

Northwest
**IMMIGRANT
RIGHTS**
Project

October 9, 2019

Office of the General Counsel (original)
U.S. Department of Homeland Security
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Office of the General Counsel
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200 Independence Avenue SW
Washington, DC 20201

Office of Refugee Resettlement
Administration for Child and Families
Mary E. Switzer Building, 330 C ST SW Room 5123
Washington, DC 20201

RE: Notification of Incident and Claim for Damages under the Federal Tort Claims Act

██████████, A ██████████ (DOB: ██████/1974)
██████████, A ██████████ (DOB: ██████/2001)

Our offices represent ██████████ (Mr. ██████████) and his son, ██████████
██████████ (██████████), in their claim against U.S. Customs and Border Protection (CBP), U.S.
Immigration and Customs Enforcement (ICE), the Office of Refugee Resettlement (ORR) and
the U.S. Department of Health and Human Services (HHS). Enclosed please find the Claim for
Damage, Injury, or Death (Standard Form 95) for each of Mr. ██████████ and ██████████ (Exs. A
& B), and authorization statements for each (Exs. C & D).

Pursuant to 28 U.S.C. § 2675(a) and 28 C.F.R. § 14.2(a), we hereby provide notification of incidents that occasion liability under the Federal Tort Claims Act (FTCA) and present a demand for monetary damages in the amount of \$3,000,000 each for both Mr. [REDACTED] and [REDACTED]. These damages resulted from CBP, ICE, and ORR agents' tortious conduct, including the forced separation of Mr. [REDACTED] and [REDACTED], as well as the physical and emotional abuse of [REDACTED] while he was detained in the custody of the ORR.

Mr. [REDACTED]'s and [REDACTED] claim concerns an unprecedented action of separating parents from their children. The extraordinary trauma inflicted on parents and children alike was no incidental byproduct of an enforcement action—it was the very point. CBP officers forcibly separated Mr. [REDACTED] and [REDACTED] after they entered the United States in June 2018. Federal immigration officers subsequently detained Mr. [REDACTED] and [REDACTED] in separate facilities, several states away from each other. For more than a week, [REDACTED] and Mr. [REDACTED] did not even know each other's whereabouts. U.S. government officials later told Mr. [REDACTED] that he was about to be reunited with his son, but this was a ruse. Instead of taking him to be reunited with [REDACTED], officials instead took him to an airport and unlawfully removed him to Guatemala. Alone in the United States, [REDACTED] remained detained in ORR custody for eight more months. While [REDACTED] was detained, he suffered physical abuse and insults from a Lincoln Hall staff member, was medicated without the consent of his parents, and was placed into isolation for nearly a month and a half. Lincoln Hall staff members also created a sexually charged environment, including because two staff members showed him a pornographic video and another exposed him to a photo of herself without clothes. Mr. [REDACTED] and [REDACTED] were reunited in Seattle, Washington, in March 2019 after *nine months* of forced separation. As a direct and proximate result of the U.S. government's unlawful conduct, Mr. [REDACTED] and [REDACTED] suffered significant physical, emotional, and financial harm.

I. Federal immigration officers forcibly separated Mr. [REDACTED] and his minor son [REDACTED] when they sought asylum in the United States

Mr. [REDACTED] is a 45-year old political activist who fled Guatemala with his child [REDACTED], who was 17 years old at the time. They are indigenous Guatemalans. Mr. [REDACTED] had received death threats due to his advocacy for indigenous Ch'orti land rights and feared future persecution and torture.

Mr. [REDACTED] and [REDACTED] entered the United States on or about June 18, 2018, near McAllen, Texas. Shortly after they crossed the border, immigration officers approached Mr. [REDACTED], [REDACTED], and the group with which they were traveling, questioned them, and arrested them. Immigration officers confiscated their shoelaces and belts and loaded everyone into a van without offering them food or water.

After the arrest, immigration officers took Mr. [REDACTED] and [REDACTED] to a CBP facility known as a "*hielera*," or ice box because of its cold temperatures. Immigration officers forcibly separated Mr. [REDACTED] and [REDACTED] almost immediately after they arrived at the *hielera*. Without explanation, and over desperate objections, immigration officers physically separated Mr. [REDACTED]—who was handcuffed—and [REDACTED], and took [REDACTED] to a different room. During the separation, [REDACTED] cried and tried to cling to Mr. [REDACTED]. Mr. [REDACTED]

begged the officers not to take his son away from him, but they ignored him. He recalls the fear etched on [REDACTED] face and the sound of his screams. Mr. [REDACTED] describes this as the worst moment of his life.

Mr. [REDACTED] did not see [REDACTED] again for nine months. Mr. [REDACTED] cried many times after his son was taken away. The immigration officers had not given Mr. [REDACTED] the chance to say goodbye, to hug, or to kiss his son. After they were separated, Mr. [REDACTED] continuously questioned the immigration officers at the *hielera* about [REDACTED] location and asked when he could see [REDACTED] again, but the officers refused to answer his questions.

II. Mr. [REDACTED] was subjected to inhumane detention conditions and denied the right to seek asylum

Immigration officers detained Mr. [REDACTED] in the *hielera* for approximately eight days. Immigration officials interviewed Mr. [REDACTED] for about fifteen minutes while he was detained in the *hielera*. The officials took fingerprints and photos. Mr. [REDACTED] gave the immigration officials his ID and [REDACTED] birth certificate. He asked for asylum and said that he was afraid to return to Guatemala. The immigration officials in the *hielera* did *not* refer Mr. [REDACTED] for a credible fear interview as required by law.

Mr. [REDACTED] experienced temperatures in the *hielera* that he describes as similar to the bitter cold of Guatemala's mountains. Immigration officers increased the air conditioning to make the cells colder when Mr. [REDACTED] or other fathers asked questions about their children's location. When the questions ceased, immigration officers decreased the air conditioning.

Apart from the cold, the *hielera* was cramped, dirty, and uncomfortable. Immigration officials packed approximately 15 adult men into a small cell. The cell contained no beds or access to drinking water—just two benches, a table, and a bathroom area. Mr. [REDACTED] ate, slept, and drank there. The single toilet was shared by all of the men, without any privacy. Mr. [REDACTED] describes feeling humiliated by being forced to use a toilet in front of other adult men. Immigration officials did not permit Mr. [REDACTED] to brush his teeth, shower, or change clothes during the eight days that he was detained in the *hielera*, and instead he was forced to wear the dirty clothes that he had worn while crossing the border. Mr. [REDACTED] reports that the other men were not permitted to shower or brush their teeth either; as such, the smell in the *hielera* was horrible.

The immigration officers at the *hielera* also did not provide Mr. [REDACTED] with sufficient food or water. Mr. [REDACTED] was not given any bottled water while detained in the *hielera*; the only water available was in the bathroom area where the detainees washed their hands. Immigration officers did not give Mr. [REDACTED] food until his second day in the *hielera*, when they gave him a sandwich and a juice box and taunted him, saying: "this is what you wanted when you came to the United States." In the days that followed, immigration officers gave Mr. [REDACTED] one sandwich and a juice box in the morning and one sandwich and a juice box in the evening. The sandwich was only two slices of white bread with a thin slice of cheese and processed meat.

Immigration officials locked Mr. [REDACTED] in the cell 24 hours per day and denied him access to natural light or exercise. The cell was always flooded with bright fluorescent light, and Mr. [REDACTED] was unable to tell if it was day or night. He estimates that he slept one or two hours per day, curled up on the concrete floor with only an aluminum foil blanket to serve as a cover. The immigration officials did not provide sleeping mats, blankets, or pillows. The cell was so cramped that Mr. [REDACTED] could not straighten his legs. When Mr. [REDACTED] did manage to sleep, CBP officers roused him frequently by conducting a roll call. The immigration officers conducted a roll call every few hours, 24 hours a day, and they required Mr. [REDACTED] to respond when his name was called. Mr. [REDACTED] describes the lack of sleep as psychological torture that only compounded the distress caused by his forced separation from [REDACTED].

The mood in the cell was desperate and fearful. Mr. [REDACTED] describes the constant sound of adult men sobbing and begging immigration officers to let them see their children. Fathers grabbed the metal bars of the cells and banged their heads against them, pleading for information about their children's location. Mr. [REDACTED] asked immigration officers to tell him where [REDACTED] was detained, but the officers ignored him or responded "no Spanish".

After approximately six days in the *hielera*, Mr. [REDACTED] was taken by bus to a federal court. Mr. [REDACTED] was in handcuffs, and his feet were chained together. Mr. [REDACTED] pleaded guilty and was convicted of illegal entry under 8 U.S.C. § 1325. He recalls feeling humiliated by the experience because he did not believe that he was a criminal for seeking asylum under U.S. law.

A few days later, and after over a week in the *hielera*, immigration officers transferred Mr. [REDACTED] to a detention center in Port Isabel, Texas. In Port Isabel, Mr. [REDACTED] was detained in a cell with other fathers who had been separated from their children. When Mr. [REDACTED] initially asked when he would be allowed to see his child, immigration officers told him to be quiet.

Mr. [REDACTED] learned that [REDACTED] was detained in New York a day or two after his arrival at the detention center in Port Isabel. At that point, he had not known his son's whereabouts for more than one week. Mr. [REDACTED] and [REDACTED] spoke briefly by phone two times while they were detained in Port Isabel and New York, respectively. Mr. [REDACTED] was devastated that his son was so far away. Hope briefly returned to Mr. [REDACTED] when on or about July 23, 2018—after being separated from [REDACTED] for more than one month—immigration officers told Mr. [REDACTED] that he was going to be reunited with son the following day. Mr. [REDACTED] felt happy and hopeful.

However, instead of reuniting Mr. [REDACTED] and [REDACTED], ICE officers removed Mr. [REDACTED] from the United States—in violation of a federal court order requiring the family's reunification. Specifically, the morning after receiving word that he was to be reunified, immigration officers put Mr. [REDACTED] on a bus with other fathers who had been separated from their children. The bus arrived at an airport. The officers then put Mr. [REDACTED] in chains and loaded him onto a plane. At this point, Mr. [REDACTED] realized that the ICE

officers had deceived him: despite their promise to reunite Mr. [REDACTED] with his son [REDACTED] the officers were deporting him to Guatemala, a country where his life was in grave danger and from which he had requested asylum.

Mr. [REDACTED] suffered profound and lasting effects from the forced separation from his son [REDACTED] and his unlawful removal to Guatemala. He still experiences nightmares, anxiety, and depression. Moreover, Mr. [REDACTED]'s persecutors soon learned that he had returned to Guatemala and tried to kill him. Fearing for his life and desperately hoping to be reunited with his son [REDACTED], Mr. [REDACTED] fled to Guatemala City, where he connected with a nonprofit organization that facilitated his entrance to the United States pursuant to the district court's order in *Ms. L. v. U.S. Immigration and Customs Enforcement*, Case No. 18-cv-428 (S.D. Cal.). Mr. [REDACTED] traveled through Guatemala and Mexico with the assistance of a nonprofit organization. On or about March 2, 2019, he presented himself for admission at the Calexico port of entry. Mr. [REDACTED] and [REDACTED] were then finally reunited—after nine months of forced separation—a little over a week after Mr. [REDACTED] re-entered the United States. In May 2019, Mr. [REDACTED] applied for asylum with the help of *pro bono* counsel and included his son [REDACTED] as a derivative applicant on his asylum application.

III. Lincoln Hall staff physically and emotionally abused [REDACTED] while he was in ORR custody and created a sexually charged environment

After immigration officers forcibly separated Mr. [REDACTED] and [REDACTED] on June 18, 2018, [REDACTED] was detained for approximately two hours in the *hielera*. He was then transferred to a facility for unaccompanied minors in Texas. The immigration officers did not tell [REDACTED] the name of the Texas detention center for unaccompanied minors or its location. Inside the detention center, there was one large room divided into cells by chain-link fences. There were teenage boys in [REDACTED] cell, but he could see smaller children and babies in nearby cells. Many of the children and babies cried loudly. [REDACTED] felt sad, confused, and overwhelmed. He also felt hungry—at various points, immigration officials gave him a sandwich or burrito, but he was not accustomed to those types of food and could not eat them. [REDACTED] struggled to sleep in the facility because it was flooded with bright fluorescent lights 24 hours per day. There were also no windows, and [REDACTED] could only tell if it was night or day through cracks in the ceiling around the air conditioning units. [REDACTED] estimates that he was detained in this facility for about two days before he was put on a plane and flown to Lincoln Hall Boys Haven (Lincoln Hall) in Lincolndale, New York.¹

[REDACTED] arrived at Lincoln Hall on or about June 20, 2018. [REDACTED] recalls speaking with his father by phone twice while they were both detained in the United States. Mr. [REDACTED] told [REDACTED] that he did not know when they would be allowed to be together. [REDACTED] cried during the calls.

On or about July 17, 2018, Lincoln Hall staff recommended that [REDACTED] be released from custody and reunified with his father, Mr. [REDACTED]. However, a few days later, government officials made this impossible when they unlawfully removed Mr. [REDACTED] to Guatemala,

¹ Lincoln Hall is affiliated with Catholic Charities of the Archdiocese of New York, and contracts with ORR to detain unaccompanied minor children while a sponsor is located for them. ORR detained [REDACTED] at Lincoln Hall for approximately nine months, from June 2018 until March 2019.

leaving [REDACTED] alone in the U.S. without viable options for reunification and release. ORR detained [REDACTED] in Lincoln Hall for another eight months until his father returned to the U.S. in March 2019. During his time there, [REDACTED] suffered physical and emotional abuse from Lincoln Hall staff, was medicated without parental consent, and spent several weeks in isolation.

A. Medication without parental consent and placement in the “one on one” program

After about six or seven months of detention, [REDACTED] was overwhelmed by feelings of hopelessness and desperation. [REDACTED] says that he felt like he could not control his mind and could not control who he was. He found himself responding to the comments and actions of others without thinking, and he felt angry, sad, and desperate. Watching many other boys enter Lincoln Hall—and then leave to be reunified with their families or friends—made him feel even more alone.

On or around February 6, 2019, [REDACTED] told his counselor that he did not feel well and threatened to run away from Lincoln Hall.² A Lincoln Hall clinician’s report indicates that this incident was reported to ORR by the filing of a Significant Incident Report (SIR).³ In response, the counselor sent [REDACTED] to the medical clinic, where the staff prescribed [REDACTED] a white pill to take every evening. Although [REDACTED] does not remember being told the name of the pill, he recalls that staff said the pill would calm him. [REDACTED] did as he was told and took the pill each night. [REDACTED] believes that he was medicated for about 1.5 months. He recalls that medical clinic staff stopped giving him the pills after he apologized for threatening to run away and said that he would stay at Lincoln Hall. The Lincoln Hall medical staff did not obtain parental consent, or even contact Mr. [REDACTED], prior to medicating [REDACTED].

Apart from being medicated, [REDACTED] was also placed in isolation in the “one on one” program after he threatened to run away. At the time that [REDACTED] told staff that he wanted to run away, [REDACTED] had already languished in Lincoln Hall for several months—much longer than nearly all the other juveniles detained at the facility with him. While in the “one on one” program, staff members guarded [REDACTED] at all times. He was not permitted to go to school and instead sat in a classroom with Lincoln Hall staff. However, there was no instruction or teaching in the “one on one” classroom. Instead, [REDACTED] often watched cartoons and sometimes played card games with staff members. On some occasions, one or two other boys who were also in “one on one” were in the classroom, but [REDACTED] was not allowed to talk to them. During his time in the program, [REDACTED] slept in a small room with only one or two other boys. Lincoln Hall staff routinely checked on the boys throughout the night.

B. Physical harm and insults by Lincoln Hall staff member

Around the same time that Lincoln Hall staff began medicating [REDACTED], a Spanish-speaking male Lincoln staff member physically assaulted [REDACTED] and insulted him. [REDACTED] does not remember the

² See Ex. G, Lincoln Hall Individual Progress Note, dated February 6, 2019, which states: “Minor reported to Clinician Santacruz that he threatens to run away if he is not release[d] this month of February. Clinician communicated this to Lead Clinician who asked to submit a SIR ... Clinician explored threat with minor who reported he is bored and cannot wait anymore. The threat by minor to run away appeared credible. Clinician will continue to assess youth’s overall functioning through individual clinical sessions and group therapy. Minor will be place[d] on close supervision.”

³ *Id.*

staff member's name, but says that he was big and had long hair. One day, after taking his shower, [REDACTED] started to walk to his room. The male staff member said, "Where are you going? I'll tell you when you can leave." He put his hand on [REDACTED] chest, and pushed him back towards the showers. On another occasion, the male staff member cursed at him.

[REDACTED] told other Lincoln Hall staff members that the male staff member had mistreated him. The staff members told [REDACTED] that they could not do anything to protect him. [REDACTED] also told his counselor about the mistreatment. The counselor said that he would consult with a supervisor. Ultimately, rather than intervening with the staff member to protect [REDACTED], staff instead sent [REDACTED] to a new area of Lincoln Hall where he was less likely to encounter the staff member.⁴

C. Abusive and sexualized environment: incidents involving pornographic video and photo of unclothed staff member

Lincoln Hall staff created an abusive and sexualized environment. On two separate occasions, Lincoln Hall Staff completed an ORR Serious Incident Report entitled "Sexual Abuse SIR" describing incidents that involved [REDACTED].

On or around July 13, 2018, shortly after his arrival to Lincoln Hall, a male staff member showed [REDACTED] and other boys a pornographic video on a cell phone. The video lasted for about five minutes. The incident occurred in the sleeping room (cabana or cottage) at Lincoln Hall where [REDACTED] slept with 11 other boys. Then a female staff member, Ms. Salvador, who was later alone in the bathroom with [REDACTED], showed him additional pornographic video on her cell phone.

The following day, a boy in [REDACTED] cabana reported to his counselor that a staff member had showed the boys pornography on a cell phone. As part of the subsequent investigation, Lincoln Hall staff reportedly reviewed surveillance video footage from the night. The surveillance video footage revealed that, after the male staff member exposed the boys to the pornographic video, Ms. Salvador took several boys to the bathroom and followed them inside. (At Lincoln Hall, the boys needed permission to go to the bathroom and had to be accompanied by a staff member, who usually waited outside of the bathroom entrance until the boys came out.) After the other boys went back to the sleeping area, Ms. Salvador remained alone with [REDACTED] for approximately 10-15 minutes. During this time, she also showed him pornography on her cell phone.

Lincoln Hall authorities took [REDACTED] to the medical clinic, where staff examined him to see if he had been sexually abused, and evaluated what the Sexual Abuse SIR describes as "an accidental[] injury to his groin."⁵ Lincoln Hall staff and "attorneys from Catholic Charities" then interviewed [REDACTED]. The Sexual Abuse SIR identifies Ms. Salvador as the "perpetrator," and [REDACTED] as the "victim."⁶ That report indicates that Lincoln Hall staff did not report this incident to either law enforcement or the Department of Justice.⁷

Several months later, on or around February 21, 2019, [REDACTED] and two other boys were in the "one on one" classroom, with a staff member, Shadesia Roberson. Ms. Roberson had been

⁴ See Ex. H, Lincoln Hall Individual Progress Note, dated March 1, 2019.

⁵ See Ex. E, Serious Incident Report, dated July 13, 2018.

⁶ *Id.*

⁷ *Id.*

supervising [REDACTED]. At the end of the day, the other boys walked out of the classroom and [REDACTED] stayed behind to put on his jacket. Another Lincoln Hall staff member named Ronnie also stayed behind to close the blinds. Ms. Roberson followed the two boys out of the room and put her book into her backpack as she walked towards the door. As she was leaving Ms. Roberson dropped a photo of herself in the room—it was unclear to [REDACTED] if she had done this on purpose. [REDACTED] picked the photo up and put it in his jacket. The photo was of Ms. Roberson without clothes on. Around four days later, on February 25, 2019, an investigation by Lincoln Hall staff and the authorities was initiated. [REDACTED] believes that the staff member Ronnie saw [REDACTED] pick up the photo and reported this to a supervisor. Lincoln Hall supervisory staff interviewed [REDACTED].⁸ [REDACTED] also reports that “immigration officials” wearing blue uniforms interviewed him. [REDACTED] does not know what agency the officials were from. [REDACTED] was in the “one on one” program for about eight more days after being exposed to the photo. He was finally allowed to exit the program after apologizing for threatening to run away and promising to stay at Lincoln Hall.

IV. Mr. [REDACTED] and [REDACTED] are entitled to damages under the Federal Tort Claim Act

As a direct result of the U.S. government’s actions, Mr. [REDACTED] and his son [REDACTED] suffered significant physical and emotional harm. Federal immigration officers inflicted severe emotional distress on Mr. [REDACTED] and [REDACTED] by separating them from one another without any process, explanation, or information, and in callous disregard for family integrity. Moreover, ICE officers unlawfully deported Mr. [REDACTED] to Guatemala, where he was almost killed by his persecutors. The forced separation from [REDACTED] in detention, and later, from deportation, also produced lasting emotional trauma for Mr. [REDACTED]. He lost eight pounds in a single month of detention, and reports suffering from depression, anxiety, and nightmares to this day. He feels anxious when [REDACTED] is not nearby, and fears that his family will be separated again.

[REDACTED] also suffers from severe anxiety and depression. Like his father, federal immigration officers wreaked lasting emotional trauma on [REDACTED] when they forcibly separated him from his father after crossing the border. Once separated, [REDACTED] suffered emotional and physical abuse while detained in ORR custody. Indeed, instead of caring for a vulnerable child who had been separated from his father, Lincoln Hall staff exposed [REDACTED] to sexually explicit material, including pornographic videos and a photo of a staff member without clothes on. Lincoln Hall staff also pushed [REDACTED], insulted him, and medicated him without the consent of his parents. Lincoln Hall staff members reported some of these incidents to ORR, but ORR did nothing, despite the fact that [REDACTED] had languished at Lincoln Hall far longer than other children. Nor did ORR, CBP, and ICE act expeditiously to reunify [REDACTED] with his father—after wrongfully deporting Mr. [REDACTED], the agency delayed over seven more months in returning him to the United States and reunifying the family. [REDACTED] now calls his family “a beautiful thing,” but fears that he could be separated from his family at any moment.

Finally, the immigration officers’ actions offended Mr. [REDACTED]’s and [REDACTED] dignity and sense of belonging. Despite having finally reached the United States—which is statutorily obligated to provide asylum protection—immigration officers treated Mr. [REDACTED] and

⁸ See Ex. F, ORR Serious Incident Report, dated February 25, 2019.

██████ as people without rights and without a voice. They disregarded their valid and well-supported fear of return to Guatemala, and—through forced separation and detention—punished them for seeking safety in the United States.

* * *

CBP, ICE, and ORR officers forcibly separated Mr. ████████ and ████████ as part of an unprecedented action of forced separation. They did so in utter disregard for their statutory and constitutional rights, their dignity as persons, and their love for one another as a family. That separation and the other wrongful acts that federal officers inflicted upon Mr. ████████ and ████████ results in liability under the Federal Tort Claims Act. Mr. ████████ and ████████ suffered significant emotional trauma as a consequence of their forced separation. For these reasons, Mr. ████████ and ████████ submit this claim under the FTCA for compensation in the amount of \$3,000,000 each.

If you have any questions, please do not hesitate to contact us.

Sincerely,



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LIST OF EXHIBITS

- A. FTCA Claim Form, Standard Form 95, dated October 3, 2019 ([REDACTED])
[REDACTED]
- B. FTCA Claim Form, Standard Form 95, dated October 3, 2019 ([REDACTED])
- C. Claim Form Authorization Statement, dated October 3, 2019 ([REDACTED])
- D. Claim Form Authorization Statement, dated October 3, 2019 ([REDACTED])
- E. ORR Serious Incident Report, dated July 13, 2018
- F. ORR Serious Incident Report, dated February 25, 2019
- G. Lincoln Hall Individual Progress Note, dated February 6, 2019
- H. Lincoln Hall Individual Progress Note, dated March 1, 2019

EXHIBIT A

**CLAIM FOR DAMAGE,
INJURY, OR DEATH**

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

U.S. Customs and Border Protection
U.S. Immigration and Customs Enforcement
U.S. Office of Refugee Resettlement

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.

[REDACTED]
C/o Northwest Immigrant Rights Project
615 Second Avenue, Ste 400
Seattle WA 98104

3. TYPE OF EMPLOYMENT

MILITARY CIVILIAN

4. DATE OF BIRTH

[REDACTED]/1974

5. MARITAL STATUS

Married

6. DATE AND DAY OF ACCIDENT

06/18/2018 03/2019

7. TIME (A.M. OR P.M.)

PM

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Mr. [REDACTED]'s and [REDACTED]' claim concerns an unprecedented action of separating parents from their children. The extraordinary trauma inflicted on parents and children alike was no incidental byproduct of an enforcement action – it was the very point. CBP officers forcibly separated Mr. [REDACTED] and [REDACTED] after they entered the United States in June 2018. Please see addendum.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

N/A

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).

N/A

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

As a direct result of the U.S. government's actions, Mr. [REDACTED] suffered significant physical and emotional harm. Federal immigration officers inflicted severe emotional distress on Mr. [REDACTED] by separating him from his son [REDACTED] without any process, explanation, or information, and in callous disregard for family integrity. Moreover, ICE officers unlawfully deported Mr. [REDACTED] to Guatemala, where he was almost killed by his persecutors. Please see addendum.

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

Please see addendum

Please see addendum

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

0.00

12b. PERSONAL INJURY

3,000,000

12c. WRONGFUL DEATH

0.00

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

3,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

14. DATE OF SIGNATURE

[REDACTED]
10/03/2019

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).
N/A

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

The amount claimed should be substantiated by competent evidence as follows:

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- B. *Principal Purpose:* The information requested is to be used in evaluating claims.
- C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

- A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

██████████
DOB: ██████████/1974

Addendum to FTCA Claim Form, Standard Form 95

Question 8. BASIS OF CLAIM, cont.

Federal immigration officers subsequently detained Mr. ██████████ and ██████████ in separate facilities, several states away from each other. For more than a week, ██████████ and Mr. ██████████ did not even know each other's whereabouts. U.S. government officials later told Mr. ██████████ that he was about to be reunited with his son, but this was a ruse. Instead of taking him to be reunited with ██████████, officials instead took him to an airport and unlawfully removed him to Guatemala. Alone in the United States, ██████████ remained detained in ORR custody for eight more months. Mr. ██████████ and ██████████ were reunited in Seattle, Washington, in March 2019 after *nine months* of forced separation. As a direct and proximate result of the U.S. government's unlawful conduct, Mr. ██████████ and ██████████ suffered significant physical, emotional, and financial harm.

Question 10. PERSONAL INJURY / WRONGFUL DEATH, cont.

The forced separation from his son ██████████ in detention, and later, from deportation, also produced lasting emotional trauma for Mr. ██████████. He lost eight pounds in a single month of detention, and reports suffering from depression, anxiety, and nightmares to this day. He feels anxious when ██████████ is not nearby, and fears that his family will be separated again. Finally, the immigration officers' actions offended Mr. ██████████'s dignity and sense of belonging. Despite having finally reached the United States – which is statutorily obligated to provide asylum protection – immigration officers treated Mr. ██████████ as a person without rights and without a voice. They disregarded Mr. ██████████'s valid and well-supported fear of return to Guatemala, and – through forced separation and detention – punished him for seeking safety in the United States. This is not intended to be an exhaustive list of possible causes of action.

Question 11. WITNESSES, cont.

Possible witnesses include the following:

- Former Secretary Kirstjen Nielsen, Department of Homeland Security
- Acting Secretary Kevin K McAleenan, Department of Homeland Security

Possible witnesses also include employees of CBP, ICE, and ORR and each entity's contractors who had contact with or reviewed records related to ██████████ and ██████████ ██████████ and their apprehension, separation, detention, and Mr. ██████████'s removal; federal government officials involved in developing and implementing the family separation action; and the many individuals with whom Mr. ██████████ and ██████████ were detained in Texas and New York. This is not intended to be an exhaustive list of possible witnesses.