

Congress of the United States
Washington, DC 20515

July 15, 2020

Alex Azar
Secretary
Department of Health and
Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Robert R. Redfield, MD
Director
Centers for Disease Control and
Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Secretary Azar and Director Redfield,

We write with grave concerns about the now-indefinite order issued on May 20, 2020 under 42 U.S.C. § 265 (“CDC Order”) that bars the entry of unaccompanied children and asylum seekers into the United States. This order not only jeopardizes these children’s safety by foreclosing vital protections guaranteed them under the Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”)¹, it also lacks a valid public health rationale. CDC must base its policies on objective, evidence-based science—not the Trump Administration’s anti-immigrant agenda.

Media reports indicate that as a result of the CDC Order, the Administration has expelled at least 2,175 of unaccompanied children who arrived at the U.S. southern border² These summary returns deprive vulnerable children of TVPRA-mandated legal safeguards that help ensure a meaningful opportunity to seek humanitarian protection, such as screenings for trafficking concerns, immigration court proceedings, and referrals to Office of Refugee Resettlement (ORR) custody. Expelled children face a heightened danger of human trafficking, persecution, and other exploitation—some of the very outcomes that Congress sought to prevent by passing the TVPRA.³

CDC purports to base its order on health and safety concerns associated with the pandemic. But leading public health experts from public health institutions, medical schools, and hospitals have denounced the CDC Order, concluded that it is rooted in “specious justifications and fails to protect public health,” and urged its withdrawal in favor of evidence-based health and safety measures.⁴

¹ William Wilberforce Trafficking Victim Protection Act, Pub. L. No. 110-457, 122 Stat. 5044 (2008) (“TVPRA”).

² See Lauren Villagran, “Despite coronavirus, children are still arriving at the border. They’re being turned away” *El Paso Times* (Jun. 10, 2020); <https://www.elpasotimes.com/story/news/2020/06/10/border-patrol-rejects-migrant-children-cdc-authority-covid-19/5274691002/>.

³ See, e.g., letter from 122 non-profit organizations addressing “Recent DHS Measures That Threaten the Safety and Family Unity of Vulnerable Immigrant Children” (Jun. 16, 2020); <https://supportkind.org/wp-content/uploads/2020/06/Letter-on-DHS-Policies-Imperilling-Childrens-Safety-.pdf>.

⁴ “Letter to HHS Secretary Azar and CDC Director Redfield Signed By Leaders of Public Health Schools, Medical Schools, Hospitals, and Other U.S. Institutions” (May 18, 2020); <https://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-order-enabling-mass-expulsion-asylum-seekers>

Indeed, though numerous categories of travelers, including students and truck drivers, are allowed to cross our land borders regularly, unaccompanied children in need of potentially life-saving protection are not. It bears emphasis that ORR has the resources and flexibility necessary to ensure the safe and expeditious placement of unaccompanied children during the pandemic, including with sponsors and through transitional and long-term foster care. As of July 2020, ORR had 13,649 beds operationally available, and an operational occupancy rate of only 8%.⁵ Let us be clear, then: the U.S. government is fully capable of upholding the TVPRA while also protecting public health and safety.

Reinforcing public health experts' criticism, media reports indicate that CDC staff raised concerns with Director Redfield regarding political motivations associated with the CDC Order.⁶ Reports also show that well prior to the pandemic, Stephen Miller, the President's chief adviser on immigration policy, sought to employ public health grounds to limit entry at the border.⁷ We are deeply concerned that the Administration is using the pandemic as a pretext to realize its longstanding aim of shutting out unaccompanied children and asylum seekers from the United States.

Given the severe dangers unaccompanied children face as a result of the CDC Order, we request answers to the following questions by Monday, July 20, 2020. Thank you for your prompt attention to this matter.

1. Did CDC personnel express concerns, orally or in writing, to Director Redfield or other CDC leadership about political motivations relating to the CDC Order or research associated with that order?
 - a. If so, did Director Redfield elevate those concerns within HHS or take any other action in response to them? If Director Redfield did not do so, why not?
 - b. Please provide copies of any correspondence or other documentation relating to such concerns.

2. Did any officials at the White House or DHS request or direct that CDC issue the CDC Order or its extensions/amendments?
 - a. If so, please identify those officials.
 - b. Please identify all Executive Branch components and officials, including but not limited to components and officials in the White House and DHS, involved in decision-making relating to the CDC Order and its extensions/amendments.
 - c. Please provide copies of all correspondence between CDC and officials at the White House and DHS relating to the CDC Order and its extensions/amendments and to CDC research associated with that order.

⁵ Weekly UAC Census Data from ORR.

⁶ Priscilla Alvarez, Nick Valencia and Kevin Liptak, "Inside the campaign to cut immigration to the United States amid the coronavirus pandemic" *CNN* (May 8, 2020); <https://www.cnn.com/2020/05/08/politics/stephen-miller-immigration-coronavirus-white-house/index.html>.

⁷ Caitlin Dickerson and Michael D. Shear, "Before Covid-19, Trump Aide Sought to Use Disease to Close Borders" *New York Times* (May 3, 2020); <https://www.nytimes.com/2020/05/03/us/coronavirus-immigration-stephen-miller-public-health.html>.

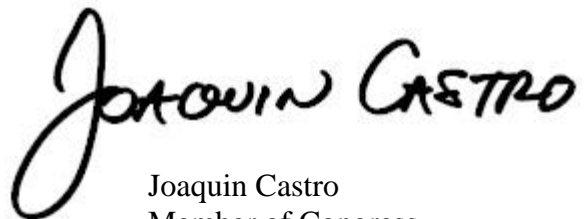
3. Prior to and apart from the CDC Order and its extensions/amendments, did any officials at the White House or DHS request that CDC issue an order, or conduct research relating to a potential order, limiting entry to the United States on public health grounds? If so, please identify those officials and requests and provide copies of any related documentation.
4. Please identify the criteria by which CDC is determining whether to extend, amend, or terminate the CDC Order and provide copies of any documentation relating to such criteria.
5. In the May 19 extension and amendment of the CDC Order, CDC acknowledges the possibility of modifications to DHS protocols and infrastructure to enhance safe processing of individuals covered under the CDC Order, but purports that such changes would be “ill-advised” due to resource constraints and other considerations. Has CDC or HHS performed a full analysis of measures the Executive Branch could adopt to ensure the safe receipt and placement of arriving unaccompanied children, including through CDC consultation with ORR officials? If not, why not? If so, please provide copies of that analysis.
6. Prior to the CDC Order’s issuance, did CDC consult with nongovernmental organizations that serve unaccompanied children to better understand health risk-mitigation strategies for this vulnerable population as well as the implications of this order for these children? If not, why not?
7. Prior to the CDC Order’s issuance, did CDC perform, solicit, or obtain legal analysis of the CDC Order, including but not limited to the order’s interaction with the TVPRA? If so, please provide copies of that legal analysis and any related documentation. If not, why not?

We reiterate that a response to these questions is requested no later than Monday, July 20, 2020, given the urgent circumstances.

Sincerely,



Rosa L. DeLauro
Member of Congress



Joaquin Castro
Member of Congress

Additional Signatories

Debbie Wasserman Schultz
Eleanor Holmes Norton
Jim Cooper
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Jesús G. "Chuy" García
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