 days,<sup>34</sup> before being transferred to ORR custody.

*Failure to communicate with parents about children's whereabouts and safety.* After separation, parents and children often did not know each other's whereabouts for weeks or months. When the children were taken, "officers often failed to fully explain to parents what was

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<sup>29</sup> *Oversight of the Trump Administration's Family Separation Policy: Hearing Before the H. Comm. on the Judiciary* (Feb. 26, 2019) (statement of Scott Lloyd, Senior Advisor, Center for Faith and Opportunity Initiatives, U.S. Department of Health and Human Services, at 4), <https://docs.house.gov/meetings/JU/JU00/20190226/108872/HHRG-116-JU00-Wstate-LloydS-20190226.pdf>.

<sup>30</sup> GOV'T ACCOUNTABILITY OFFICE, UNACCOMPANIED CHILDREN: AGENCY EFFORTS TO IDENTIFY AND REUNIFY CHILDREN SEPARATED FROM PARENTS AT THE BORDER, *Highlights*; *see also id.* at 16-18.

<sup>31</sup> DHS OIG REPORT, *supra* note 21, at 9-11; *see* Kevin Sieff, *The Chaotic Effort to Reunite Immigrant Parents with their Separated Kids*, WASH. POST (June 21, 2018), <https://tinyurl.com/y4wpora7>; Miriam Jordan, *Torn Apart by Zero Tolerance, Kept Apart by Red Tape*, N.Y. TIMES (June 24, 2018), <https://tinyurl.com/y9t2mnyt>.

<sup>32</sup> *See* Halper, *supra* note 26. These circumstances led the court to conclude that the "unfortunate reality" of the family separation policy was that "migrant children [were] not accounted for with the same efficiency and accuracy as property." *Ms. L.*, 310 F. Supp. 3d at 1144 (emphasis in original).

<sup>33</sup> Trafficking Victims Protection Reauthorization Act, 8 U.S.C.A. § 1232(b)(3); *see* SARAH HERMAN PECK & BEN HARRINGTON, CONGRESSIONAL RESEARCH SERVICE, THE "FLORES SETTLEMENT" AND ALIEN FAMILIES APPREHENDED AT THE U.S. BORDER: FREQUENTLY ASKED QUESTIONS, at 5 (Sep. 17, 2018), <https://fas.org/sgp/crs/homesecc/R45297.pdf>.

<sup>34</sup> DHS OIG REPORT, *supra* note 21, at 8.

happening and how the adults could get in touch with their kids.”<sup>35</sup> The government failed to provide parents with any “paperwork” documenting the location or well-being of their children, or to enable communication between parents and their separated children.<sup>36</sup> One Texas federal district court observed that “[t]he practical effect” of these failures was “to create a ‘blackout’ period where parent and child are wholly incommunicado from each other.”<sup>37</sup> And even if parents found out where their children were and a correct phone number for that location, phone calls were logistically difficult and expensive to make, severely limiting the few precious minutes that parents and children could hear each other’s voices.<sup>38</sup> The anguish of not knowing for months where their family members were or how they were doing, and then not being able to spend meaningful time talking once they made contact, further exacerbated the anguish and harm parents and children suffered from being torn apart.

*Child welfare standards ignored in the rush to expand detention capacity.* ORR was completely unprepared and unable to properly care for the thousands of vulnerable children referred to its custody by DHS. The shortcuts approved by high-level government officials and implemented by rank-and-file agents and contractors to try to deal with the influx of children led to a shocking series of abuses of children. For example, the rush to set up make-shift facilities resulted in one facility hiring over one thousand staff members without conducting FBI background fingerprint checks and having a “dangerously low number of clinicians serving children” at that facility.<sup>39</sup> A spokeswoman for the HHS’s Inspector General’s Office stated that these deficiencies posed “serious safety and health vulnerabilities.”<sup>40</sup> At one detention center, a staff member was drunk while he was involved with care for separated children.<sup>41</sup> The Justice Department has received reports of unwanted sexual touching, staff members having sexual relationships with children detainees, and staff members showing children pornographic videos.<sup>42</sup> In addition to the pervasive sexual abuse of detained children, there are reports of widespread denial of medical care, including for a burn injury, a broken wrist, and a sexually

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<sup>35</sup> Halper, *supra* note 26.

<sup>36</sup> See *United States v. Dominguez-Portillo*, No. EP-17-MJ-4409-MAT, 2018 WL 315759, at \*1-\*2, \*9 (W.D. Tex. Jan. 5, 2018).

<sup>37</sup> *Id.* at \*9.

<sup>38</sup> See Halper, *supra* note 26; Jordan, *supra* note 32; Jack Herrera, *A New Report Reveals How Family Separation Led Border Officials to Break the Law*, PACIFIC STANDARD (Oct. 4, 2018), <https://tinyurl.com/y7x44kz6>.

<sup>39</sup> Daniella Silva, *Trump Administration Waived Strict Background Checks for Staff at Migrant Child Detention Camp*, NBC NEWS (Nov. 27, 2018), <http://tinyurl.com/y4asqmw7>.

<sup>40</sup> *Id.*

<sup>41</sup> Aura Bogado et al., *Separated Migrant Children Are Headed Toward Shelters that Have a History of Abuse and Neglect*, TEX. TRIB. (June 20, 2018), <https://tinyurl.com/ydyl6wvb>.

<sup>42</sup> *Id.* From 2014 to 2018, HHS received more than 4,500 complaints of sexual abuse against unaccompanied minors, often involving staff. Sophie Tatum, *HHS Docs Show Thousands of Alleged Incidents of Sexual Abuse Against Unaccompanied Minors in Custody*, CNN (Feb. 26, 2019), <https://tinyurl.com/y65zrqql>.

transmitted disease.<sup>43</sup> In another reported case, staff gave a child medicine to which she was allergic despite warnings on the child's medical bracelet.<sup>44</sup>

The Administration's express intent to inflict the trauma of family separation as a deterrent — followed by its failures to track children, tell their parents anything about their whereabouts and well-being, and provide them with safe and appropriate care — evidence at best a callous disregard for the anguish of separated parents and children, and at worst an intent to increase their suffering to maximize the deterrent effect of the family separation policy.

**10. State the Nature and Extent of Each Injury or Cause of Death, Which Forms the Basis of the Claim. If Other Than Claimant, State the Name of the Injured Person or Decedent.**

The federal government deliberately violated J.D.G.'s and M.G.G.L.'s constitutional rights, including their right to family integrity, and failed in its basic duties not to harm those in its custody. The government's actions and failures were designed to and did cause J.D.G. and M.G.G.L. severe trauma and emotional distress.<sup>45</sup>

The government knew that forcibly taking M.G.G.L. from J.D.G. would fill them with terror, desperation, and anguish. It purposefully inflicted that trauma on J.D.G. and M.G.G.L. to instill fear in others. It then compounded that trauma by, among other things, keeping J.D.G. and M.G.G.L. apart for a total of approximately 60 days, without telling them anything about the other's whereabouts or well-being, without allowing them even to speak to one another for over a month, and without any plan for reuniting them. As a result of the government's actions and failures, both J.D.G. and M.G.G.L. continue to suffer from the effects of the separation.

J.D.G. and M.G.G.L. will carry the harm done to them for the rest of their lives. The government's conduct here is unconscionable, and it cannot be excused in a civilized society.

**11. Witnesses**

[REDACTED]

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<sup>43</sup> Bogado et al., *supra* note 42; see also Shefali Luthra & Marisa Taylor, *Immigrant Families Placed in Detention Centers Face Health Care Challenges*, WASH. POST (July 2, 2018), <http://tinyurl.com/y5ezbqk3>.

<sup>44</sup> Bogado et al., *supra* note 42.

<sup>45</sup> Among other causes of action, the facts related herein support claims for infliction of emotional distress (whether intentional or negligent), interference with the parent-child relationship, fraud, negligence, battery and/or assault, false imprisonment, and violations of the Fourth and Fifth Amendments to the United States Constitution.

Attachment A to Standard Form 95

Claimant: J.D.G., on behalf of himself and his minor daughter, M.G.G.L.

**13b. Phone Number of Person Signing the Form**

Matthew Schlesinger, Covington & Burling LLP, (202) 662-5581.

Michelle L. Lapointe, Southern Poverty Law Center, (404) 521-6700.