



Written Testimony of

Most Reverend Mario E. Dorsonville
Auxiliary Bishop of Washington

Chairman of the Committee on Migration of the
United States Conference of Catholic Bishops

for
Senate Homeland Security & Governmental Affairs Committee

“CBP Oversight: Examining the Evolving Challenges Facing the Agency”

562 Dirksen Senate Office Building
9:30am Thursday, June 25, 2020

“Particular concern must be shown for migrant children and their families, those who are victims of human trafficking rings, and those displaced due to conflicts, natural disasters and persecution. All of them hope that we will have the courage to tear down the wall of “comfortable and silent complicity” that worsens their helplessness; they are waiting for us to show them concern, compassion and devotion.”

--Pope Francis, Message for 2nd Conference on International Migration between Mexico & Holy See,”¹

Thank you to Senator Ron Johnson(R- WI) Chairman and Senator Gary Peters(D-MI) Ranking Member and members of the Senate Homeland Security & Governmental Affairs Committee for the opportunity to submit this written testimony regarding the recent developments regarding Customs and Border Protection and their engagement with unaccompanied children and asylum-seeking families.

As chairman of the Committee on Migration for the United States Conference of Catholic Bishops (USCCB), I wish to address the importance of America’s acceptance of and care for unaccompanied children and asylum-seeking families, of which the Customs and Border Protection (CBP) plays an important role, frequently as the first U.S. government entity these individuals encounter. The United States is a global leader and over the years has developed many noteworthy humanitarian and child-friendly responses to caring for these vulnerable populations. I speak on behalf of the Catholic Church when I say that the Church teaches that every human being is created in God’s image and deserves dignity and respect. We view assisting those in need as a fundamental Christian duty that is derived directly from the words and the life of Christ, who himself was a migrant and part of a refugee family. As Christians, we are called to welcome our new neighbors and those fleeing persecution with the same love and compassion that we would want ourselves to be shown.

Pope Francis himself has spoken with great compassion and detail as to the importance of caring for unaccompanied children and families seeking refuge. Accordingly, recent changes to the way CBP and the Border Patrol are encountering unaccompanied children and asylum-seeking families in light of COVID-19 and the U.S. government’s abrogation of the requirements under the Trafficking Victims Protection Reauthorization Act (TVPRA)² are of great concern to us. We are sincerely worried about the well-being of the children and families and for the CBP and Border Patrol officers who are working on the frontlines to ensure our safety. Many Catholic dioceses along the U.S. border work every day with CBP and Border Patrol officers and value the work that these brave men and women undertake in order to keep our country safe. We recognize that CBP is working to deal with COVID-19 and appreciate those efforts; however, USCCB strongly urges the U.S. government to ensure the safety of unaccompanied children and other vulnerable groups searching for protection at the U.S./Mexico border as well as the safety of the CBP and Border Patrol officers. We believe that this can be achieved without sacrificing our moral and legal duty to help unaccompanied children and asylum seekers in need. We regularly work with CBP and pledge to continue doing so in an effort to find a more humane and legally compliant way to protect all people from COVID-19 to the extent possible, while simultaneously honoring our laws and offering refuge to those fleeing violence. As Pope Francis notes, we must not look away and ignore the suffering of those on the margins.

In this testimony, I will describe the Catholic Church’s work and mission assisting unaccompanied children and asylum-seeking families and our concerns related to the lack of protections for these two vulnerable populations due to recent COVID-19-related regulations promulgated by the Administration. I will also offer

¹ Pope Francis, Message of His Holiness Pope Francis for the “Second Holy See- Mexico Conference on International Migration,” Vatican City, 14 June 2018. http://w2.vatican.va/content/francesco/en/messages/pont-messages/2018/documents/papa-francesco_20180614_messaggio-migrazione.html

² 8 U.S.C. § 1232.

recommendations to help ensure that immigrant children and families are protected and treated with dignity and ensure such children and families are in compliance with their immigration proceedings, while honoring the existing legal and legislative protections found in the TVPRA.

I. Catholic Social Teaching and Concern, Care and Support for Unaccompanied Children and Asylum-Seeking Families

The principle point of faith for assisting unaccompanied children is rooted in the belief that they, like all God’s children, were created in His image and have a unique and sacred human dignity. Consequently, the Catholic Church in the United States has played a critical role in the care of unaccompanied children and asylum-seeking families, and USCCB’s Migration and Refugee Services (MRS) has been a leader in the protection of and advocacy for these populations. While the Catholic Church recognizes governments’ right to control their borders and enforce immigration laws, we also hold a strong pastoral interest in the welfare and humane treatment of unaccompanied immigrant children. In the Old Testament, God calls upon his people to care for the alien because of their own experience as aliens: “So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt” (Deut. 10:19). In the New Testament, the image of the migrant is seen in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and other marginalized persons in a special way: “I was a stranger and you welcomed me” (Mt. 25:35). Jesus himself was an itinerant preacher without a home of his own, and as noted, a refugee fleeing to Egypt to avoid persecution and death (Mt. 2:15).

In modern times, popes over the last 120 years have developed the Church’s teaching on migration. Pope Leo XIII pioneered the Catholic Church’s commitment to care for pilgrims, aliens, refugees, and migrants of every kind, affirming in *Rerum Novarum*, that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.³ Meanwhile, we advocate to address the root causes for such poor conditions while also protecting those forced to migrate. In our joint pastoral letter with the Mexican bishops in 2003, *Strangers No Longer: Together on the Journey of Hope, A Pastoral Letter Concerning Migration*,⁴ January 23, 2003, we call for nations to work toward a “globalization of solidarity.” In that document, we affirm that “Refugees and asylum seekers should be afforded protection. Those who flee wars and persecution should be protected by the global community.” (No. 99). We likewise state that refugees should “have access to appropriate due process protections consistent with international law.” (No. 99). We believe that once an unaccompanied child arrives at our border, our nation has a moral obligation to ensure his or her safety and wellbeing. As Pope Francis has said: “Among migrants, children constitute the most vulnerable group, because as they face the life ahead of them, they are invisible and voiceless.”⁵

Since 1994, USCCB/MRS has operated the “Safe Passages” program. This program serves unaccompanied immigrant children apprehended by the Department of Homeland Security (DHS) and placed in the custody and care of the Office of Refugee Resettlement (ORR), within the Department of Health and Human

³ Pope Leo XIII *Rerum Novarum*, ENCYCLICAL OF POPE LEO XIII ON CAPITAL AND LABOR, 1891.
http://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html

⁴ *Strangers No Longer: Together on the Journey of Hope, A Pastoral Letter Concerning Migration* from the Catholic Bishops of Mexico and the United States, *United States Conference of Catholic Bishops, Inc. and Conferencia del Episcopado Mexicano*, January 22, 2003
<http://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/strangers-no-longer-together-on-the-journey-of-hope.cfm> .

⁵ Pope Francis, *2017 World Day of Migrants and Refugees Message* (September 8, 2016).
https://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20160908_world-migrants-day-2017.html .

Services (HHS). Through cooperative agreements with ORR, and in collaboration with community-based social service agencies, the Safe Passages Program provides community-based residential care (foster care and specialized groups homes) and small-scale shelter placements to unaccompanied children in ORR custody, as well as family reunification services (pre-release placement screenings (home studies)⁶ and post-release social services for families). In fiscal year 2019, the USCCB/MRS Safe Passages Program served 1,294 youth who arrived as unaccompanied children—1,365 through the family reunification program and 203 through the residential care programs.

In addition to our work serving unaccompanied children through the Safe Passages Program, we have extensive experience throughout our Catholic network in serving asylum-seeking families. Traditionally, and especially in recent years (as family units have been arriving with increased frequency to the U.S./Mexico Border since 2014⁷), Catholic entities and Border Patrol officers have formed valuable partnerships and relationships working in coordination to assist asylum-seeking families. This collaborative working relationship has grown particularly since 2018-2019, when CBP began releasing family units directly to humanitarian service providers. Specifically, the areas that received the largest number of families released were led by Catholic service providers in: (1) El Paso, Texas – coordinated by Annunciation House with support from the Diocese of El Paso and other religious organizations; (2) McAllen, Texas –coordinated by Catholic Charities Rio Grande Valley with support from the Diocese of Brownsville; and (3) Tucson and Yuma, Arizona – coordinated by Catholic Community Services of Southern Arizona with support from the Diocese of Tucson and other religious organizations.

Additionally, in the summer of 2018 USCCB/MRS worked in partnership with Lutheran Immigration and Refugee Service to assist the Trump Administration to reunify separated families as was required by law. In addition to providing initial humanitarian and reunification assistance, USCCB/MRS worked with families into late 2018 and early 2019 to provide access to social and legal service and case management.⁸ USCCB/MRS provided these charitable services because of our belief that such services would help support the separated children and families, reduce their ongoing trauma, and help ensure positive compliance outcomes. Throughout all of this work, we have learned of the trauma and violence that many unaccompanied children and asylum-seeking families suffer and regularly face, and they have noted the life-saving protection that American laws have afforded these vulnerable people.

II. Recent Regulations Undermine Protections for Vulnerable Children and Families and Ignore Systemic Root Causes of Violence and Forced Migration

⁶ During a home study, a community-based case worker assesses the safety and suitability of the proposed caregiver and placement, including the caregiver’s capacity to meet the child’s unique needs, any potential risks of the placement, and the caregiver’s motivation and commitment to care for the child. Home studies result in a recommendation on whether placement with the proposed caregiver is in the child’s best interest.

⁷ During Fiscal Year 2018, the number of arriving family units increased to roughly 107,000 members arriving at the U.S./Mexico border, up from 76,000 in Fiscal Year 2017. As March 2019, the number of arriving family units was already estimated at over 189,000 for Fiscal Year 2019. *U.S. Border Patrol Southwest Border Apprehensions by Sector FY 2017*, U.S. CUSTOMS AND BORDER PROTECTION (Feb. 11, 2019), <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions-fy2017>; *U.S. Border Patrol Southwest Border Apprehensions by Sector FY 2018*, U.S. CUSTOMS AND BORDER PROTECTION (Oct. 23, 2018), <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions>; *Southwest Border Migration*, U.S. CUSTOMS AND BORDER PROTECTION (April 29, 2019), <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

⁸ U.S. CONFERENCE OF CATHOLIC BISHOPS AND LUTHERAN IMMIGRATION AND REFUGEE SERVICE, *SERVING SEPARATED AND REUNITED FAMILIES: LESSONS LEARNED AND THE WAY FORWARD TO PROMOTE FAMILY UNITY* (2018). https://justiceforimmigrants.org/2016site/wp-content/uploads/2018/10/Serving-Separated-and-Reunited-Families_Final-Report-10.16.18-updated-2.pdf.

During the global COVID-19 pandemic, there have been several new regulations promulgated by the Trump Administration regarding the ability of immigrants to enter the country. The ability of the federal government to create these regulations exists under Title 42 of the United States Code. Title 42 of the United States Code, otherwise known as the “Public Health and Safety Act,” which is made up of hundreds of individual laws governing the health, safety, and civil rights of those within the United States. Under section 265 of this act⁹, the Surgeon General may halt any immigration or entrance of persons from countries they find to be a source of communicable disease.

Citing the rise of COVID-19 in our country, on March 20, 2020, the Centers for Disease Control and Prevention (CDC) issued an interim final rule that restricted any persons traveling over either the northern or southern border, regardless of their country of origin, into the United States¹⁰. Although issued by the CDC, the order stated that it would be implemented by the U.S. Department of Homeland Security.¹¹ In addition, on April 22, 2020, President Trump issued a presidential proclamation stating that, in order to preserve the United States economy, most immigration into the United States would be suspended.¹² Since the Proclamation and the rule published by the CDC in March, the U.S. Border Patrol has reported a total of 41,557 migrants expelled from the United States under Title 42.¹³ On May 20th, the CDC announced the amendment and extension of the rule issued on March 20th, 2020 which will remain in effect until the CDC director determines that it is no longer necessary.¹⁴

While we note the importance of public health measures to protect the well-being of our country, the recent immigration-related changes have left many unaccompanied children in extremely dangerous and vulnerable situations and has violated existing U.S. requirements under the TVPRA.¹⁵ The March 20th order has had true human consequences: it is estimated that approximately 2,175 unaccompanied children have been “expelled” since March 2020.¹⁶ Noting the extreme violence¹⁷ that unaccompanied children encounter both in their home countries (primarily the Northern Triangle¹⁸) and on their journey, especially during this time when

⁹ 42 U.S.C. §265 (1944). (“Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.”)

¹⁰ 85 Fed. Reg. 16567 (March 23, 2020).

¹¹ *Id.*

¹² Presidential Proclamation 10013 (April 22, 2020). For more information, see JFI’s resource available at <https://justiceforimmigrants.org/wp-content/uploads/2020/05/April-Presidential-Proclamation.pdf>

¹³ *Nationwide Enforcement Encounters: Title 8 Enforcement Actions and Title 42 Expulsions*, U.S. DEP’T OF HOMELAND SECURITY, CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics> (last accessed June 17, 2020).

¹⁴ Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, Center for Disease Control, May 19, 2020. <https://www.cdc.gov/quarantine/order-suspending-introduction-certain-persons.html>

¹⁵ See 8 U.S.C. § 1232.

¹⁶ Lauren Villagran, The Trump administration is turning away unaccompanied children at the border because of coronavirus, *USA Today*, June 10, 2020. <https://www.usatoday.com/story/news/nation/2020/06/10/border-patrol-rejects-migrant-children-cdc-rule-amid-covid-19/5333392002/>

¹⁷ See e.g. Mission to Central America: The Flight of Unaccompanied Children to the United States, Report of the Committee on Migration of the United States Conference of Catholic Bishops, November 2013. <http://www.usccb.org/about/migration-policy/fact-finding-mission-reports/upload/Mission-To-Central-America-FINAL-2.pdf>

¹⁸ See Southwest Border Migration Statistics FY15- FY 20, Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/sw-border-migration>

the criminal networks and others may utilize this moment to prey on the children, it is extremely distressing to know that our government is turning such vulnerable youth away from accessing protection in the United States. Traveling alone, underage and often exposed to extreme violence and poverty, these children are among the most vulnerable and prone to abuse, trafficking, or exploitation.

Additionally, of the 2,175 unaccompanied children who have been denied protection by the U.S. government since March, it is unclear to service providers: how many of them are “tender age”; the safety of their home environments that they are being returned to; what has happened to the children generally; and whether they have been exposed to coronavirus themselves. This information is vital to help ensure that unaccompanied children are safe and not subject to exploitation from traffickers, family abuse or gangs and also that they do not become locked into a circular forced re-migration pattern due to a lack of protection and a life-threatening need to flee. This information would be collected if the U.S. government, through CBP, were processing unaccompanied children as required under the TVPRA. Most importantly, this information would help to ensure the children were safe and would also help to ensure children are protected from criminal networks.

Such a breakdown in protection for unaccompanied children as a result of the particular implementation of the CDC order ignores the reality of the persistent and systemic violence that has fueled forced migration of vulnerable families and children in recent years. Through the work of the Catholic Church around the world, and especially in the Northern Triangle, we see the consistently high levels of violence in Central America, political instability in parts of South America (namely Venezuela), and the lack of many countries’ capacity to offer adequate protection.¹⁹ The Church in Guatemala, Honduras and El Salvador is experiencing, publicly reflecting on, and responding to the escalation of violence in urban communities, in rural communities, and to family units. In his pastoral letter, *I See Violence and Strife in the City*, Archbishop José Luis Escobar Alas, Archbishop of San Salvador, stated: “[t]he faithful know that they are being monitored [by gangs] in their comings and goings in the communities. The same applies to pastoral agents who are constantly watched . . . The exodus of families is heartbreaking . . . It is truly unfortunate and painful that the Church cannot work because of this atmosphere of insecurity and anxiety that shakes our beloved country.”²⁰ The archbishop describes that over the course of one year, one parish alone was “exposed to murder, persecution, exodus, and extortion,” including the murder of six active parishioners by stabbing, dismemberment, or firearms.²¹

Catholic social teaching recognizes the right to migrate but also recognizes the right not to migrate—people can and do have the right to remain in their homeland and be able to provide a decent life for themselves and their families. Many programs that have been implemented in Central America by the Church, our federal government and other partners are working to help ensure people can actually have a decent life and have access to a steady job and a safe community. We as a global Church are always reminding people that they have the right to remain in their home country. Unfortunately, due to increased violence and lack of opportunity that is not always something that families who are facing persecution feel is an option; sometimes migration is seen as the only option to protect one’s life. In these times of a global pandemic with the coronavirus, this is an even more pressing reality. This is precisely why the United States must continue to offer protection—especially during this global pandemic—to

¹⁹ For example, the Mexican asylum system has seen large increases in requests for protection: from just over 1,000 in 2013 to nearly 30,000 in 2018. In the first two months of 2019, there was a further 185-percent increase in the number of people seeking asylum in Mexico compared to the same period in 2018 and efforts to meet the demand are not able to ensure adequate access to protection. COMISIÓN MEXICANA DE AYUDA A REFUGIADOS, BOLETÍN ESTADÍSTICO DE SOLICITANTES DE REFUGIO EN MÉXICO (2013), available at https://www.gob.mx/cms/uploads/attachment/file/413013/COMAR_2013.pdf; Rachel Schmidtke, *2018 Migration To and Through Mexico Fact Sheet*, WILSON CENTER (March 15, 2019), <https://www.wilsoncenter.org/article/2018-migration-to-and-through-mexico-fact-sheet>.

²⁰ Most Reverend Jose Luis Escobar Alas, *I See Violence and Strife in the City: A Pastoral Letter on the Occasion of the Feast of the Beloved Blessed Oscar Romero*, 18 (March 24, 2016).

²¹ *Id.* at 15.

those vulnerable families and children fleeing persecution as it is an issue of life and death now more so than ever. Looking at solutions that are focused solely on overriding protections found in domestic laws will erode existing due process for such asylum-seeking children and families and will not necessarily stem the spread of coronavirus domestically or internationally.

III. CBP Can Ensure Public Health Precautions for Officers, Unaccompanied Children, and Asylum-Seeking Families

The Trump Administration has stated that the CDC order is being implemented with regards to unaccompanied children and asylum-seeking children to ensure minimal exposure to coronavirus in congregate care and border processing facilities.²² However, there are measures that the Administration can take to ensure that unaccompanied children and asylum-seeking families are processed and able to access protection, while still adhering to CDC guidelines to mitigate the spread of coronavirus. Many of these items begin with the work of CBP and the Border Patrol. We offer the following recommendations for your consideration:

Asylum-Seeking Families:

- During border processing, CBP and Border Patrol officers can facilitate social distancing through demarcations and the use of outdoor and other areas for processing; require wearing of masks or similar cloth coverings over the face and nose for both officers and persons crossing into the United States; erect plexiglass barriers and/or face shields for officers during interviews and identity-checks; provide hand-sanitizer and other handwashing for both officers and other persons; and provide requisite distance, as well as personal protection equipment and distancing measures in transport.
- Invest in robust training of CBP and Border Patrol officers on safety and wellness guidelines. Facilitate extensive public information dissemination at all processing areas in English, Spanish, and in infographics and widely distribute such information to arriving asylum-seekers.
- Rather than detaining asylum-seekers in congregate settings, allow them to wait for their court hearings with their families or other contacts in the United States through parole, case management and other alternatives to detention, including ankle monitors. Ensure that asylum seekers have education on immigration compliance requirements and proper health measures such as mask-wearing and social distancing. Provide PPE to all members of the family unit and reduce any potential barriers to securing PPE at this time. Require that family or friend sponsors are informed of released asylum-seekers transportation needs, and health needs and exhort asylum-seekers to check in with public health officials in the final destination location.
- For asylum seekers who are released with sponsors in the United States, facilitate and educate on self-quarantine at destination locations, and provide education and guidance on best health practices in linguistically appropriate materials.
- For asylum-seeking families that are not released with sponsors in the United States and are required to wait in Mexico, work with the Mexican government and public health and civil society health entities to improve shelter conditions, including access to testing and healthcare.
- Continue to work with local faith-based and civil society agencies on the ground to assist in humanitarian aid for individuals who need extra and immediate medical care or temporary lodging or assistance.

²² 85 Fed. Reg. 16567 (March 23, 2020)

Unaccompanied Children:

- Process all unaccompanied children as required under the TVPRA.
- Utilize social distancing, masks, gloves and plexiglass dividers for the health and wellbeing of unaccompanied children as well as CBP and Border Patrol officer health and wellbeing during interviews of unaccompanied children that are required by the TVPRA and inputting of Form 93 by CBP and Border Patrol officers.
- Ensure accurate and timely data collection on all repatriations and expulsions of unaccompanied children that have occurred since March and are on-going. DHS should provide information regarding the child's age, reunification and health outcomes and disseminate to Congress and ORR.
- Promptly transfer all unaccompanied children to the legal authority of the ORR for swift reunification with family members and caregivers in the United States;
- Encourage ORR to expedite reunifications of unaccompanied children when safe release is possible and in consideration of public health guidelines and travel restrictions put in place by state and local governments. Expediting reunification will ensure children's length of stay in ORR care is not unnecessarily prolonged when another caregiver is available. A child placed in a host family setting with access to medical resources (including pediatric care) in a local community and where they can maintain distance from others, is more likely to stay safe during COVID-19. Proper vetting of sponsors and assessment of the sponsor's ability to provide a safe and stable home for the child must continue to ensure that children are not released into unsafe situations. Additionally, connecting with existing ORR post-release services following reunification is an additional measure to ensure unaccompanied children and families are informed of public health guidelines related to this COVID-19 pandemic and linked with health care providers in their respective communities.

IV. Conclusion

We welcome and appreciate the work of CBP to keep our country safe and thank you for the opportunity to share our insights and our long-standing commitment to protecting unaccompanied children and asylum seekers. Upholding protections for the vulnerable and keeping Americans safe are not mutually exclusive. We know that our country can do both. We respectfully urge the Committee to pursue these recommendations and we pledge our continued cooperation with CBP and our continued service for the care of unaccompanied children and asylum-seeking families.