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TASK FORCE

The Donald C. Hellmann Task Force Program

Hidden in Hotels: Family Separation and Migrant Detention in Washington State

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Hidden In Hotels: Family Separation and Migrant Detention in Washington State

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1. Glossary

1951 Convention Relating to the Status of Refugees (Convention): One of two primary international legal instruments that provide for the protection of the world's refugees. The UNHCR serves as the "guardian" of this document. The cornerstone of the 1951 Convention is the principle of non-refoulement contained in Article 33. According to this principle, a refugee should not be returned to a country where he or she faces serious threats to his or her life or freedom.

1967 Protocol Relating to the Status of Refugees (Protocol): One of two primary international legal instruments that provide for the protection of the world's refugees. The UNHCR serves as the "guardian" of this document. The 1967 Protocol broadens the applicability of the 1951 Convention, removing geographical and time limits part of the original 1951 Convention.

Asylum-Seeker: An asylum-seeker is an individual that is seeking international protection from their country of residence, and requests for sanctuary in another country. In the United States, asylum-seekers must meet the definition of a refugee and either (a) be present in the United States or (b) be seeking entrance at a U.S. port of entry.

Bag and Baggage: A "Bag and Baggage" designation is given to individuals illegally present in the United States who are not in detention, yet have a legal duty to report for removal as directed. This designation demands that you report to a local ICE facility at a particular time and date for deportation.

Customs and Border Patrol (CBP): The mobile, uniformed law enforcement arm of the U.S. Customs and Border Protection (CBP) within the Department of Homeland Security (DHS).

Convention on the Rights of the Child (CRC): An international human rights treaty adopted by the United Nations in 1989 that sets out the civil, political, economic, social, and cultural rights of children. Under the terms of the convention, governments are required to meet children's basic needs and help them reach their full potential. The United States, alongside Somalia and South Sudan, are the only countries that have not ratified the CRC.

Department of Homeland Security (DHS): The executive division of the U.S. federal government responsible for national security. The DHS was established in response to the terrorist attacks of September 11, 2001, and became operational in 2003. It assumes control over several agencies responsible for domestic security and emergency preparedness, including Customs and Border Patrol (CBP), the Federal Emergency Management Agency (FEMA), the Transportation Security Administration (TSA), the Secret Service, and the Coast Guard.

Department of Justice (DOJ): The Department of Justice is the federal government agency responsible for enforcing laws and administering justice across the United States.

Enforcement and Removal Operations (ERO): A sub-agency of U.S. Immigration and Customs Enforcement that manages all aspects of the immigration enforcement process, including identification and arrest, domestic transportation, detention, bond management, and supervised release, including alternatives to detention.

Executive Office for Immigration Review (EOIR): A sub-agency of the United States Department of Justice whose chief function is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.

Expedited Removal: A procedure that allows U.S. Customs and Border Protection (CBP) officials to rapidly deport noncitizens who are undocumented or who have committed misrepresentation or fraud. Under expedited removal processes, certain noncitizens are deported in as little as a single day without an immigration court hearing or other appearance before a judge.

Family Separation: Family separation is an enforcement tactic used by the United States DHS that leads to the involuntary division of parents, accompanying relatives, or guardian figures — hereby referred to as parental units — and children. This Task Force acknowledges that family separation may occur in several ways, including but not limited to the separation of both parental units from the child, the separation of one parental unit from another parental unit and child, and the separation of both parental units from each other and the child.

Field Office Juvenile Coordinator (FOJC): U.S. Immigration and Customs Enforcement officers that play an integral role in apprehending and processing UAC. FOJCs serve as the local subject-matter experts, providing policy guidance within their respective areas of responsibility. Their duties include, but are not limited to, assisting with the placement of UACs, ensuring that minors are provided access to adequate drinking water, food, and snacks, and assisting juveniles by providing them a phone call to their parent, guardian, consulate officer, or legal representative.

Fiscal Year (FY): A fiscal year is a one-year period that companies and governments use for financial reporting and budgeting.

Freedom of Information Act (FOIA): The Freedom of Information Act, 5 USC § 552, is a United States federal law that grants the public, upon request, access to information possessed by government agencies.

Health and Human Services (HHS): The United States Department of Health and Human Services is a cabinet-level executive branch department of the U.S. federal government responsible for protecting the health of all Americans and providing essential human services.

Immigration and Customs Enforcement (ICE): A federal law enforcement agency under the Department of Homeland Security charged with enforcing U.S. federal laws concerning border patrol, customs, trade, and immigration. ICE was formed under the Homeland Security Act of 2002, and began operations in 2003.

International Covenant on Civil and Political Rights (ICCPR): A multilateral treaty adopted by the United Nations General Assembly Resolution 2200A (XXI) in 1966 that provides a range of protections for civil and political rights, including, but not limited to, equality before the law, freedom of speech, assembly, and association, and the right to life and human dignity.

International Covenant on Economic, Social, and Cultural Rights (ICESCR): A multilateral treaty adopted by the United Nations General Assembly Resolution 2200A (XXI) in 1966 that ensures the enjoyment of economic, social, and cultural rights, including, but not limited to, the rights to education, fair and just working conditions, and an adequate standard of living.

I-213: An I-213, or a Record of Deportable/Inadmissible Alien, is a from prepared by DHS upon the apprehension of an undocumented migrant that reports their personal information, history, and a narrative of events in preparation of removal proceedings.

I-589: A form authorized by the Department of Homeland Security and the Department of Justice that is used to apply for asylum in the United States and for withholding of removal.

I-831: An I-83, or a Notice to Appear, is a document issued by the United States government outlining the allegations and legal authority to proceed with the removal of an individual from the United States.

Juvenile and Family Residential Management Unit (JFRMU): An operational unit created to manage issues related to detaining migrant minors and families by Immigration and Customs Enforcement (ICE). Within Enforcement and Removal Operations (ERO), JFRMU manages the needs of Unaccompanied Alien Children (UAC) and family groups who enter ERO custody.

KIND: The leading national organization advocating for the rights of unaccompanied migrant and refugee children in the U.S.

Migrant: An individual who moves away from their country of origin, either temporarily or permanently. Migrants leave their homes for a range of reasons such as employment, education, kinship ties, etc. and

not for reasons of persecution. The protection of the home government continues abroad and at home if a migrant decides to return.

MVM, Inc. (MVM): A private security contractor headquartered in Ashburn, Virginia, United States that provides security contractors, staffing, training, translation, and related services to U.S. government clients including being a contractor for detaining children who are subject to immigration proceedings.

Office of Refugee Resettlement (ORR): A program of the Administration for Children and Families, an office within the United States Department of Health and Human Services, created with the passing of the United States Refugee Act of 1980. The mission and purpose of the Office of Refugee Resettlement is to assist in the relocation process and provide needed services to individuals granted asylum within the United States.

Refugee: Refugees are people who have been forced to cross international borders in pursuit of safety from violence, war, persecution, conflict or other circumstances. The term refugee was defined by the UN 1951 Refugee Convention, and this Task Force recognizes that in the United States is obligated to conduct a "fair and efficient" procedure to determine refugee status in the place of individual assessment.

Revised Code of Washington (RCW): A compilation of all permanent laws currently in force in Washington State. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed.

Seattle-Tacoma International Airport (SeaTac): The largest commercial international airport serving Washington State, located at 17801 International Blvd, Seattle, WA 98158.

Title 42: Title 42 is an expulsion program that began under the Trump administration in March 2020 in accordance with the United States Code section 265 which restricts entrance into the United States to reduce the spread of Covid-19 to protect public health and welfare. Under Title 42 migrants are expelled rather than deported, circumventing due process.

Unaccompanied Alien Child (UAC): An unaccompanied alien child (UAC) has no lawful immigration status in the United States, is under 18 years of age, and has no parent or legal guardian in the United States or no parent or legal guardian in the United States is available to provide care and physical custody.

United Nations (UN): An international organization composed of 193 member states which works to establish international laws and standards to pursue justice and peace.

United Nations High Commissioner for Refugees (UNHCR): A UN agency mandated to aid and protect refugees, forcibly displaced communities, and stateless people, and to assist in their voluntary repatriation, local integration or resettlement to a third country.

United Nations Human Rights Council (UNHRC): An inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year.

The Office of the United Nations High Commissioner for Human Rights (OHCHR): The leading UN entity on human rights, representing the world's commitment to the promotion and protection of the full range of human rights and freedoms set out in the Universal Declaration of Human Rights.

United Nations Office on Drugs and Crime (UNODC): A United Nations office established in 1997 to assist the UN in better addressing a coordinated, comprehensive response to the interrelated issues of illicit trafficking in and abuse of drugs, crime prevention and criminal justice, international terrorism, and political corruption.

United States Code (USC): The codification by subject matter of the general and permanent laws of the United States. The USC is divided by broad subjects into 53 titles and published by the Office of the Law Revision Counsel of the U.S. House of Representatives.

United States Citizenship and Immigration Services (USCIS): An agency of the U.S. Department of Homeland Security that administers the country’s naturalization and immigration system.

Universal Declaration of Human Rights (UDHR): A critical piece of legislation enshrining international human rights and freedoms possessed by all human beings, ratified by the UN general assembly in 1948.

University of Washington Center for Human Rights (UWCHR): A human rights research center affiliated with the University of Washington that promotes interdisciplinary, engaged human rights research with students and community partners.

2. Executive Summary

Across the United States, particularly in states along the U.S. border such as Washington State, migrant families are being separated and detained in hotels and motels. After apprehension at the United States border or port of entry and processing by the Department of Homeland Security (DHS), it is common for a gendered family separation to occur; often, the fathers are sent to Immigration and Customs Enforcement (ICE) detention centers, while mothers and children are sent to hotels or motels near Seattle-Tacoma Airport. Once in hotels, some mothers and children have been detained for weeks at a time, while others are sent to licensed family detention centers or immediately deported. In some cases the fathers may never be reunited with mother and child post-separation.

The use of hotels and motels for migrant detention operations and family separations in Washington State is concerning for a number of reasons. Hotels and motels are not equipped to protect migrant detainees from abuse, sexual abuse, or neglect, which they may experience at the hands of MVM, the private company contracted by DHS to carry out migrant hotel detentions. The use of hotels and motels introduces the risk of physical, emotional, and mental suffering on migrant families and arguably violates a number of international and federal laws and policies. For instance, family separation violates a number of international human rights, most prominently the right to family unity, the right to liberty, and the obligation of states to act in the best interest of the child. While family separation is permitted under federal law in certain circumstances, court orders indicate a preference for families to be reunited, as signaled in the Flores Agreement and the interpretations of Judge Gee of the Central District Federal Court of California. Additionally, the extended use of motels as migrant detention centers was ruled illegal by Judge Gee on September 4th of 2020. In Washington State today, there are no laws or codes currently enacted prohibiting DHS from using motels to detain migrants, including children; this is largely because the state cannot bar actions by the federal government. However, House Bill 1090, which, as of February 21, 2021, has passed the House of the Washington State Legislature, would prohibit the operation of for-profit detention facilities in Washington State and may apply to the use of hotels and motels for migrant detention. In addition, family separation and the short-term detention of migrants in hotels and motels does not explicitly break ICE, private contractor MVM, or hotel policies. However, the lack of policy and regulation surrounding migrant detention operations within these entities is equally concerning, demonstrating a lack of commitment towards family unity and the protection of migrant children.

In response to the grave human rights violations identified within the scope of our research, this Task Force has created a comprehensive set of recommendations that call upon both public and private entities to take action. These include:

I. **Ratification of the UN Convention on the Rights of the Child**

II. **Federal Commitment to Family Reunification**

III. **Require ICE To Work With Washington State Social Workers**

IV. **Increased Accountability and Transparency of ICE**

V. **Sever All Contracts Between Hotels and All Bodies of DHS**

VI. **Passage of House Bill-1090**

VII. **Increased Regulation and Transparency of MVM**

A more detailed account of our recommendations can be found starting on page 39 of the report.

3. Introduction

In 2018, in response to the Trump administration's Zero Tolerance policy, many Americans expressed outrage at practices that separated families of asylum-seekers at the United States' Southern border. The reaction was so widespread that it prompted a rare policy reversal when in June of 2018 President Trump announced such practices would cease (Congressional Research Service, 2021). However, while the Zero Tolerance policy — a policy in which criminal prosecution and family separation are mechanisms deployed to deter immigration — represented a particularly egregious form of family separation, other forms predated that period, and some continue today. Because these forms of family separation affect smaller numbers of migrants, occur in different locations, and may happen through distinct mechanisms, they tend to be overlooked. However, for the families who endure these types of separation, they represent a violation of fundamental rights. For this reason, they must be stopped wherever they occur.

In 2020, pursuant to FOIA litigation against the Department of Homeland Security (DHS), the University of Washington Center for Human Rights (UWCHR) received all 3,421 I-213 forms from ICE generated by enforcement encounters in the Seattle Area of Responsibility from January 1, 2019 to March 31, 2020, and a random sample of 165 I-213s from Customs and Border Patrol (CBP) for the Blaine and Spokane sectors from January 1, 2012 to May 31, 2018. Upon an initial review of these forms, UWCHR researchers noted what appeared to be an unusual pattern of family separations using hotels near Seattle-Tacoma (SeaTac) International airport to detain migrants. In response, UWCHR convened this Task Force for further investigation of this phenomenon.

Methodology

Under the advisory of Professor Angelina Godoy, this Task Force, composed of twelve undergraduates from The Henry M. Jackson School of International Studies at the University of Washington, has investigated the practice of family separation at the northern border in Washington State and published their findings in this report. Of the 3,421 I-213 forms acquired, this Task Force has carefully studied the 58 juvenile cases in the UWCHR I-213 collection. The juvenile cases in this collection range in age from 1 to 17 with 10 nationalities represented. Guided by the question of this local phenomenon, this Task Force reviewed each case and categorized them according to:

- Status of relationship between child(ren) and adult(s)
- Evidence of family separation
- Possibility of being sent to a hotel or motel

- Apprehension location at U.S.-Canadian border
- Specification of detention location, if known
- Criminal record
- Claim of credible fear or asylum
- Status of contacting consulate
- Legal status of order given on report

Following the formation of these categories, the 58 juvenile cases were catalogued according to their content, which allowed for this Task Force to draw patterns. Succeeding this process, this Task Force then investigated the implications of the local phenomenon in terms of: International Human Rights Concerns, Federal Law, Washington State Law, ICE Policy, Private Contractor Policy, and Corporate Policy. Findings from each category of research are detailed below. Several interviews were conducted with experts in the immigration field to gather a greater understanding of the intricacies of the phenomenon observed.

What the Forms Reveal

Collectively, the I-213 documents we reviewed reveal that groups of migrants, oftentimes family units of children and parents, are crossing the Northern Border of the United States from Canada into Washington State. Upon apprehension, CBP officials ask for identification documents, and if it is determined through questioning and immigration checks that migrants are potentially in the United States illegally, migrants are transported to CBP processing facilities for further investigation.

At these CBP facilities, migrants are largely designated with a status of expedited removal or "bag and baggage." (See Appendix B, Figure B1 for a breakdown of data regarding legal statuses within the I-213 documents we reviewed.)

> (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) are being processed for removal as an Expedited Removal (b)(3) unspecified statute; (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and her son will be transported to the Northwest ICE Processing Center in Tacoma, Washington. FMU Placement approved by Juvenile Coordinator.

Figure A1 (See Appendix A).

Migrants apprehended who express fear of persecution in their country of nationality or last residence or the intention to request asylum may receive a "credible fear stamp" on their I-213 document. Many documents are designated as "expedited removal" despite a credible fear claim being made.

CREDIBLE FEAR CLAIM

US ADDRESS:

(b) (7)(E)
TACOMA, WASHINGTON, 98421

FATHER NAME AND ADDRESS:

(b) (6), (b) (7)(C)
BORDER PATROL AGENT
Alien has been advised of communication privileges _____ (Date/Initials) (Signature and Title of Immigration Officer)

Distribution:

ORIG. TO A-FILE

Received: (Subject and Documents) (Report of Interview)

Officer: (b) (6), (b) (7)(C)

on: April 19, 2018 at 2205 (time)

Disposition: Expedited Removal with Credible Fear

Examining Officer: (b) (6), (b) (7)(C)

Form I-213 (Rev 08/01/07) Y

Figure A2 (See Appendix A).

Next, migrants are sent to various locations around the Greater Seattle area for detention. Where family units with a mother, father, and child(ren) are present, it is common for a gendered family separation to occur. Oftentimes, the father is sent to the Northwest Detention Center in Tacoma, Washington. Meanwhile, unaccompanied juveniles as well as mother and child(ren) are commonly sent to unidentified locations near SeaTac Airport.

Many of the I-213 documents we reviewed have redacted the specific locations migrants are sent to after processing; however, the Red Roof Inn located at 16838 International Blvd, Seattle, WA 98188 near SeaTac has been explicitly identified as the destination for juveniles in 7 out of the 58 I-213 documents reviewed. In the remaining documents, we draw upon clues such as ZIP codes, street names, and municipality names to infer where unaccompanied juveniles or mother and child units are taken. Many documents reference ZIP Code 98188, International Blvd., or SeaTac Airport, all of which are components of the Red Roof Inn at SeaTac's address. Other documents reference ZIP Code 98168, or the municipality of Tukwila. Based on the evidence presented, it is likely that many of the redacted locations are hotels or motels near SeaTac airport, and that migrants in more than 7 of the 58 I-213 documents reviewed were sent to hotels or motels in the Greater Seattle area. (See Appendix B, Figures B2 and B3 for a breakdown of data regarding family separation and locations migrants were sent to for detention within the I-213 documents we reviewed.)

U.S. Department of Homeland Security — Continuation Page for Form I-213

Alien's Name	File Number	Date
(b)(6); (b)(7)(C)	(b)(6); (b)(7)(C) Event No: (b)(7)(E)	08/25/2019

As per D.O. (b)(6); (b)(7)(C) will be transported to the Northwest Detention Center in Tacoma, Washington pending removal to Nicaragua.

As per D.O. (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) will be transported to the Red Roof Inn in SeaTac, Washington pending removal.

Figure A3 (See Appendix A).

DHS contractor MVM, Inc. (MVM) is believed to be the private company transporting and overseeing migrant family detainees during detention in hotels and motels.

Distribution:

A File

MVM

ICE Air

Figure A4 (See Appendix A).

While the I-213 documents reviewed do not explicitly state where migrants are taken following their respective detention locations, it is commonly know that migrants are sent to one of three operational family detention centers in the United States, pending removal from the United States to their country of origin: South Texas Family Residential Center in Dilley, Texas; Karnes County Residential Center in Karnes City, Texas; or Berks County Residential Center in Leesport, Pennsylvania (Ordoñez, 2021).

4. Background

The use of hotels for short-term detention of minors and families, including in the Seattle area, is neither new nor secret, though the data available paints only a partial picture. At a local level, there is evidence that the Red Roof Inn at SeaTac has intermittently detained migrants at their facility for nearly a decade. According to the Global Detention Project, this Red Roof Inn detained a total of 13 migrants between 2011 and 2012 (Global Detention Project, n.d.); this source also showed that 3 people stayed longer than 2 days at the facility in Fiscal Year (FY) 2011. While this source says that they ceased migrant detention operations in 2013, there is evidence that suggests otherwise. For instance, Syracuse University's TRAC has published data showing that the Red Roof Inn at SeaTac detained four migrants at their hotel in 2015 (TRAC Immigration, n.d.). Furthermore, The University of Utah has published a spreadsheet of ICE detention data indicating 23 people were booked into the Red Roof Inn at SeaTac in FY 2017 (University of Utah Digital Matters, 2017). Moreover, as disclosed previously, there are a total of 7 I-213 documents dating between the years 2016 and 2019 that provide clear records of the Red Roof Inn at SeaTac continuing to detain migrants in their facility. Similarly, an article released by The New York Times in 2020 revealed that the Econo Lodge located at 13910 Tukwila International Blvd, Seattle, WA 98168 detained 17 migrants in FY 2020 (Dickerson, 2020).

The use of hotels — including hotels from these same corporate chains — and private contractors, including MVM, for short-term migrant detention has been periodically criticized in the media and by human rights organizations. For example, in 2019 MVM was found to have detained juveniles in office spaces without the necessary "food, water, clean clothes, hygiene products, and comfortable furniture" as stated in the solicitation (U.S. Immigrations and Customs Enforcement, 2019). When MVM's mistreatment of children in the Phoenix office space became known, ICE stated that they would review MVM as a private contractor. ICE also clarified that "its contract with MVM 'does not allow for children to be in these facilities for more than 24 hours,'" (Swales, 2018). Since MVM did not meet healthy living standards, and multiple children have been recorded as staying in MVM's office space for longer than 24 hours, MVM should not have been awarded the renewal of a contract with ICE. However, on July 20, nine days after ICE stated that they would be reviewing MVM, ICE awarded MVM with a new contract that would last for five years (Swales, 2018).

Furthermore, in 2020 it was discovered that children and families were being detained in hotels in Texas prior to their expulsion from the United States under Title 42, a policy introduced in March ostensibly to contain the spread of Coronavirus (Kriel, 2020). According to U.S. CBP, migrants subjected

to this measure are not housed in detention centers, but instead expelled to the country they had entered from, or when that is not possible, to their country of origin (Customs and Border Protection, 2021). Reporting by Caitlin Dickerson for the New York Times identified the use of hotels in Seattle as part of this trend, but this — as well as their use prior to 2020 — has never been systematically investigated (Dickerson, 2020).

This Task Force report represents an attempt to undertake a systematic investigation of this practice and its human rights implications. In the pages below, we explore the implications of this practice under international human rights, U.S. federal law, Washington State law, ICE practices, private contractor policies, and the hotel's corporate policies. Finally, we conclude with a call to action and recommendations to address the human rights concerns uncovered through our research.

5. International Human Rights Concerns

These practices run afoul of international human rights norms and laws in at least three areas: asylum, detention conditions, and family unity. Below, we explain these standards and how they apply to the practices we have examined.

Asylum

Asylum is a form of legal protection granted by states to refugees fleeing persecution. The 1951 Convention Relating to the Status of Refugees defines a refugee as someone who has "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion," (UN General Assembly, 1951, p. 2). According to the United States Citizenship and Immigration Services (USCIS), asylum seekers who are unable or unwilling to return to their country of nationality for the aforementioned reasons, thus meeting the legal definition of a refugee, must also be present in the United States or seek admission at a port of entry in order to apply for asylum (United States Citizenship and Immigration Services 2015, para. 3). The two forms of asylum in the United States are known as affirmative asylum and defensive asylum. Affirmative asylum is done when an individual who is not in removal proceedings submits form I-589, the application for asylum, to the USCIS. Defensive asylum occurs when the individual is in removal proceedings and applies for asylum with an immigration judge at the Executive Office for Immigration Review (EOIR). When an affirmative asylum application is denied, the individual may apply for defensive asylum (United States Citizenship and Immigration Services, 2021, para. 9).

The right to seek asylum is enshrined in international law. Article 14 of the 1948 Universal Declaration of Human Rights (UDHR) states, "Everyone has the right to seek and to enjoy in other countries asylum from persecution," (The United Nations, 1948, art. 14.1). Furthermore, the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees detail the definition of a refugee, their rights, and the obligations to and by the state granting asylum. Fundamental components of the Convention and Protocol are Articles 31, 32, and 33 which respectively detail unlawful entry or presence, expulsion, and refoulement. Article 31 prohibits penalties against asylum-seekers for unauthorized entry or presence, "provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence." Article 32 states that expulsion of a refugee "shall be only in pursuance of a decision reached in accordance with due process of law." Article 33 details the principle of refoulement in which a refugee cannot be returned or expelled to a state in which they would be persecuted (UN General Assembly, 1951, art. 31-33). It is also important to note that Article 22 of the Convention on the

Rights of the Child (CRC) states that both accompanied and unaccompanied children seeking asylum should be provided with protection and humanitarian assistance (The United Nations, 1989, art. 22). While the United States has not ratified the CRC, this article shows the international standard for receiving children seeking asylum.

The UWCHR has found signs of possible arbitrariness in the administration of asylum in Washington State. Individuals apprehended by DHS subject to expedited removal who express fear of persecution in their country of nationality or last residence or the intention to request asylum "must be referred to an Asylum Officer for an interview to determine whether the individual has a credible fear of persecution or torture," (United States Citizenship and Immigration Services, 2008, para. 7). In a 2018 report, the UWCHR found that asylum-seekers may have had their cases dismissed by Border Patrol agents and were not referred to an Asylum Officer. In a review of FOIA documents, the UWCHR reported on the possible "arbitrary disregard of fear claims" in Washington State, noting that, "if a migrant expresses fear to a CBP officer, yet their application is not processed in such a way that they are given an opportunity to make a credible fear claim, they are effectively denied the right to seek asylum," (University of Washington Center for Human Rights, 2018, para. 15). In the 58 cases reviewed for our Task Force, there were only four cases (6.9%) in which an explicit claim of fear of persecution or torture was made. Of these four cases, only one case appeared with the stamp reading "credible fear claim." Of the remaining cases, 11 cases (19%) explicitly stated that the individual or family unit did not express fear of persecution or torture upon their return, and the remaining 43 cases (74.1%) had no mention whatsoever of credible fear or asylum. (See Appendix B, Figure B4 for a visual representation of this data.)

Although it is difficult to draw definitive conclusions due to the redactions present on these FOIA documents, it is likely that asylum claims are being dismissed by Border Patrol agents who do not have the authority to deny the right to seek asylum.

Detention Conditions

The 2015 Nelson Mandela Rules updated the Standard Minimum Rules for the Treatment of Prisoners adopted in 1955 (United Nations, 2015, paras. 1, 3). These rules were adopted by the UN General Assembly in December 2015, and while it is not a treaty, they are considered authoritative standards for UN members regarding the treatment of prisoners around the world (United Nations, n.d., para. 6) (Human Rights Watch, n.d., para. 2). As the name suggests, the Nelson Mandela Rules provides very specific rules regarding treatment of prisoners and requirements for prisons and detention facilities.

Additionally, other binding international treaties establish the human rights of prisoners and detainees and prohibit torture and cruel treatment; this includes the International Covenant on Civil and Political Rights which the U.S. has ratified (Human Rights Watch, n.d., para. 1).

The Nelson Mandela Rules apply to all imprisoned individuals whether they have allegedly committed criminal and non-criminal (i.e. civil) offenses, such as those related to immigration status. In Section D of the Rules regarding treatment of civil prisoners, Rule 121 specifies that any prisoners who have committed non-criminal offenses should not be subject to "[...]greater restriction or severity than is necessary to ensure safe custody and good order," (UNODC, n.d., p. 34). In addition to general guidelines regarding the treatment of civil prisoners, the Nelson Mandela Rules contain specific rules and restrictions covering a range of issues that impact imprisoned individuals. Rule 23 of the Nelson Mandela Rules states that prisoners should be allowed one hour of exercise each day in the open air (as weather permits) and that children should receive physical/recreational training for at least one hour a day; it is highly doubtful that migrants being held in hotel and motel facilities have this right due to the fact that many hotels and motels do not have exercise facilities and even fewer have outdoor facilities for exercise and recreation. Rule 42 states the standards of living that should be given to all prisoners, including access to open air and physical exercise, adequate personal space, and personal hygiene facilities; it is questionable whether this is provided to migrants held in hotels and motels, particularly when it comes to personal space and open air access. Rules 56, 58, and 61 discuss rights of prisoners to file complaints regarding their treatment, to have communication with the outside world, and to have the opportunity to be visited by and to communicate with legal advisors; it is questionable as to whether these rights are accessible by migrants held in hotel and motel facilities, and there is evidence that some of these rights may have been previously denied to some migrants being held by ICE, such as in the video of a Texas immigration attorney being forcefully expelled from a hotel by individuals believed to be private contractors detaining migrant children (Da Silva, 2020).

Separate from the Nelson Mandela Rules, the UN Human Rights Council's (UNHRC) Working Group on Arbitrary Detention has also published a report advising against the practice of family detention (UNHRC, 2017, p. 11). While this report is not part of a binding international treaty, it establishes a UNHRC recommendation against detaining families on the grounds that the U.S.' policy of detaining families is not in the best interest of the impacted children.

Family Unity

The right to family unity, and the obligation of states to protect the family unity, is noted in

multiple UN treaties and conventions. Two of the most well-known UN measures that establish a right to family unity are the 1948 UDHR and the 1989 CRC. The former establishes the family as a "[…]fundamental group unit of society and as entitled to protection and assistance […]" in its Article 16(3) (UNHCR, 2018, p. 3); while the UDHR is not a treaty, rights established in the UDHR have been included in other legally binding international treaties and the invocation of the UDHR throughout the 20th and 21st centuries have led to it being considered part of international customary law (Hannum, 1998, p. 145). The CRC is a more traditionally enforceable treaty compared to the UDHR; while it has not yet been ratified by the United States, the U.S. has signed it and may be considered a party to its obligations (Amnesty International, 2018, p. 27). The CRC includes specific provisions establishing that children have rights to not be separated from their parents (Article 9), to family reunification (Article 10), and to special protections from states (Article 20) (OHCHR, 1990).

In addition to the UDHR and the CRC, family is established as "[…]the natural and fundamental group unit of society and is entitled to protection by society and the State," in both the 1966 International Covenant on Civil and Political Rights (Article 23(1)) (ICCPR) and the 1966 International Covenant on Economic, Social, and Cultural Rights (Article 10(1)) (ICESCR) (UNHCR, 2018, pp. 3-4). Both of these covenants are considered legally binding international treaties which have been signed by the United States, and therefore the U.S. is obligated under international law to protect the rights of the family unit. It is important to also note that these documents do not include exceptions based on national origin, citizenship or residency status, or criminal history.

The practice of family separation is in direct conflict with established obligations for states to respect and protect the family unit (Amnesty International, 2018, p. 27). In addition to violating international law regarding protections for family units, it also specifically violates international law that establishes specific rights of children to remain with their parents, such as the rights noted in the CRC (Amnesty International, 2018, p. 33). It is also possible that the separation of family units by the U.S. could constitute torture based on a definition of torture as being intentional, coordinated by the government, carried out to deter or coerce individuals, and inflicting severe pain and suffering; this claim was levied by the UN Special Rapporteur on torture in a report to the UN Human Rights Council in 2018 (Amnesty International, 2018, pp. 30-31).

6. Federal Law

U.S. federal law contains several provisions applicable to this practice, specifically pertaining to the treatment of juveniles, family separation, and motel use.

The Flores Agreement

The Flores Settlement Agreement is a federal court settlement, in place for over two decades, that sets limits on the length of time and conditions under which children can be incarcerated in immigration detention. The Flores Agreement is the main federal law pertaining to the treatment of migrant children and applies to both accompanied and unaccompanied minors. Judge Dolly Gee of the Central District Federal Court of California presides over the Flores Agreement and reiterated the scope of the Agreement to all migrant children as recently as 2015. The Flores Agreement stipulates that after a minor is detained, juveniles who remain in DHS custody must be placed in a licensed program within three days if the minor was apprehended in an DHS district in which a licensed program is located and has space available, or within five days in all other cases, barring a few exceptions that not appear to be relevant at the time of our cases of motel use documented on the collection of I-213s (Human Rights Watch, 2018). These timelines clearly state that motels must only be used temporarily in the handling of detained children.

Family Separation

A clear pattern exists within our case study subjects of one or more members of a family being separated from a caregiving family member who remains detained with the children. Family separation is permitted under the law in certain circumstances. In Judge Berzon's opinion on the 9th circuit court of appeals case Flores v. Rosen in December of 2020, he writes, "The government has three primary options when DHS encounters an accompanied minor: (1) release all family members, (2) detain the parent(s) or legal guardian(s) and release the minor to a parent or legal guardian, or transfer the minor to HHS as an unaccompanied minor, or (3) detain the family together at an appropriate family detention center" (*Flores v. Rosen et al.*, 2020, p. 5). Family separation of migrants is legal, however, in a 2015 ruling Judge Gee, "found that, since *Flores* clearly prefers release to a parent over another relative or a community sponsor, parents and children should be released from custody together," (Fuhrman, n.d.).

Court orders indicate a preference for families to be reunited, as signaled in the Flores Agreement and the interpretations of Judge Gee. The Flores Agreement stipulates that, "Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, shall make and record the prompt and continuous efforts on its part toward family reunification and the release of the minor pursuant to Paragraph 14 above. Such efforts at family reunification shall continue so long as the minor is in INS

custody" (Human Rights Watch, 2018). Record keeping is one measure that works towards family reunification, while Paragraph 14 states the order of to whom a minor should be released moving from a parent, to a legal guardian, to an adult relative and so on (*Flores v. Rosen, et al., 2020,* p. 14). Reunification guardrails are built into the Flores Agreement, an implication that family separation should be avoided in the first place. Nevertheless, tracking a child in custody and releasing a child to a guardian does not ensure the reunification of an entire family unit, and the federal government faces no mandate to reunite entire migrant families. In fact, in practice widespread failure to reunite even parents with children, much less family units is a pervasive DHS outcome (Committee on the Judiciary, U.S. House of Representatives, 2020, p. 4).

According to immigration lawyer and expert Kelsey Armstrong-Hann of KIND, legal experts argue that the gendered separation of families documented here — whereby fathers are separated from mothers and children, and thus obligated to pursue their cases separately — should be understood as prohibited under the Flores Agreement (K. Armstrong-Hann, personal communication, February 11, 2021). While the fact that children still had access to care from one parent is better than none, the increased vulnerability and trauma caused by the unnecessary separation of the father should not be overlooked. Furthermore, because this obligates family members to pursue separate immigration cases in different venues, it may undermine their ability to exercise their right to seek asylum and threaten to separate them permanently if one half of the separated unit is deported.

Significantly, when speaking to Bridget Cambria, an attorney who represents families in detention at Berks Family Detention Center in Pennsylvania, we were able to determine that she had represented specific individuals whose I-213s were present in our collection. She confirmed that this form of gendered family separation was a pattern she recognized as distinctive to families apprehended in Washington State, a violation of the Flores Agreement (B. Cambria, personal communication, February 16, 2021). Furthermore, she mentioned the case of a white British family who had experienced family separation in Washington but had been subsequently reunited by ICE (Reilly, 2019), unlike the cases of families from India and Central America, suggesting that their different treatment suggested both that ICE was capable of keeping families together, and simply choosing not to do so in cases of nonwhite, non-English speaking asylum seekers.

Motel Use

Judge Gee's rulings also address the issue of hotel and motel use by DHS. Extended use of motels as migrant detention centers was ruled illegal by Judge Gee on September 4th of 2020. In her ruling she states the following:

> "Implementation of this Order shall be stayed until September 8, 2020. DHS shall cease placing minors at hotels by no later than September 15, 2020. Consistent with past practice, exceptions may be made for one to two-night stays while in transit or prior to flights, if minors are traveling longer distances, or due to unexpected flight delays. If other exigent circumstances arise that necessitate future hotel placements, Defendants shall immediately alert Plaintiffs and the Independent Monitor, providing good cause for why such unlicensed placements are necessary." *(Flores et al. v. Barr et al.*, 2020, p. 17)

Judge Gee's ruling provides that the practice of motel use for detention undermines the Flores Agreement's core presumption in favor of releasing minors and furthermore the agreement's "requirement that those not released be placed in 'licensed, non-secure facilities that meet certain standards,'" (*Flores v. Rosen et al.*, 2020, p. 33). A motel cannot be considered a licensed facility as it does not meet certain standards such as the provision of routine medical and dental care, family planning services, emergency health care services, educational services appropriate to a minor's level of development, physical education, counseling sessions, and more (*Flores v. Rosen, et al.,* 2020*,* pp. 25-26).

Abuse Prevention

The most egregious dangers of hotels/motels as sites of detention is the threat of failing to uphold the Prison Rape Elimination Act (PREA) or the The Trafficking Victims Protection Reauthorization Act (TVPRA) (Dickerson, 2020). PREA attempts to safeguard migrant detainees from physical and sexual abuse while in custody, while TVPRA works to prevent a return to a dangerous situation upon release. While we now know that long term motel use for detention is illegal, we argue that the use of hotels or motels for any period of time for migrant families and children presents the same risk of violating PREA or TVPRA standards for abuse prevention. Any motel/hotel usage is dangerous to migrants because short term motel/hotel stays overseen by DHS contractors are not held to the same PREA and TVPRA standards as licensed facilities. Furthermore, ICE officials have explicitly confirmed that contractors are not required to follow PREA rules (Dickerson, 2020).

The PREA includes the following provisions to limit abuse within licensed DHS facilities, preventing physical and sexual abuse from staff to detainees, detainees to one another, or contractors/volunteers to detainees (PREA, 2010, pp. 69-85):

- Required ratios of staff to migrants for supervision bolstered by the use of video monitoring to prevent sexual abuse.
- Specific protections for juvenile and family detainees ensuring the “least restrictive setting” for child detention. Accommodation is designated to children with special needs.
- Segregation of children away from adult detainees that are not family. Special rules for treatment of unaccompanied minors.
- Mandated background checks into any previous criminal abuse for all staff including contractors.
- Notification and education of detainees about their rights to protection from abuse and methods for reporting abuse. This includes an orientation information session on the topic, access to outside council, and easy communication with those who can be reported to.
    - Guarantees for equal information about rights to people regardless of disability status, or English proficiency.
- Standards for swift separation of staff or detainee abusers from victims and rules for investigation and consequences.
- Access to appropriate no-cost medical and mental health care needed as a result of abuse.

Protections stipulated by TVPRA for migrant victims of trafficking or those fleeing abuse include (Victims of Trafficking and Violence Protection Act of 2000, p. 18):

- Victims of trafficking or abuse will not be criminalized for the abuse endured.
- Promised separation and protection from contact with a trafficker or abuser.
- Protection from intimidation or retaliation after disclosing abuse.
- Access to medical care, counsel, and translation services.
- Special pathways to remaining in the United States.

7. Washington State Law

Lack of Jurisdiction

In Washington State today, there are no laws or codes currently enacted prohibiting DHS from using motels to detain migrants, including children. This is largely because of the Supremacy Clause Article VI of the Constitution of the United States, which states that laws and treaties of the federal government are the supreme law of the nation, and federal statute overrules the laws of individual states (U.S. Const. art. VI, § 2). Therefore, while Washington State has taken steps to limit local collaboration with federal immigration enforcement in our state, through "sanctuary" legislation and gubernatorial executive orders, the state cannot bar actions by the federal government, such as those under examination here.

Following the 2019 passage of the Keep Washington Working Act, Washington State adopted a number of laws which limit the involvement of state and local law enforcement agencies in civil immigration enforcement. For example, Title 10 Chapter 93 Section 160 of the Revised Code of Washington (RCW) states that an individual may not be detained by state or local law enforcement solely for the purpose of determining immigration status (RCW 10.93.160). Under the Keep Washington Working Act, "RCWs 43.10.310 and .315 require that all state and local law enforcement agencies; public schools; health facilities operated by the state or political subdivision of the state; shelters and courthouses must either: (1) Adopt policies consistent with the AGO's guidance; or (2) Notify the Attorney General that the agency is not adopting the AGO's guidance and model policies, state the reasons that the agency is not adopting the model policies and guidance, and provide the attorney general with a copy of the agency's policies to ensure compliance with chapter 440, Laws of 2019," (RCW 43.10.310 and .315). In other words, these laws state that local jails cannot detain people for federal immigration officials without a warrant signed by a judge. However, these laws do not limit the actions of federal immigration enforcement in Washington State.

Similarly, Washington State has a number of laws establishing conditions of detention for those incarcerated through the criminal justice system, but these do not apply to people held on civil immigration grounds. For example, there is a law that stipulates policies and procedures of jails in Washington State, however since immigration detention centers are part of a separate system, these rules do not apply to them (RCW 70.48.130).

Regarding the protective detention and custody regulation in Washington State, there is a law that states, "Child protective services may detain the child until the court assumes custody, but in no case

longer than seventy-two hours, excluding Saturdays, Sundays, and holidays," (RCW 26.44.056). Notwithstanding, this does not apply to migrant children in detention centers since this law is specified for custody of abused children.

According to the Washington State Hospitality Manual, "RCW 4.24.220 states that an innkeeper may detain a guest or person for a reasonable amount of time for investigation if there is a reasonable belief that person is guilty of theft and failure to pay for property or services rendered" (WA State Hospitality Manual, 2012). In layman's terms, under reasonable grounds hotels can detain a guest or person for an interview. However, this law does not state that using hotels to detain immigrants is illegal, nor does it or offer any specific guidance on this matter.

House Bill 1090

House Bill 1090 was first introduced to the Washington State Legislature on January 5, 2021. If passed, House Bill 1090 will prohibit the operation of for profit detention facilities in Washington State. As of February 21, 2021, HB-1090 has passed the House of The Washington State Legislature and has been introduced to the Senate chamber for passage. This law would apply to immigration detention centers as well as jails and prisons (House Bill 1090, 2021). However, it is unclear whether the hotels would qualify as "detention facilities" under this bill, which defines 'Detention facility' as, "any facility in which persons are incarcerated or otherwise involuntarily confined for purposes including prior to trial or sentencing, fulfilling the terms of a sentence imposed by a court, or for other judicial or administrative processes or proceedings"; and 'Private detention facilities' as those "operated by a private, nongovernmental for-profit entity and operating pursuant to a contract or agreement with a federal, state, or local governmental entity," (House Bill 1090, 2021).

8. ICE Policy

Family Separation

ICE policies regarding treatment of juveniles are elaborated in the *Field Office Juvenile Coordinator Handbook* from the Juvenile and Family Residential Management Unit (JFRMU); the most recent publicly available version of this handbook is dated September 2017. The handbook does not provide detailed information regarding the use of hotels for temporary detention of juveniles and families; the practice is only mentioned twice regarding which the handbook states:

> "Hotels can sometimes be used as temporary housing for family units until family residential placement is determined. FOJCs should ensure that at least one officer or contract security guard of the appropriate gender is detailed with the family unit. Field offices may have local arrangements or modifications that differ from these guidelines… FOJCs are reminded to ensure local practices do not conflict with ICE policy" (U.S. ICE, 2017, p. 62).

The document also says that "UAC placed in hotels may be supervised by ICE officers and/or approved ICE contractors," (U.S. ICE, 2017, p. 29).

Despite the lack of detailed guidelines about hotel usage, the handbook's language suggests the use of hotels is routine, to the point where "field offices are encouraged to have standing contractual agreements with local hotels," (U.S. ICE, 2017, p. 29). The nature of these contractual agreements is not specified. The JFRMU Handbook does underscore the importance of compliance with the Flores Agreement, stating, "recent litigation and court rulings have determined that the *Flores* Agreement applies to accompanied minors as well, including those who enter as members of family units," (U.S. ICE, 2017, p. 16).

Care standards additionally seem to conflict across different ICE guideline documents. One guideline from the JFRMU Handbook states that, "when using a hotel temporarily to house one or more UAC pending placement, have the individuals bring sufficient clothing and toiletries for the duration of their stay," (U.S. ICE, 2017, p. 29). However, the ICE Air Operations Handbook 2015 states that, "supplies for infants (i.e. diapers, formula, etc) will be made available during transport whenever applicable," indicating no difference in standard for unaccompanied and accompanied children (U.S. ICE, 2015, p. 23). This indicates inconsistency with the care standards for children being held at a hotel awaiting deportation in comparison to during the deportation process.

The JFRMU handbook defines a family unit as "an adult alien parent or legal guardian accompanied by their own juvenile alien child(ren)" (U.S. ICE, 2017, p. 6). The handbook lays out a

number of ways in which family unity is to be "prioritized" according to DHS enforcement & Enforcement and Removal Operations (ERO) guidelines.

- FOJCs must use I-213s to determine whether or not a juvenile is accompanied, having either been apprehended with family or been living with family prior to traveling to the United States. If possible, DHS enforcement prioritizes reunifying them with a parent or legal guardian promptly (U.S. ICE, 2017, p.26). It is specified that "an individual claiming legal guardianship must have legal documentation to provide the relationship" (U.S. ICE, 2017, p. 61).
- ERO must ensure that each member of a family unit has processed and had charging documents issued prior to accepting custody of the family unit from CBP (U.S. ICE, 2017, p. 61).
- The handbook advises that siblings should be kept together in ERO custody and transport regardless of gender, particularly when older siblings are caretakers for their younger siblings (U.S. ICE, 2017, p. 28).
- ERO claims to prioritize family unity and the protection of children during repatriation by verifying kinship & citizenship with the Consulate before transporting minors to their country of origin (U.S. ICE, 2017, p. 45).

Under this definition of family unity, family separation can still occur without breaking apart the "family unit." For example, a mother will be kept with her children but their father may be processed and detained separately. ICE guidelines emphasize prioritizing family unity if possible. It is concerning that the JFRMU handbook contains so little information about family unity, and what little mention of it there is does not amount to a strong responsibility or commitment towards family unity and the protection of children.

9. Private Contractor Policy

While ICE policy ultimately dictates what happens to those in its custody, ICE agents themselves are not actually carrying out these hotel detentions— rather, it is employees of private security contractor MVM, Inc. ICE claims that MVM specializes in the transportation of minors and families and that its employees are trained "extensively" on how to handle situations wherein detained migrants would be left particularly vulnerable in their presence (Dickerson, 2020), but the fact that these non-state employees are taking on a role that would typically be left to a trained professional has generated concern. An attorney from the National Center for Youth Law said in a statement about MVM's role in hotel detentions: "These are not child welfare professionals or contractors that are monitored by child welfare authorities. There is absolutely no way to ensure that kids are safe, emotionally and physically, that kids are receiving basic provisions that the government insists they are," (Schoichet & Sands, 2020). A former ICE agent posited elsewhere that there are concerns that children and families may "be exposed to abuse, neglect, including sexual abuse, and we will have no idea," (Dickerson, 2020).

MVM as a company is somewhat shrouded in secrecy— in part due to their contractual obligations to not respond to press inquiries (Montoya-Galvez, 2020), and in part due to the fact that they are not subject to transparency measures such as FOIA because they are a private company rather than a state entity. However, we were able to gain some insight into the company's duties, expectations, and regulations by analyzing two documents: a contract between DHS and MVM which was issued in 2014, and a solicitation that was released by DHS in 2019.

Contract

The first source that assists us in gaining a better understanding of MVM's relationship with ICE is a 2014 contract between the two parties for MVM's provision of transportation services for unaccompanied alien children (UAC). This contract was provided courtesy of the Human Rights Defense Center, accessed through a FOIA request. The contract states: "The objective of this contract is to provide highly structured, efficient transportation for UAC from their point(s) of entry/staging location in the RGV to ORR shelters, for the purpose of family reunification or long-term care" (Human Rights Defense Center, personal communication, February 5, 2021). It should be noted that while the contract officially states that it is for the transportation of unaccompanied children, it also states in the "need" section that "transport will be required for UAC and family groups, to include both male and female juveniles," (Human Rights Defense Center, personal communication, February 5, 2021). "Family groups" refers to groups of migrants that include juveniles. The need for MVM to transport family groups as well as UAC

is mentioned throughout the contract, so we can assume that the contract refers to the provision of both services.

The contract was drafted in 2014 due to an increased need for contractors to provide transportation services for UAC and family groups, as is suggested by the figures in the contract that demonstrate a surge in contractor led-ground transports including juveniles: the number of such transports skyrocketed from 191 in 2012 to 1,755 in 2013 (Human Rights Defense Center, personal communication, February 5, 2021). This particular contract is for the provision of these services in the Rio Grande Valley in Texas, but we can assume that the contract for these same services in Washington State includes similar language. While some portions of the contract have been redacted because, according to the FOIA officer who released the documents, "the techniques and procedures at issue are not well known to the public" and their disclosure could "reasonably be expected to risk circumvention of the law," the contract is still an important source of information as it gives us insight into the official binding regulations that dictate MVMs provision of services to the government.

Solicitation

The second source is a DHS solicitation that was retrieved from GovTribe.com. This solicitation was released by DHS in 2019 to call on security contractors to submit proposals for a multi-million dollar contract to provide transportation services for both UAC and family units (FAMU). The contract between MVM and DHS mentioned above ended in 2019, so this solicitation was likely sent to companies to request proposals for any security contractor who sought the position that MVM previously held. Multiple companies participated in a highly competitive bidding process to receive the contract, but MVM ended up receiving it and continuing their partnership with the government.

The objective of this prospective contract was "to provide highly structured, efficient transportation for UAC and FAMU from their point(s) of entry/staging location(s) across the nation to ORR shelters or FRCs, for the purpose of family reunification or long-term care" (U.S. Immigrations and Customs Enforcement, 2019, p.5). While the 2014 contract states throughout that family groups would be included in the contractor's transports, this adjustment in language indicates that there was likely a growing need to transport FAMU in addition to UAC. The contract being solicited was for the provision of these services nationwide, so it is apparent that its provisions apply to MVM's services in Washington State.

Because the solicitation is a proposal for a contract and not an actual contract itself, we cannot treat its clauses as binding. However, we can assume that much of the language included in the

solicitation is similar to the contents of the contract that was signed between DHS and MVM in 2019, because it lays out in detail the requirements and expectations of the prospective contractor. Also, many of the provisions in the solicitation are identical to provisions in the 2014 official contract, which is another indication of their similarities.

The Use of Hotels as Contractor Policy

The 2014 contract states:

> "U.S Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), has a continuing and mission-critical responsibility for transporting apprehended aliens from U.S. Customs and Border Protection (CBP) and other agencies. Among the groups of aliens transferred from CBP to ICE are unaccompanied alien children (UAC). Under current law and regulation, ICE does not have authority nor is responsible to detain unaccompanied children; rather, ICE is responsible for transporting these juveniles to the Department of Health and Human Services Office of Refugee Resettlement (ORR) shelters located throughout the continental United States" (Human Rights Defense Center, personal communication, February 5, 2021).

Notably, this clause points out the fact that MVM employees, as an extension of ICE, cannot and should not detain unaccompanied children. However, in a section on temporary staging, the contract states:

> "In some situations, such as flight delays, cancellations, etc.; the time the vendor maintains custody of the UAC or family unit may be extended. In limited cases, overnight housing may be required… The contractor shall provide for a hotel room whenever minors will remain in the contractor's custody over 12 hours due to HHS placement, flight cancellations, or any other delay. NOTE: The vendor shall notify the COR immediately when placing a UAC or family unit at a hotel. The vendor shall provide the COR with the UAC's name, hotel name, address, room number, and phone number" (Human Rights Defense Center, personal communication, February 5, 2021).

After clearly stating that the contractor is not responsible for detaining children, the contract goes on to say that the contractor may be required to detain migrants in certain circumstances. This contradictory language does not clarify how long these detention periods may be, nor does it explain why this is an exception. It should be noted that this provision was not in the initial contract signed in 2014. This entire section on the use of hotels is highlighted, and at the end of the contract the document explains that it is highlighted because it was added to the contract in November 2018 to provide "updated language related to the care and housing of UACs or family units," (Human Rights Defense Center, personal

communication, February 5, 2021). A change in policy around this time made this practice a routine part of MVM's work with ICE.

In these situations the contract states that unrelated UAC shall be separated by gender, age, and criminal status "when operationally feasible" and that "if a UAC is temporarily housed at a hotel awaiting custody determination or placement, he or she shall be allowed to take a change of clothing, personal hygiene items, and female sanitation products (as needed), in order to shower and dress for the following day, and subsequently, until departure from the hotel" (Human Rights Defense Center, personal communication, February 5, 2021). These are the only provisions in the contract that regulate hotel detentions or give the contractors guidance on how to carry them out.

The 2019 solicitation contains the exact same language regarding hotels in its "Temporary Staging/Waiting Areas" section, indicating that this practice that became contractually required in 2018 was to continue for the next 5 years of contracting. The clauses regarding separation of UAC in hotel rooms and what is to be provided to migrants in hotel rooms are also present and unchanged. These are again present in conjunction with text that reads: "Under current law and regulation, ICE does not have the authority nor is responsible to detain unaccompanied children or family units over 72 hours (Trafficking Victims Protection Reauthorization Act of 2008 & Flores Stipulated Agreement of 1994)" (U.S. Immigrations and Customs Enforcement, 2019).

It is difficult for us to know what exactly prompted this change in policy that required MVM to take on the role of overseeing overnight detentions of migrants in hotels. It is very possible that it is primarily due to the fact that this practice is cheaper than it would be to transport migrants by ground to one of the few family shelters in the country. Regardless of the reasoning, it is clear that although this is a service that MVM is required to provide, there are very few contractual obligations regulating the practice.

Qualifications Required

Many critics have raised concerns about the fact that security contractors are accompanying these families in their overnight hotel stays, rather than trained professionals that may be present in family detention centers. ICE has assured that MVM employees are trained extensively on the transportation of vulnerable populations. The contract gives us insight into what qualifications MVM employees who carry out these detentions must have.

A clause early in the contract, titled "Contractor's General Knowledge of and Experience with UAC," states that each employee must have "an understanding of the statutory authorities e.g., applicable

laws and regulations pertaining to UAC, knowledge of childhood and adolescent development), and understanding of childhood and adolescent development" (Human Rights Defense Center, personal communication, February 5, 2021). It is also mentioned that "it is critical for the contractor to provide staff who are well qualified and trained to work with this vulnerable population" (Human Rights Defense Center, personal communication, February 5, 2021). The specific qualifications that ICE requires are laid out later in the contract.

While most MVM employees who interact with migrants are transport specialists (TS) that only assist in transportation, the contract dictates that MVM must also hire stationary guard officers (SGO). It should be noted that in the 2019 solicitation, the term "stationary guard officer" is crossed out and replaced with the title "unarmed transportation specialist" (Human Rights Defense Center, personal communication, February 5, 2021).

SGOs are the individuals who are required to oversee the detention of migrants at hotels, or their staging at other temporary locations. Although it appears that these detentions happen quite frequently, the contract states that the contractor will only have to provide "limited stationary guard services to accommodate for trip disruptions due to inclement weather, faulty equipment, transport disruptions, or other exigent circumstances," (Human Rights Defense Center, personal communication, February 5, 2021). The requirements for employment as a SGO are listed below (Human Rights Defense Center, personal communication, February 5, 2021):

1. Requirements. The stationary Guard Officer (SGO) must:
    a. Possess an associate's degree in an appropriate discipline from an accredited college (a high school diploma with two or more years of relevant experience may be substituted for an associate's degree) and,
    b. Have at least two years of documented experience in a field related to security, law, social work, detention, corrections, or similar occupational area; certification, licensure, and credentials applicable to the professional accreditation of the position and,
    c. Demonstrate experience applicable to the goals and objectives of this program sufficient to communicate with other staff, and appropriate for a similar program environment and,
    d. Possess and maintain appropriate state licensure.

This demonstrates that the requirements and qualifications for being hired to carry out these duties are minimal. The duties section for SGOs states that these officers are required to "maintain current

training and certification requirements in accordance with state and ICE/ERO standards, but it does not specify which trainings and certifications are necessary.

All contractors, both those who interact with migrants and those in administrative positions, are required by the contract to receive a screening before beginning work. This screening process consists of a seven year criminal background check, a psychological screening, a verification of appropriate certifications (which are again not specified), and a number of other basic measures (Human Rights Defense Center, personal communication, February 5, 2021). All employees are also required to complete a training curriculum, which is created by MVM and then approved by ERO, which is to include crisis intervention, child development, CPR and First Aid training, and non-secured UAC and family policy (Human Rights Defense Center, personal communication, February 5, 2021). Contractors are also required to complete all "ICE mandatory training for contractors," which changes from year to year (Human Rights Defense Center, personal communication, February 5, 2021).

Standards of Conduct

The contract dictates that all MVM employees must be well versed on a number of different standards, acts, and agreements, and are expected to "actively incorporate their underpinnings in all its practices" (Human Rights Defense Center, personal communication, February 5, 2021). Among those mentioned in the contract are:

- The Immigration and Nationality Act
- The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVRPA) of 2008 and 2013
- ICE Family Residential Standards
- The Flores Settlement Agreement
- The Homeland Security Act of 2002
- The Prison Rape Elimination Act (PREA)
- The ICE/ERO Residential Standard on Sexual Abuse and Assault Prevention and Intervention (SAAPI)

The contract states that "in cases where other standards conflict with DHS/ICE policy or standards, DHS/ICE policy and standards shall prevail," (Human Rights Defense Center, personal communication, February 5, 2021). While ICE agents are legally required to abide by these standards, MVM is only contractually obligated to have a general knowledge of them and to incorporate their provisions into its practices. Furthermore, ICE does not have the ability to terminate any employees who

act in violation of these standards, or those who act in violation of its own policies — MVM has full control over the hiring and termination of employees.

The contract does, however, state that, “a failure on the part of the contractor to report a known violation [of the standards of conduct] or to take appropriate disciplinary action against offending personnel shall subject the contractor to appropriate action against offending personnel shall subject the contractor to appropriate action, up to and including termination of the contract for default” (Human Rights Defense Center, personal communication, February 5, 2021). This indicates that the only disciplinary action that ICE has at its disposal is a termination of the existing contract altogether.

ICE itself is an agency shrouded in secrecy, which makes it all the more troubling that it is outsourcing work to a non-state agency that is required to maintain even less transparency than ICE itself. The documents that we were able to analyze are useful to us in understanding what standards these employees are held to, and what contractual obligations regulate their actions, but overall it is nearly impossible for us to know what these contractors are doing in practice, whether their actions are in compliance with the standards outlined in the contracts, and whether or not steps are being taken to seek legal redress when their actions are not in compliance with these standards. These are problems that are bound to arise when any government tasks are delegated to a non-state third party, but this situation is especially troubling considering that the task at hand is the detention of vulnerable migrant families and juveniles in unregulated hotel rooms.

10. Corporate Policy

Both Red Roof Inn and Econo Lodge's parent company, Choice Hotels, have released statements condemning the use of their properties as detention facilities. It appears that despite prior statements, Choice Hotels admitted to having signed a contract with DHS, which indicates that the hotel may have been complicit in these activities (Durbin, 2016). It is unclear whether the Red Roof Inn played as significant of a role in facilitating these detentions as did Choice Hotels. However, the sheer length of time that migrant detention operations have been allowed to persist in their SeaTac location, as well as Red Roof Inn's national record of turning a blind eye to sex trafficking (Mallene, 2019), lead us to believe that Red Roof Inn is either complicit in these activities or lacks sufficient accountability measures within their corporate/franchise relationship.

Choice Hotels

Choice Hotels International is an extensive hotel company that owns and operates the Econo Lodge (Youn, 2019). The Choice Hotels webpage offers a Corporate Social Responsibility agenda, specifically outlining a Human Rights Policy. However, this policy focuses solely on implementing a system to raise awareness on human trafficking and child exploitation in franchised hotels. Under Choice Hotel's Human Rights Policy Statement, a Protection of the Rights of Children is included, "Choice Hotels condemns all forms of exploitation of children. The Company does not recruit child labor, and supports the elimination of exploitative child labor. Choice Hotels also supports laws duly enacted to prevent and punish the crime of sexual exploitation of children. Choice Hotels will work to raise awareness concerning such exploitation, and will cooperate with law enforcement authorities to address any such instances of exploitation of which the Company becomes aware" (Choice Hotels, n.d.).

Multiple public statements issued by spokespeople of Choice Hotels denounce the detention of immigrants in their facilities. In a recent statement released to ABC News in 2019, Choice Hotels insisted, "We are not aware that any of our franchised hotels, all of which are independently owned and operated, are being asked to serve as detention facilities. We do not believe hotels should be used in this way and will decline any requests to do so. We ask that our franchised hotels only be used for their intended purpose, which is to provide travelers with a welcoming hotel room" (Youn, 2019). However, according to AP News, the Comfort Inn Suites in Alexandria, VA which is owned by Choice Hotels has been used 12 times as a detention facility (Merchant, 2020).

Although Choice Hotels claims to be unaware of any human detention activity, this international company has admitted to signing a contract with the DHS in 2016, but has stated they have no longer renewed this agreement (Durbin, 2019). The contents of this contract are unknown.

It is important to note that there may be financial incentives at play in hotel and motel involvement in ICE migrant detention operations. An article published by the Associated Press in 2019 stated that, "Contracts with the government [ICE] can be lucrative. According to federal contract listings, Quality Suites San Diego Otay Mesa, near the Mexican border, could earn $502,900 between 2016 and 2020 housing migrants for ICE," (Durbin, 2019). Daniel Mount, an associate professor of hospitality management at Pennsylvania State notes that the government generally pays a higher amount than a budget hotel could command (Durbin, 2019). While the contents of Choice Hotel's contract with DHS are unknown, it is reasonable to assume that Choice Hotels benefited financially from their involvement in migrant detention operations.

Red Roof Inn

The second hotel chain evidenced to have detained migrants under the oversight of ICE and private contractors is the Red Roof Inn at SeaTac Airport. Red Roof Inn is an economy hotel chain that owns over 650 properties internationally.

At a national level, Red Roof Inn has been accused of turning a blind eye to various kinds of mistreatment and abuse happening within the walls of their hotels. Red Roof Inn, along with nearly a dozen other major hotel groups, was sued in 2019 for being complicit in sex trafficking operations (Mallene, 2019). The plaintiffs, many minors and survivors of sex trafficking, claimed that these hotels failed to protect young women and children being sold for sex within their facilities. Red Roof Inn franchises across the country have additionally faced a multitude of lawsuits regarding sex trafficking, including one filed in January of 2021 against the Red Roof Inn in Norcross, Georgia. Two women, ages 21 and 20, assert they were trafficked for sex at the hotel over a period of several days when they were teenagers in 2016. Five other Red Roof Inn franchises within the Greater Atlanta area were also sued for being complicit in sex trafficking and prostitution operations (Yeomans, 2021). Attorney Jonathan Tonge, who is representing the victims in the Norcross case, stated, "It is not a coincidence that the same horrific allegations continue to be made about the same hotels, within the same brand, again and again," (Yeomans, 2021).

It is unknown whether Red Roof Inn, at either a franchise or corporate level, is directly involved in these migrant detention operations. Red Roof Inn Corporate released a public statement in 2019 in

response to public scrutiny, stating, “Red Roof hotels are not set-up or intended to be used as detention facilities…We reject the idea that hotels are to be used for this purpose,” (Ellis & Hicken, 2019). Furthermore, the company added that it told its franchisees, “if there is a request for their hotel to be used as a detention facility, we strongly advise them to deny the request” (Ellis & Hicken, 2019). As Red Roof Inn shifts the blame from the corporation to franchises, we will look to franchise law to gain a better understanding of how liability and accountability function within this relationship.

Franchise Law

There are general federal regulations that govern the general establishment of franchises in the U.S., largely limited to rules regarding disclosures and franchise registration (Federal Trade Commission, 2020). While this report was not privy to Franchise Agreements or other documents from Choice Hotels or Red Roof Inn, the primary hotel-/motel-chains indicated in the detainment of migrants in Washington State, Franchise Agreement templates from the Hilton and Hyatt hotel chains provide some visibility into how these agreements are drafted.

Neither the Hilton/Conrad Hotels and the Hyatt Franchise Agreements explicitly prohibit the provision of services for the detainment of migrants. However, both Agreements include specific requirements and obligations for franchisees (Conrad Hotels & Resorts, 2019) (Hyatt Place Hotel, n.d.). These include the requirement to abide by applicable laws as well as obligations to comply with standards and rules set out in each hotel chain’s respective manual. These manuals are not included in the Agreement for review, but suggest that hotel-specific standards are contractually binding for the franchisees. Though the aforementioned documents only provide information specific to Conrad Hotels and Hyatt respectively, the use of similar Franchise Agreements by Choice Hotels and Red Roof Inn could allow these chains to impose standards on their franchisees that contractually restrict their ability to provide rooms to DHS (including ICE) or MVM for the purpose of holding migrants.

11. Conclusions & Call to Action

The research conducted by this Task Force has unveiled an unsettling phenomenon occurring at the northern border in Washington State. The patterns which have been observed through our research discussed above demonstrates grave concern for the human rights of migrants and a critical need for action in Washington State. This Task Force recommends the following actions in order to ensure these practices do not continue.

I. Ratification of the UN Convention on the Rights of the Child

The practice of separating migrant families and the usage of hotels and motels to detain migrants by the United States is in direct conflict with numerous international standards and laws. These include international laws designed to establish and protect inalienable human rights, including the right to family unity, and protections for humanity's most vulnerable populations, including children. This report calls on the United States federal government to rectify this situation by aligning its policies with standards set forth in the aforementioned international laws and treaties, and to fulfill its commitments and obligations by fully ratifying the previously-signed UN CRC. By agreeing to rectify these policies and ratify the CRC, the United States will take a step towards modeling the type of behavior we as a country want to show to its constituents and the global community as a whole.

This action recognizes the DHS as an organization within the executive branch of the U.S. government as well as the unique ability that the federal government has to alter the policies and direction of this agency. This report urges the U.S. government to take decisive steps to correct its policies at their source; however, it also understands the necessity of a multi-pronged approach to impacting change, and has included further action recommendations below.

II. Federal Commitment to Family Reunification

This Task Force calls upon federal authorities to commit to family reunification to prevent further instances of family separation. The Biden administration appointed the Task Force to Reunify Families to reunite the children who are separated from their families at the US-Mexico border. As of March 1st, 2021, the Biden administration has passed 11 executive orders regarding immigrants in the U.S.. However, there are still over 42 crucial executive orders proposed during Biden's presidential campaign that need to be passed. We strongly request that the Biden administration pass the promised executive orders such as "End prolonged detention and reinvest in a case management program," and "Ensure that Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) personnel abide

by professional standards and are held accountable for inhumane treatment." While the Biden administration stopped the contracts of private prisons of the Department of Justice (DOJ), they were unsuccessful in banning the prisons run by ICE and the DHS. This Task Force calls upon the Biden administration to end the for-profit private prisons that are run by ICE and DHS. The executive orders relating to immigration that have been signed at the time this report was published include:

- 01/20/2021: Extends deferrals of deportation and work authorizations for Liberians with a safe haven in the U.S until June 30, 2022.
- 01/20/2021: Fortifies DACA after Trump's efforts to undo protections for undocumented people brought into the country as children.
- 01/20/2021: Halts construction of the border wall by terminating the national emergency declaration used to fund it.
- 01/20/2021: Undoes Trump's expansion of immigration enforcement within the U.S.
- 01/20/2021: Reverses the Trump administration's restrictions on U.S. entry for passport holders from seven Muslim-majority countries.
- 02/02/2021: Rescind Trump's memo requiring immigrants to repay the government if they receive public benefits. Elevates the role of the executive branch in promoting immigrant integration and inclusion, including reestablishing a Task Force on New Americans. Requires agencies to review immigration regulations and policies.
- 02/02/2021: Aims to address economic and political causes of migration, works with organizations to provide protection to asylum seekers and ensures Central American asylum-seekers have legal access to the United States. Rescinds Trump administration policies and guidelines and also initiates a review of policies that have effectively closed the U.S. border to asylum-seekers.
- 02/02/2021: Revokes Trump's order justifying separating families at the border and creates a Task Force that recommends steps to Biden to reunite separated families.
- 02/04/2021: Expands the U.S. Refugee Admission Program and rescinds Trump policies that limited refugee admissions and required additional vetting.
- 02/04/2021: Directs relevant agencies to ensure LGBTQI+ refugees and asylum-seekers have equal access to protections; requires the Department of State to lead.
- 02/24/2021: Revokes a Trump-era proclamation that limited legal immigration during the Covid-19 pandemic.

III. Require ICE To Work With Washington State Social Workers

One of the immense challenges faced by this Task Force relates to the accountability of ICE and DHS. Since our Task Force focuses primarily on the issues present within Washington State, we are unable to call directly upon ICE as it is a federal agency which lies within federal jurisdiction. As a result, we propose that ICE and all hired contractors work with Washington State social workers at every stage of immigration proceedings to ensure proper treatment and care of vulnerable populations. As iterated previously, MVM has been condemned for its improper treatment of migrant children. Furthermore, ICE has provided no transparency or evidence regarding the licensing or qualifications of the contractors, making it reasonable to assume that they are not properly trained to accommodate vulnerable populations. Working with Washington State social workers will ensure that for the remainder of ICE's contract period with MVM, and possibly other contractors, there is oversight around the care and treatment that migrants are receiving. Such care includes, but is not limited to, identifying signs of trauma and psychological issues, adequate care for young children and individuals with disabilities, and proper treatment for survivors of sexual and physical violence. Ideally, we would like to call upon ICE to fully prohibit the use of hotels and private contractors to house migrants; however it is not fully within the scope of this Task Force to do so.

IV. Increased Accountability and Transparency of ICE

It is imperative that ICE practices diligent record keeping in order to facilitate the family reunification process. As detailed by numerous reports, ICE has been known to lose children, especially due to the Trump administration's family separation policies (Ainsley & Soboroff, 2020). If adequate record-keeping is not occurring in official ICE facilities, it is reasonable to believe that this is not occurring within the hotel facilities either. This increases the risk of losing track of families and children because these are not facilities that are public and accounted for. It may be favorable to ICE to avoid keeping records of migrants in hotels because it reduces their liability and the chance of more stories being released regarding these practices; but as long as the practice must continue, whether due to existing contracts or otherwise, adequate record-keeping is vital. This record-keeping should include the exact date and time of entry and exit from hotel facilities because currently, it is impossible to discern whether any hotel stays fall under the 24-hour exception in the event of transit to a flight. It is also difficult to ascertain where those that were transferred to hotel facilities ended up and whether anyone has knowledge of whether legal proceedings were adhered to. We recommend that record-keeping should include (but not be limited to) the following information:

- Migrant name, age
- Location
- Time in/Time out of hotel facility
- Specifications regarding any family members that are accompanying the migrant
- Information regarding family members from whom the migrant has been separated from and the family member(s)' location(s)
- Family unit number (for the purposes of reunification)
- Services/supplies provided by the contractor during stay

Implementing a system with the above information will increase accountability and highlight inconsistencies or patterns in the methods that ICE is employing. This will make it easier for future investigations, should there be any, to point to malpractice. Furthermore, certain crucial terms — such as family unity and family separation — need to be concisely defined in regulations that are enforced by ICE. Clear definitions of family unity and family separation will allow for increased transparency of such practices. Within our case study, we found unclear situations where a child was detained with only one parent or guardian in a hotel. This Task Force calls upon the U.S. government to increase transparency in practices of migrant detention in order to ensure that the U.S. is compliant with international treaties. Throughout our research we have discovered that there were violations of the Flores Agreement, the UDHR, and the CRC during family separation and migrant detention. As such, in order to ensure that the U.S. is adhering to international treaties, ICE must be transparent in its practices.

V. Sever All Contracts Between Hotels and All Bodies of DHS

This Task Force recognizes that extraordinary circumstances, such as a 24-hour stay due to a delayed flight, may permit ICE to use hotels. Outside of these circumstances, the use of hotels as a migrant detention facility is illegal and poses a grave risk that the rights of migrants will be abused. Due to the alarming findings published by this Task Force, we call upon Choice Hotels and Red Roof Inn to sever their contracts with all bodies of DHS. This report has demonstrated clear concerns with the current practice of family separations and the use of hotels and motels to detain migrants in Washington State. On the subject of hotel and motel detention, both domestic and international legal bodies and experts have established practical and ethical concerns with the use of private facilities to detain migrants. As set forth in this report, the use of hotels and motels as detention sites undermines international and domestic regulations, such as PREA and TVPRA, which set up standards designed to prevent violence and abuse against detainees.

Given the clear track record of hotels and motels serving as tools for migrant family separation and human rights abuses, and strong evidence of Choice Hotels and Red Roof Inn complacency in such abuse, we advise Choice Hotels and Red Roof Inn to take swift action to halt their role in human rights violations. As part of this report's recommendations for next steps, we advise both implicated hotel chains, Choice Hotels and Red Roof Inn, alongside other hotel chains to establish an industry-wide standard, to introduce contractually-enforceable restrictions that prevent their franchisees from renting or providing hotel rooms to DHS for the purpose of long-term detention of migrants. Both hotel chains have released public statements condemning the use of hotels and motels to hold migrants; these statements include comments that each respective chain "asks" or "advises" that their franchisees do not rent hotel rooms for these purposes. Furthermore, Choice Hotels state their "commitment to conduct business in a manner consistent with these principles [of the UDHR] and to protect human rights within the company's sphere of influence. Choice Hotels is committed to responsible workplace practices, and endeavors to conduct its business operations in a manner that is free from complicity in human rights abuses," (Choice Hotels, n.d.). However, Choice Hotels is complacent in the separation of migrant families which violates the right to family unity and the right to liberty. As such, their contracts with any body or subcontractor of DHS violates their own policies. We urge these hotel chains, as well as any other hotels that may currently provide services to DHS, to take concrete actions that align with their public statements by introducing new standards and terms to their franchise contracts that specifically prohibit franchised hotels/motels from doing business with DHS or its organizations for the purpose of detaining migrants.

Additionally, this report recommends hotel chains provide transparency into this decision by making publicly-available franchise contract templates, any standards or manuals containing standards/binding terms that they publish for franchisees, as well as any contracts with DHS, ICE, CBP, and the private contractor MVM. Publicly publishing these documents will demonstrate Choice Hotels' and Red Roof Inn's commitment to their previous respective statements that condemn the use of hotels and motels as detention facilities, and will provide accountability into the actions these chains take to prevent any further usage of their franchises for the long-term detention of migrants.

VI. Passage of House Bill-1090

Due to the Supremacy Clause of the Constitution of the United States, it is a challenge to address the issue of family separation and the detention of migrants in hotels at the state level due to the fact that such actions are occurring under federal provision. There are some legal options to face this challenge, however, such as the creation of laws pertaining to the licensure of private contractors in the state, and the

closure of private detention centers. One such bill in particular is HB-1090 which, if passed, will end the operations of private, for-profit detention facilities in Washington, such as the Northwest Detention Center in Tacoma. As of February 21, 2021, HB-1090 has passed the House of Washington State legislature and has been introduced to the Senate chamber for passage. Before the bill is signed into law, it must first be sent through the Senate committee, be placed on the calendar to be debated on the Senate floor, and be voted on for Senate approval. If passed through Washington Congress, the bill will then be sent to Governor Jay Inslee for signature. Although the passage of this bill will ultimately limit the acting powers of ICE to separate immigrant families within these detention centers, further action is warranted towards illegalizing the detention of prisoners in hotels and motels, as well as the act of family separation itself within Washington. Thus, it is essential that the Washington legislature be pressured by its constituents to take further action.

VII. Increased Regulation and Transparency of MVM

To ensure the safety of migrant families, we are calling for the following actions to be undertaken by ICE's private contractor MVM. First, we call on MVM to end the use of hotels for holding migrants. At hotels, MVM must follow the same regulations or meet the same requirements, in regards to migrants' care and housing, as they would in their own office space. Second, MVM must provide clean and safe spaces for migrants in their staging/waiting areas as stipulated in ICE's solicitation. These spaces must provide easy access to food, clean water, hygiene products, clean clothes, and comfortable furniture. Furthermore, MVM shall not hold migrants for longer than the allotted 24-hour time period determined by ICE. Through our research, we have found many instances where MVM has not met these requirements. To ensure the safety and wellbeing of migrants, it is necessary for MVM to commit to the practices stated above.

Third, we demand that MVM attain and display proper licensing. To ensure that migrant adults and children are being properly cared for, MVM must have the correct state and federal licensing. Since many migrants being held by MVM are children, MVM must meet legal requirements regarding child care. On the state level, MVM must meet the requirements outlined by the Washington State Department of Children, Youth & Families (Washington State Department of Children, Youth & Families, n.d.). Furthermore, we ask that MVM receive a proper child care license from the state of Washington and comply with state standards. Under this license, MVM must have properly trained and educated staff,

have the correct ratio of staff to children, meet health and safety requirements, and meet child medical requirements (Military One Source, 2007).

Lastly, we call on MVM to be more transparent. We do not have access to MVM's most recent contracts with ICE regarding the transportation and housing of migrants, or MVM's contract with ICE in Washington State. The solicitation provides a potential overview, but it is impossible to know what exactly is in the actual contract that regulates the provision of these services in Washington. Without these contracts, we cannot truly know what MVM's responsibilities are under ICE, what licenses they have, or what parts of the contract they are potentially violating. ICE must become more transparent in their contracts with agencies such as MVM, so these third party organizations can be held accountable for wrongdoings.

12. Appendices

Appendix A: Select Captures from I-213 Documents

Figure A1

I-213 Document #2019-ICLI-00003-17060. Provided courtesy of the UW Center for Human Rights.

(b)(6); (b)(7)(C) [redacted] and (b)(6); (b)(7)(C) [redacted] are being processed for removal as an Expedited Removal [redacted] (b)(6); (b)(7)(C) [redacted] and her son will be transported to the Northwest ICE Processing Center in Tacoma, Washington. FMU Placement approved by Juvenile Coordinator.

Note. Example of removal and placement proceedings that a migrant may be subjected to after encounter with Customs and Border Protection officials.

Figure A2

I-213-180. Provided courtesy of the UW Center for Human Rights

CREDIBLE FEAR CLAIM

US ADDRESS:

(b) (7)(E) [redacted]
TACOMA, WASHINGTON, 98421

FATHER NAME AND ADDRESS:

(b) (6), (b) (7)(C) [redacted]
BORDER PATROL AGENT

Alien has been advised of communication privileges _____ (Date/Initials) (Signature and Title of Immigration Officer)

Distribution:

ORIG. TO A-FILE

Received: (Subject and Documents) (Report of Interview)

Officer: (b) (6), (b) (7)(C) [redacted]

on: April 19, 2018 at 2205 (time)

Disposition: Expedited Removal with Credible Fear

Examining Officer: (b) (6), (b) (7)(C) [redacted]

Form I-213 (Rev 08/01/07) Y

Note. I-213 showing Expedited Removal order despite evidence of a Credible Fear Claim.

Figure A3

I-213 Document #2019-ICLI-00003-7410. Provided courtesy of the UW Center for Human Rights.

U.S. Department of Homeland Security **Continuation Page for Form** I-213

Alien's Name	File Number	Date
(b)(6); (b)(7)(C)	(b)(6); (b)(7)(C) Event No: (b)(7)(E)	08/25/2019

As per D.O. (b)(6); (b)(7)(C) will be transported to the Northwest Detention Center in Tacoma, Washington pending removal to Nicaragua.

As per D.O. (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) will be transported to the Red Roof Inn in SeaTac, Washington pending removal.

Note. Sample evidence of family separation showing one party being sent to the Northwest Detention Center and another party of two being sent to the Red Roof Inn.

Figure A4

I-213 Document #2019-ICLI-00003-021724. Provided courtesy of the UW Center for Human Rights.

Distribution:

A File

MVM

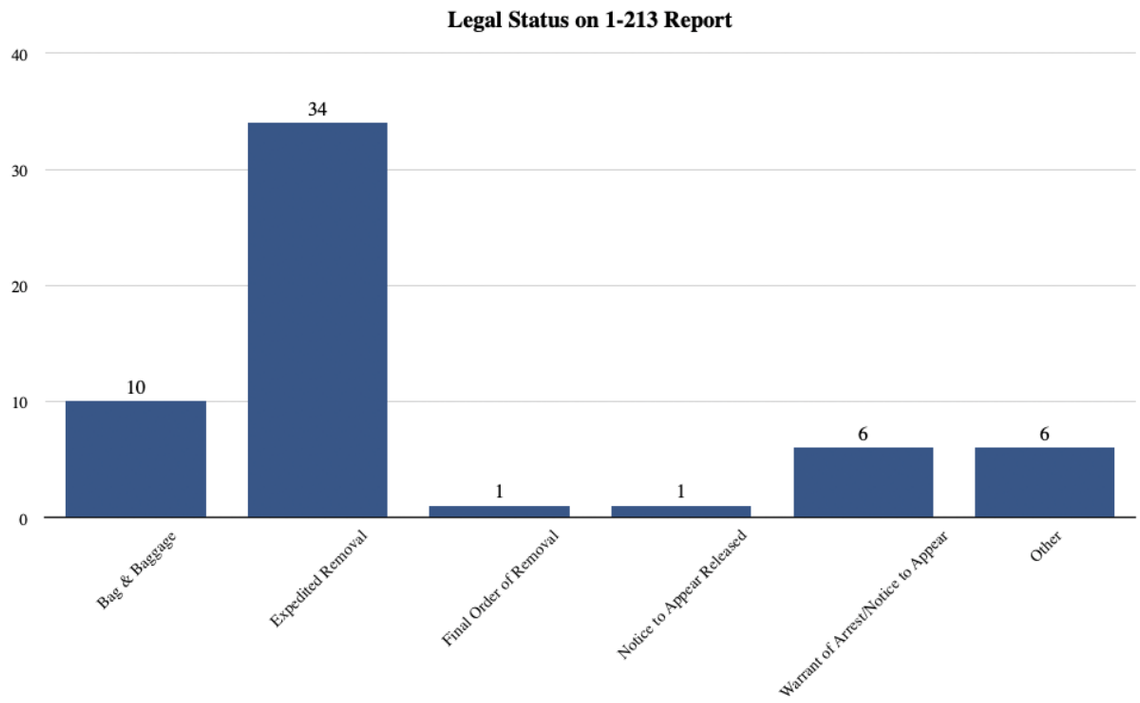
ICE Air

Note. I-213 showing MVM, Inc. as a distributor for migrant detention operations.

Appendix B: Visual Representations of I-213 Data

Figure B1

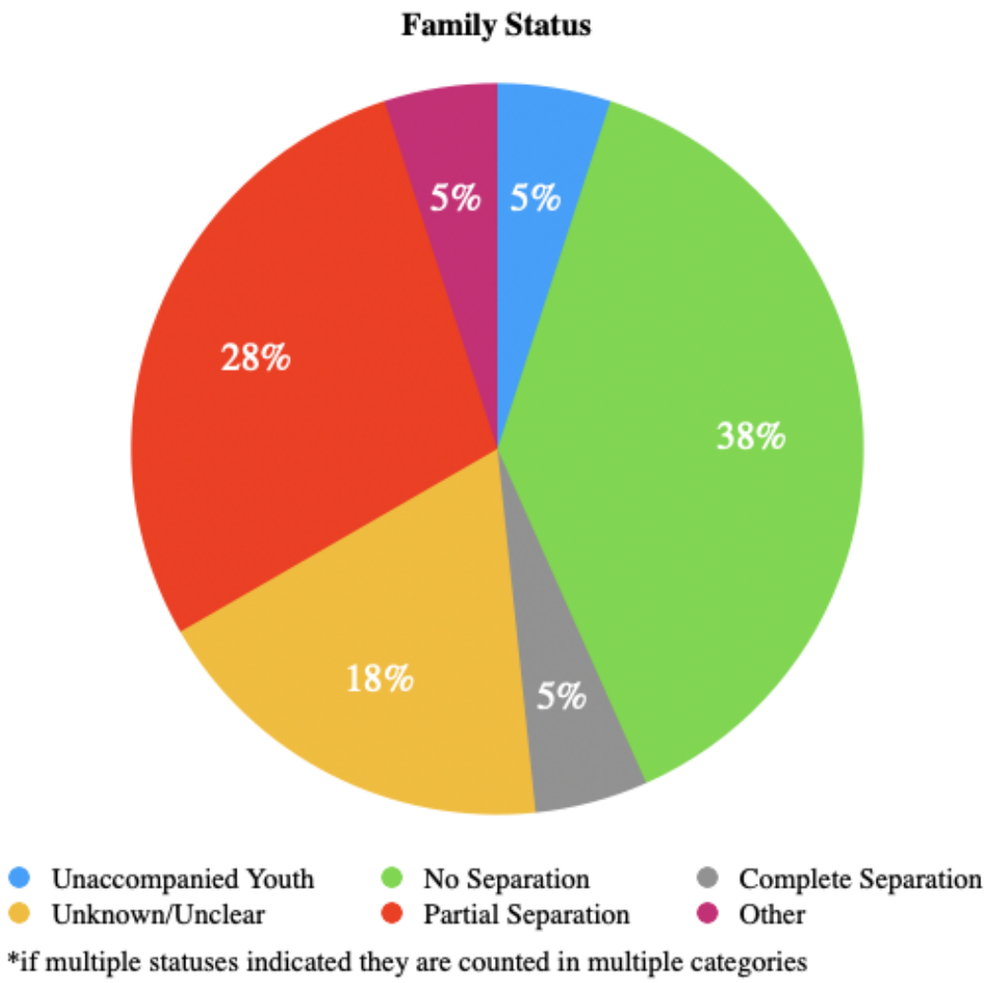
Legal Status on I-213 Report



Note. This chart shows a breakdown of the various order statuses for the 58 I-213 documents we evaluated, highlighting the disproportionate majority of cases that are sentenced for expedited removal.

Figure B2

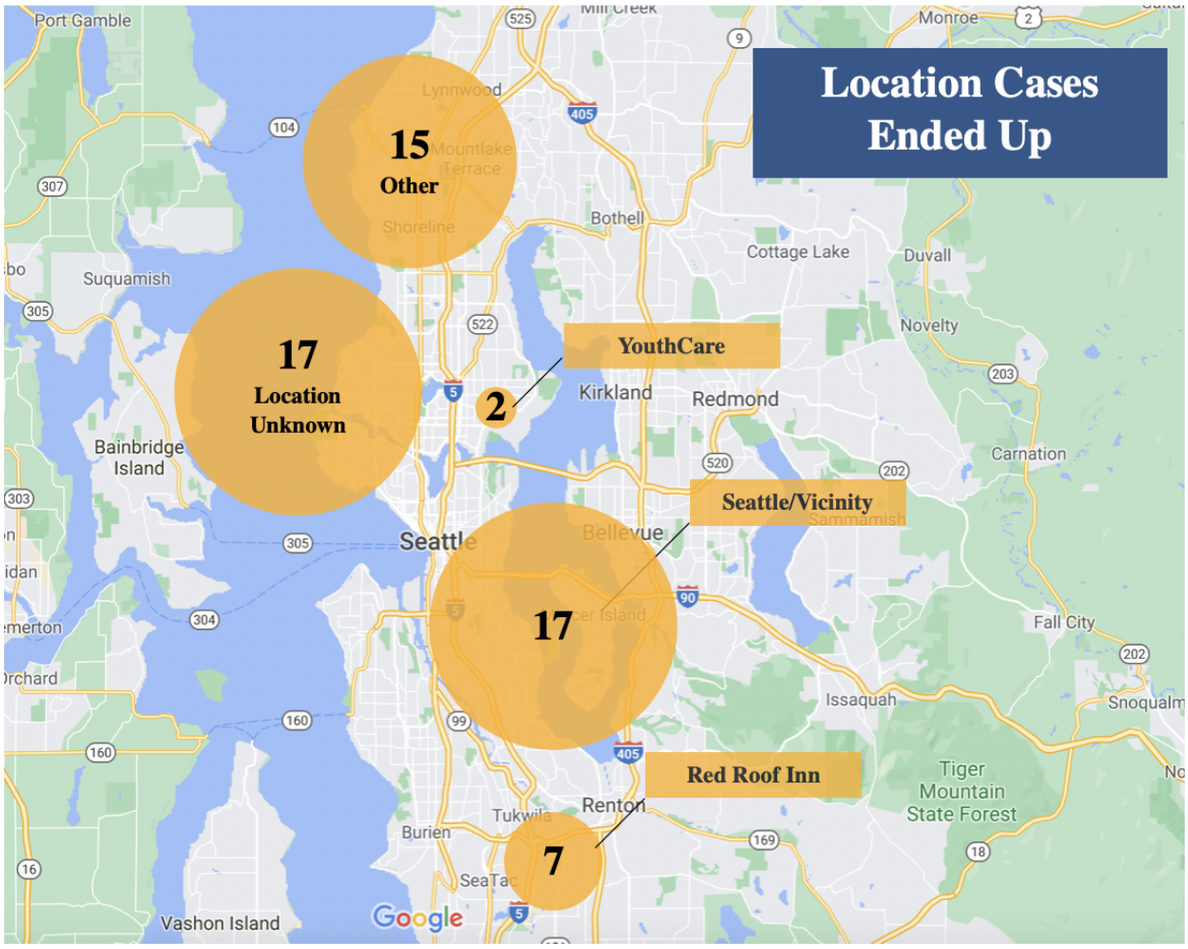
Breakdown of Family Statuses



Note. This chart shows a breakdown of the various family statuses that we deduced from the 58 I-213 documents. If multiple status were suspected, they were counted in both categories, so this chart reflects the percentages of 60 different statuses. It is important to note that there is no clear indication of family status or separation on the I-213 documents and that rather, these were deduced from the narratives written by CBP officers.

Figure B3

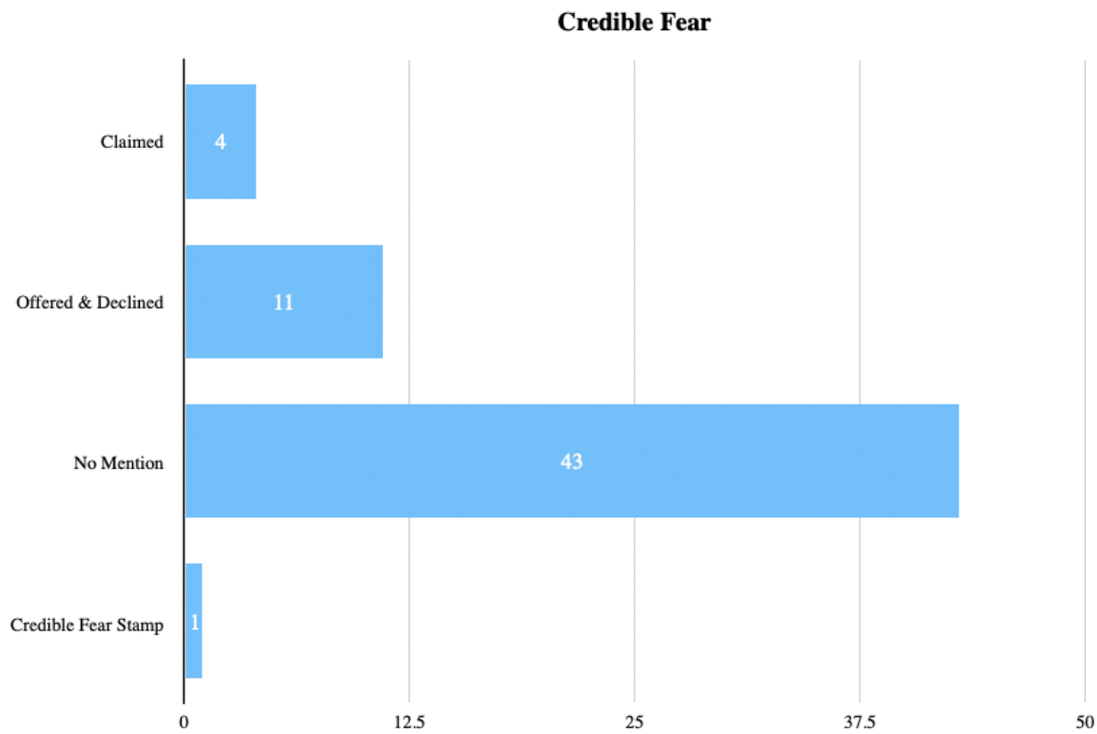
Visual Representation of Approximate Location that Cases Ended Up



Note. This map represents the various locations we deduced the migrant cases ended up. It is important to note that while some locations like Red Roof Inn and YouthCare were explicitly mentioned, most other locations were redacted. The category "Seattle/Vicinity" was determined by the appearance of a ZIP code of the Greater Seattle area or the mention of a street name. This map also highlights the inconsistencies in notation and redactions by the CBP officers. The categories "Other" and "Location Unknown" encapsulate a number of different statuses which the placement of the circles on the map do not precisely represent.

Figure B4

Credible Fear Status of I-213 Cases



Note. The chart shows the different credible fear statuses in the 58 I-213 documents we observed. It is important to note that "No Mention" indicates that the document contained no mention regarding credible fear, but this does not eliminate the possibility that credible fear was claimed or offered; it simply reflects that it does not appear in the document. Another important note is that only one out of the 58 cases had an official notation of credible fear (see Figure A3), while the others only mentioned it in the legal status or narrative; this highlights an inconsistency in the notations made by the CBP officers.

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