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Democracy Dies in Darkness

Trump administration pressures CDC to back detention of migrant children in border hotels amid coronavirus

CDC career officials have pushed back on what they see as an effort to use government scientists to advance the president's political agenda

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The Trump administration has been pressuring health experts at the Centers for Disease Control and Prevention to endorse the use of border hotels to hold migrant children before deporting them, a practice the government halted last month under court order, according to federal health officials.

Career CDC officials have declined to sign off on a declaration requested by the Department of Health and Human Services affirming that the use of hotels to detain migrant children is the best way to protect them from the spread of the novel coronavirus, according to one HHS official who has seen the declaration.

HHS has the responsibility for overseeing a network of shelters that care for underage migrants who arrive to the United States without an adult. The minors typically remain in the shelters until they are deported, or the government releases them into the custody of a sponsor, who is often a relative.

“CDC career scientists should not be pressured to sign a legal declaration justifying the administration’s treatment of unaccompanied minors,” said the HHS official, who spoke on the condition of anonymity for fear of retaliation. “Our federal scientists are understandably refusing to sign a document lending support to the administration’s immigration policies and practices.”

The request from HHS is the latest example of the administration’s efforts to use government scientists and physicians to advance the president’s political agenda. Under pressure from the White House, the CDC has repeatedly delayed and watered down guidelines on how Americans might protect themselves from the coronavirus, including the safest ways to reopen churches and schools.

The situation involving the border hotels is similar to the standoff that occurred this spring when White House officials, seeking to implement sweeping emergency border controls, asked the CDC to produce a public health justification by saying the plan would stop the spread of the coronavirus across the border. CDC experts balked, and the justification was passed up to CDC Director Robert Redfield, a Trump appointee, who eventually signed it, according to a CDC official who spoke on the condition of anonymity to share internal deliberations.

That action resulted in a public health order that has effectively allowed the Trump administration to waive standard immigration proceedings for protected groups, including minors, to implement rapid border “expulsions” known as Title 42 processing.

The CDC declined to comment. HHS spokeswoman Caitlin Oakley also declined to comment on matters that she said are in litigation.

Immigrant advocates and rights groups have sued the government, arguing that the expulsions violate legal protections for minors designed to prevent child trafficking and abuse.

Homeland Security officials have insisted the emergency measures are needed to prevent outbreaks inside Border Patrol stations, immigration jails and child shelters, where several outbreaks have occurred, as illegal immigration rose to a 13-month high last month.

Since the March order establishing the rapid expulsion rules, more than 90 percent of illegal border-crossers taken into U.S. custody along the southern border have been returned to Mexico in a matter of hours.

The number of minors in HHS custody has increased to about 1,900 this month, up from 800 a few months ago, according to one administration official with knowledge of the figures who spoke on the condition of anonymity to provide unpublished statistics. More children are crossing the border, and DHS is transferring more of them to HHS shelters, the official said.

Dolly Gee, a federal judge in California who oversees the court-managed rules governing detention of underage migrants known as the Flores settlement, ordered the government last month to halt the use of hotels. The practice peaked during the summer, when U.S. Immigration and Customs Enforcement began renting rooms along the border for use as temporary holding facilities.

Between March and July, the government used hotels to detain at least 577 minors, according to court filings. Of those, 436 were held for three days or more. The government is required to report any case in which a child is held longer than 72 hours without being transferred to HHS custody.

Gee said the Trump administration had failed to establish a public health justification for keeping minors in hotel rooms, instead of the licensed shelters overseen by HHS where they are normally sent while awaiting deportation or release to an approved sponsor or custodian. Because the hotels remain open to the public, they also don’t provide a safer place for the children to avoid infection, she stated.

The Trump administration “cannot seriously argue in good faith that flouting their contractual obligation to place minors in licensed programs is necessary to mitigate the spread of COVID-19,” Gee wrote in her order.

The minors are typically watched over by contractors who perform a babysitting role, while the youths remain in hotel rooms watching television or playing video games.

Gee raised concerns about the quality of the supervision provided by private contractors “who receive a mere two days of training, only a fraction of which are dedicated to child development and care, before being placed alone in a room with a tender age child for hours at a time.”

ICE officials said the practice was limited and has been consistent with the care and custody rules established under the Flores settlement, and the use of the hotels protects children from possible exposure in a more crowded shelter setting.

“U. S. Immigration and Customs Enforcement (ICE) only temporarily houses minors in hotels in limited circumstances consistent with the order of the district court in Flores, including as needed to alleviate overcrowding at Border Patrol stations pending expulsion flights,” ICE spokeswoman Danielle Bennett said in a statement.

“While the agency does not comment on pending litigation, ICE complies with binding court orders,” Bennett added.

The government said it had stopped using the hotels in early September, according to court filings. CBP referred inquiries about the use of hotels to ICE.

Administration officials said the transfer of children to HHS-managed shelters does not foreclose the government’s ability to expel them. But in practice, an expulsion becomes less likely once a child is in HHS care, with better access to attorneys and child migrant advocates.

“In the hotels, the kids are held pretty much incommunicado, and to operate behind closed doors is an advantage to the government,” said Carlos Holguín, an attorney who represents child migrants under the Flores settlement. The government doesn’t “have to contend with meddlesome lawyers trying to stop the expulsions, because they know they’re on shaky legal ground.”

Holguín said the government’s public health case for the use of hotels is undermined by its often casual approach elsewhere.

“They’re insisting they needed to use the hotels as means of controlling infection, but that’s inconsistent with everything the administration has done, like holding mass rallies,” he said. “Their public health rationale seems to be confined to people coming across the border, whom Trump has never liked anyway. So they have a hard time selling this as a public health measure.”

The most recent enforcement statistics published by U.S. Customs and Border Protection show a significant increase in border crossings by underage migrants who arrive without an adult. CBP took 3,756 minors into custody along the Mexico border in September, the highest one-month total since July 2019, statistics show.

To address the court’s request for a public health justification for keeping minors in hotel rooms, HHS turned to the CDC in recent weeks for a scientist to sign a declaration, according to two federal health officials familiar with the request who spoke on the condition of anonymity to disclose internal discussions.

CDC officials in several different offices declined, and the request was sent to Redfield, according to the HHS official who has seen the document. It is not known whether Redfield has signed it.

The declaration asks for someone at the CDC to attest they have reviewed the court’s orders regarding the use of hotels and the government’s infection control procedures, the HHS official said.

The infection control procedures at the hotels, the document says, do “not create an increased risk of covid-19 infection” among the minors, DHS personnel or the general public. It also says that DHS’s coronavirus procedures are informed by the latest epidemiological information.

