



## Committee on Migration

c/o Migration and Refugee Services, USCCB

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April 14, 2020

The Honorable Chad F. Wolf  
Acting Secretary of Homeland Security  
U.S. Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528

### **Re: Catholic Bishops' Concern for Vulnerable Migrant Populations' Health in Light of COVID-19**

Dear Acting Secretary Wolf:

On behalf of the U.S. Conference of Catholic Bishops Committee on Migration (USCCB/COM), I am writing to you today out of concern for the health and welfare of vulnerable migrating populations: most notably detained immigrants and unaccompanied children in the context of COVID-19. I urge the Department of Homeland Security (DHS) and its components to continue to honor obligations under U.S. law to allow vulnerable groups such as unaccompanied children to access protection in the United States while simultaneously following best health practices so that immigrants may not become exposed COVID-19. Specifically, I ask that DHS engage with the Centers for Disease Control (CDC) and medical experts to review all practices related to immigrant detention and encounters with unaccompanied children and asylum seekers at the U.S./Mexico border in light of internationally and domestically codified protection rights and the health risks of COVID-19. I strongly urge your agency to take additional measures in the interest of slowing the virus's spread while continuing to protect human life and honor U.S. legal and moral commitments to protecting the vulnerable fleeing persecution.

The Catholic Church's deep concern for people seeking safety during the COVID-19 pandemic is grounded in Catholic social teaching and our collective experience serving people in need. The core tenet of our faith is the belief that every human life is sacred. In promotion of that belief, we advocate and provide service for all, but especially the most vulnerable: the unborn, the poor, the homeless, immigrants and refugees, the elderly and the mentally and physically infirm. As reflected in Catholic teachings, the right to life extends to life-saving protection and the right to seek safety and well-being and to care for one's family.

During this global pandemic and national emergency, access to appropriate health prevention measures and continued access to protection are critical. Ensuring individuals are not unnecessarily exposed to COVID-19 while continuing to offer protection can save lives. In this context, I make the following recommendations regarding immigrant detainees, unaccompanied children and asylum seekers to help ensure that no human life is placed unnecessarily at risk at this time:

#### **(1) Immigrant Detainees**

Ensuring the health, human dignity and due process of immigrant detainees is a concern of the Catholic Church. In *Responsibility Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal*

*Justice*, immigrant detention is specifically mentioned as a priority issue: “The special circumstance of immigrants in detention centers is of particular concern.”<sup>1</sup> Catholic service providers have long been involved providing visitation, legal, social and pastoral services to detainees, the newly released and their families. We also have an extensive history of administering alternative to detention programming in partnership with the federal government as well as independently to those who have been recently released but need assistance. I also note that USCCB and our Catholic Charities network are currently working in partnership with ICE and its contractors to implement and administer alternatives to detention utilizing case management. We welcome working with you to help ensure individuals who may be released from detention in some form may be released to alternatives to detention.

As you are grappling with this public health crisis, we urge you to consider and implement the following recommendations for the health and well-being of your staff and all immigrant detainees:

- **Parole Vulnerable Populations from Detention** Vulnerable individuals, such as those with physical or mental health ailments, over age 60, with compromised immune systems and people whose housing placements restrict their access to medical care and limit the staff’s ability to observe them, should be humanitarily paroled from detention facilities. Efforts must be made to ensure that these individuals upon parole: (1) have family/friends to stay with for community support and (2) are willing and able to self-quarantine and have travel and transportation to be with family and friends arranged.
- **Enroll Individuals Who Are Not Required to Be Detained Under the INA on Alternatives to Detention** In the current detention population, there are certain individuals, such as asylum seekers who have passed credible fear interviews, who do not have to be detained under the Immigration and Nationality Act (INA). I urge you to strongly consider utilizing alternatives to detention for this population as it will help prevent them from the possibility of exposure to COVID-19. DHS should use its discretion to immediately enroll such individuals in a variety of existing alternatives to detention including case management. As mentioned above, we operate alternatives to detention with ICE and its contractors can assist you in this respect.
- **Provide Robust Public Education for the Detained and Those Working in Facilities** The detained need to be informed about COVID-19 and the measures they can take to minimize their risk of contracting or spreading the virus. Information about the spread of COVID-19, the risks associated with it, recognizing symptoms, and prevention and treatment measures must be available in multiple languages and infographics for those who are illiterate. Additionally, cleaning and personal hygiene products should be made available to all detainees. Correctional, administrative, and medical staff all must be educated about COVID-19 to protect themselves and their families, as well as those in their custody. Staff should be properly trained and also should be given protocols for how to proceed if a family member or they themselves exhibit symptoms.
- **Maintain Consistent Access to Legal and Pastoral Services** Access to attorneys, know your rights and other legal orientation services must be maintained through free phone access and video technology. Attorney/client calls should be free and available to be made in a private space. Legal service providers should be granted flexibility to provide know your rights and legal orientation programming via video. Additionally, in this moment, pastoral care is more important than ever. Creative means should be employed using telephone and video technology for group religious practices and individual appointments. Please note that almost every single religious

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<sup>1</sup> *Responsibility, Rehabilitation and Restoration, A Catholic Perspective on Crime and Criminal Justice*, A Statement of the Catholic Bishops of the United States (Nov. 15, 2000).

denomination is web-streaming their religious services and web-access to these services should be provided and encouraged.

## (2) Unaccompanied Children

Formally, in partnership with the U.S. government, the Catholic Church has been serving unaccompanied children since 1994. Currently, as of March 1, 2020, there are 3,617 unaccompanied children in the U.S. government's custody.<sup>2</sup> The Catholic Church's work in assisting unaccompanied children stems from the belief that every person has a unique and sacred dignity and that we must help protect and defend the vulnerable. The protection of migrant children is an especially important issue for the Catholic Church as one of Jesus' first experiences as an infant was to flee for his life from King Herod with his family to Egypt. The Church recognizes the extreme violence and persecution that children are facing and seeks to ensure their safety and well-being.

As you are grappling with this public health crisis, it is vital that you consider the following recommendations for the health and well-being of your staff and unaccompanied children:

- **Continue to Process Unaccompanied Alien Children (UAC)<sup>3</sup> under the obligations of the Trafficking Victims Protection Reauthorization Act (TVPRA)** The recent Border Closure announcement is being applied to expel UACs from the United States, undermining protections for vulnerable children. Effective March 20th, CDC directed DHS to suspend entry of certain individuals to avoid their detention in DHS's congregate settings such as Border Patrol stations, and Customs and Border Protection (CBP) barred entry for many persons through ports of entry, except for "essential travel."<sup>4</sup> Though DHS authorized CBP to designate further categories of essential travel and make exceptions on a case-by-case basis, neither a March 24 DHS order<sup>5</sup> nor operational CBP guidance<sup>6</sup> exempts unaccompanied children, including unaccompanied children seeking protection, from the CDC order's restrictions. Pursuant to the TVPRA, UACs arriving at the border are entitled to special protections, including screening mechanisms to determine if they are at risk of trafficking or harm if returned to their country of origin.<sup>7</sup> Unaccompanied children from non-contiguous countries are excluded from summary removal proceedings, and must be given the opportunity to present their claims for protection. I urge you to respect the existing law, and furthermore honor U.S. commitments to protect immigrant children who need this life-saving protection now more than ever.
- **Implement Existing Testing and Social Distancing Guidelines for Unaccompanied Children Encountered by Border Patrol and Also Those Placed in Their Custody** Customs

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<sup>2</sup> See Latest UAC Data FY 20 available at <https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/latest-uac-data-fy2020/index.html>, (last accessed April 14<sup>th</sup> 2020)

<sup>3</sup> See Homeland Security Act of 2002, 6 U.S.C. 279(g)(2) The Homeland Security Act of 2002 defines the term "unaccompanied alien child" as a child under the age of 18 who has no lawful immigration status and for whom there is no parent or legal guardian in the United States, or no parent or legal guardian available to provide care and custody.

<sup>4</sup> "Order Suspending Introduction of Certain persons From Countries Where a Communicable Disease Exists," 85 FR 17060.

<sup>5</sup> "Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico," 85 FR 16547.

<sup>6</sup> CBP, "COVID-19 CAPIO", <https://www.documentcloud.org/documents/6824221-COVID-19-CAPIO.html>.

<sup>7</sup> 8 U.S.C. § 1232.

and Border Protection (CBP) must implement existing CDC Control protocols for testing,<sup>8</sup> identifying<sup>9</sup> and preventing<sup>10</sup> COVID-19 for UACs. Additionally, protocols must include adequate mechanisms to track, document, and communicate with both the UAC's home country through the consulates and Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) cases of UAC who may be infected or may have been exposed to COVID-19.

- **Promptly transfer UACs to HHS/ORR** Under the TVPRA, CBP has a statutory mandate to transfer unaccompanied children within 72 hours.<sup>11</sup> CBP has breached this duty in the past, and we are very concerned with the ability of CBP to quickly transfer for children and ensuring that they do not spend too much time in Boder Patrol processing facilitie. With this public health crisis, failing to comply with the TVPRA could have lethal consequences for immigrant children, exposing them to unsanitary conditions where the virus can spread unchecked. Immediate transfer to HHS/ORR is a best safety precaution for UAC and the Border Patrol staff.
- **Ensure UACs Who Are Sent Back to Home Country Receive a Best Interest Determination and Access to Health Care Responsive to COVID-19** If UACs are repatriated back to their home country, DHS has a responsibility to ensure that the children receive best interest determinations to assess protection and safety needs. Additionally, children should be received and promptly examined in light of COVID-19 and if appropriate, quarantined tested, and/or treated in child-appropriate spaces.

It is vital that you remember in this moment our own common humanity and that we are all God's children, regardless of our immigration status. Again, I urge you to consider these recommendations and welcome any way that the Catholic Church can assist you at this time. I welcome a further discussion with your designated staff to see how we may work together to ensure humane treatment and compliance with U.S. immigration laws.

Sincerely,



Most Rev. Mario E. Dorsonville  
Chairman  
USCCB Committee on Migration

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<sup>8</sup> Centers for Disease Control COVID 19, Testing, available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html>

<sup>9</sup>Centers for Disease Control COVID 19, Symptoms, available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

<sup>10</sup> Centers for Disease Control COVID 19, Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/index.html>

<sup>11</sup> 8 U.S.C. § 1232(b)(3).