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February 9, 2016

**VIA ELECTRONIC TRANSMISSION**

The Honorable Daniel R. Levinson  
Inspector General  
Department of Health and Human Services  
Wilbur J. Cohen Building  
330 Independence Avenue, SW  
Washington, DC 20201

Dear Inspector General Levinson,

Earlier this month, a Champaign County Judge in Illinois issued a warrant for the arrest of Channing J. Butler who was accused of soliciting men to have sex with elderly women at Bickford Cottage – a memory care facility for seniors – where Butler was an employee.<sup>1</sup> During their investigation, police learned that Butler recruited these men so that he could videotape them having sex with the elderly women aged 88, 90, and 95 whose memories were failing.<sup>2</sup> Butler has since been charged with solicitation to commit aggravated criminal sexual assault, a Class 1 felony.<sup>3</sup> Additionally, a news outlet published a story in December 2015 outlining 36 instances of elder abuse beginning in 2012 perpetrated through the use of cell phone technology like Snapchat.<sup>4</sup> For example, at a nursing home in New Jersey, a nursing assistant photographed a resident's genitals and sent it to a friend.<sup>5</sup> The friend then uploaded the picture to Facebook. In

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<sup>1</sup> Mary Schenk, *Man arrested over alleged plot to videorecord sex with memory-care patients*, THE NEWS GAZETTE (Jan. 19, 2016), <http://www.news-gazette.com/news/local/2016-01-19/man-arrested-over-alleged-plot-videorecord-sex-memory-care-patients.html>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See Charles Ornstein, *Inappropriate Social Media Posts by Nursing Home Workers, Detailed*, Pro Publica (Dec. 21, 2015), <https://www.propublica.org/article/inappropriate-social-media-posts-by-nursing-home-workers-detailed>.

<sup>5</sup> *Id.*

Wisconsin, two workers took photos and videos of nude or partially nude elderly residents and shared them on Snapchat.<sup>6</sup> And a similar abuse occurred in New York.<sup>7</sup>

Although many offenders have been fired and prosecuted by state authorities, there may be many more unreported incidents of abuse. The Department of Health and Human Services Office of Inspector General (HHS OIG) has a role to play in overseeing these programs and protecting the elderly enrolled in them.<sup>8</sup> The Centers for Disease Control and Prevention (CDC) reports that the “physical and psychosocial consequences of elder abuse are numerous and varied.”<sup>9</sup> It is unclear what is being done to ensure that these consequences are avoided.

The National Center on Elder Abuse (NCEA), a program directed by the U.S. Administration on Aging (AOA) under the purview of the Department of Health and Human Services (HHS), prominently displays this definition on its website: “[e]lder abuse is a violation of human rights and a significant cause of illness, injury, loss of productivity, isolation and despair.”<sup>10</sup> Simply acknowledging this truth, however, is not enough. Therefore, I would like to know more about what HHS OIG is doing to protect the elderly in nursing homes. Please answer the following questions and provide the requested information.

1. In the past five years, how many nursing home abuse investigations and audits has HHS OIG conducted? Please provide a list all investigations and audits.
2. Please provide the number of nursing home abuse investigations by HHS OIG in the past five years that resulted in criminal and civil referrals to the Department of Justice. Of those, how many resulted in prosecution? Please list referrals by state.
3. Please provide the number of nursing home audits HHS OIG performed in the past five years that resulted in criminal or civil referral to the Department of Justice. Of those, how many resulted in prosecution? Please list audits by state.

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<sup>6</sup> *Id.*

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

<sup>8</sup> See HHS OIG, OEI-06-88-00360, *Resident Abuse in Nursing Homes: Understanding and Preventing Abuse* (1990); HHS OIG, A-05-97-00010, *Review of Elder Abuse Identification, Investigation and Resolution Procedures for Illinois Long-Term Care Facilities* (1997); HHS OIG, A-12-96-00016, *State of Maryland’s Ombudsman Program for Processing of Elder Abuse and Neglect Complaints and Accuracy of Geriatric Nurse Aide Registry* (1997); HHS OIG, OEI-06-98-00340, *Abuse Complaints of Nursing Home Patients* (1999); HHS OIG, OEI-01-04-00340, *Nursing Home Complaint Investigations* (2006); HHS OIG, OEI-07-10-00422, *Criminal Convictions for Nurse Aides with Substantiated Findings of Abuse, Neglect, and Misappropriation* (2012); HHS OIG, OEI-07-13-00010, *Nursing Facilities’ Compliance with Federal Regulations for Reporting Allegations of Abuse or Neglect* (2014).

<sup>9</sup> *Elder Abuse: Consequences*, Centers for Disease Control and Prevention, Injury Prevention & Control: Division of Violence Prevention, <http://www.cdc.gov/violenceprevention/elderabuse/consequences.html> (last visited Jan. 28, 2016).

<sup>10</sup> *Id.*

4. Medicare-certified and Medicare-Medicaid dually certified nursing homes are required to follow CMS's State Operations Manual which provides the procedural guidelines by which nursing home complaints are made and processed. According to HHS OIG's archive, the last review of the State's complaint process was in 2006.<sup>11</sup> Does HHS OIG plan an updated review?
5. Does HHS OIG have a plan in place to detect and combat the apparent growing number of instances of elder abuse? If so, what is the plan? If not, why not?
6. Is HHS OIG interfacing with states to ensure that elder abuse is reported, investigated, and prosecuted? If not, why? If so, what resources does it have at its disposal?

In addition to the above, I request that you schedule a briefing with my staff to review your answers and to discuss the role HHS OIG has played, and will continue to play, in investigating nursing home abuse. Thank you in advance for your cooperation with this request. Please number your responses according to their corresponding questions and respond no later than February 24, 2016. If you have questions, please contact Josh Flynn-Brown or Paul Junge of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary

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<sup>11</sup> HHS OIG, OEI-01-04-00340, *Nursing Home Complaint Investigations* (2006)