



One Hundred Sixteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security
Washington, DC 20528

Dear Acting Secretary Wolf and Acting Commissioner Morgan:

We are writing to express strong concern regarding the treatment of unaccompanied children seeking protection in the United States. Even in light of our current crisis, the United States continues to have a legal obligation to protect vulnerable children and prevent those arriving at our borders from being returned to places where they may face torture and persecution.

Under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), unaccompanied children from countries other than Mexico or Canada must be transferred to Office of Refugee Resettlement within 72 hours of apprehension. This law is designed to protect unaccompanied children, the most vulnerable group arriving at the U.S. border, from violence and exploitation.

Although it originally appeared that U.S. Customs and Border Protection (CBP) intended to implement federally mandated minimum protections for migrant children throughout the coronavirus pandemic, on March 29th Committee was informed that “all aliens CBP encounters may be subject to the CDC’s Order Suspending Introduction Of Persons From A Country Where A Communicable Disease Exists (March 20, 2020), including minors.” The Committee was also informed that CBP works to send these unaccompanied children back to their home countries as quickly possible, despite the fact that many unaccompanied children are fleeing violence and persecution in their home countries. While CBP officers have the option to exclude migrants from the CDC order on a case-by-case basis if an agent suspects trafficking or sees signs of illness, this case-by-case approach does not meet the requirements of TVPRA or provide adequate protections for children in the Department’s care.

Furthermore, on April 2, 2020, the Department informed the Committee that it had changed its definition of an unaccompanied child for implementation of the CDC order. The law defines an unaccompanied child as someone who has not as attained 18 years of age and has no parent or

legal guardian in the United States available to provide care and physical custody¹. However, because Mexico will not accept the return of unaccompanied children from third countries, DHS is no longer considering minors unaccompanied children if they are accompanied by relatives other than parents or legal guardians, contrary to the law.

Under both U.S. and international law, the Department is required to ensure that unaccompanied children arriving at our border have access to credible fear screenings and due process. The TVPRA ensures that children receive due process in adjudicating their claims.

We strongly urge you to reverse the Department's decision to deport unaccompanied children without due process and ask you to fully implement TVPRA protections for unaccompanied children. We also request that you provide the Committee all documents providing for the treatment of unaccompanied children at the border under CDC's Order Suspending Introduction Of Persons From A Country Where A Communicable Disease Exists (March 20, 2020).

Thank you for your attention to this urgent matter.

Sincerely,



Bennie G. Thompson
Chairman



Kathleen M. Rice
Chairwoman
Subcommittee on Border Security,
Facilitation, and Operations

¹ See 6 U.S.C. § 279(g)(2).