



**Migration and Refugee Services  
Office of the Executive Director**

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2017 JUL -6 PM 5:27

July 5, 2017

The Honorable Rex Tillerson  
Secretary of State  
Office of the Secretary  
Washington, DC 20520

The Honorable John F. Kelly  
Secretary of Homeland Security  
Office of the Secretary  
Washington, DC 20528

Dear Secretary Tillerson and Secretary Kelly:

In the spirit of partnership and cooperation, I write on behalf of the U.S. Conference of Catholic Bishops/Migration and Refugee Services (USCCB/MRS) to share our interpretation of the U.S. Supreme Court's June 26th order regarding Executive Order (EO) 13780 and our related recommendations. We appreciate your consideration of this inquiry and would welcome any confirmation or clarification you can provide on the following matters.

USCCB/MRS, through our Catholic Charities network and in close collaboration with the U.S. government, is the largest U.S. refugee resettlement network. We are one of two agencies authorized by the Department of State (DOS) to resettle unaccompanied refugee youth as part of the Unaccompanied Refugee Minors (URM) Program. Our work is guided by our belief that every human being is created in the image of God and is therefore entitled to dignity. We believe that assisting those in need is a fundamental Christian duty.

We received the June 29th cable issued by DOS on the partial implementation of EO 13780, and we appreciate that DOS is in the process of continuing to provide clarification on how refugee admissions will proceed in light of the Supreme Court's order.

Our understanding is that, based on the Court's order and the original terms of the EO, the following individuals may continue to be resettled during the partial halt of the resettlement program:

- **Refugees who have bona fide relationships with U.S.-based individuals or entities.** The Supreme Court order limits the 120-day suspension of refugee admissions to refugees who do not have bona fide relationships with a person or entity in the United States. In other words, the many refugees who have bona fide relationships with a person or entity in the United States can continue to arrive. For individuals, the Court defines this as "a close familial relationship" and for entities "the relationship must be formal, documented, and formed in the ordinary course, rather than for the purpose of evading EO-2." Note that if the listed U.S. tie for a case does not meet the requirement for a bona fide relationship, there may be other cross-referenced family members in the file that allow for the refugee to meet this definition.

- Refugees with Travel Scheduled.** EO 13780 states in Section 6(a) that “[t]he suspension described in this subsection shall not apply to refugee applicants who, before the effective date of this order, have been formally scheduled for transit by the Department of State.” Thus, on the face of the EO, all refugees scheduled for travel, that is those with an Advanced Booking Notice or ABN, as of the EO’s implementation – 8:00 pm EDT on June 29, 2017 – are not barred from arrival. Among refugees being served by USCCB/MRS, for example, it is our interpretation that this would include refugees who have been scheduled for travel to the United States through July 26, 2017. Based on the Department of Homeland Security’s (DHS) June 29th Frequently Asked Questions document on EO 13780, we understand that this is not the Administration’s interpretation. Arguably, this group already scheduled for travel should also be considered among the refugees who have established a bona fide relationship with an entity, since the arrival is imminent and the agency and community preparations for such refugees has been extensive. (See further discussion below about bona fide relationships with an entity, that is, a resettlement agency.)
- Refugees who receive waivers.** EO 13780 states in Section 6(c) that during the 120-day suspension period the Secretary of State and Secretary of Homeland Security may jointly determine in their discretion, on a case-by-case basis, to admit refugees to the United States. These “waivers” can be granted for individuals when doing so is in the national interest and not a threat to U.S. security or welfare, including instances when such entry is either consistent with an international agreement or arrangement, or when the denial of entry would cause undue hardship to the refugee.

We ask for your written confirmation that these above three mentioned categories are permitted to be resettled during the partial halt of the resettlement program.

After examining your guidance in the DOS cable, we have certain recommendations related to vulnerable populations that have been specifically excluded or have not been explicitly addressed. We urge you to reconsider and to broaden the scope of those U.S.-based individuals with whom a refugee may have a bona fide relationship for purposes of entry. We urge you to allow refugees with close family members in the U.S., who are now explicitly excluded by the cable, to be allowed admission during the 120-day suspension.

In the resettlement system, currently excluded close familial relationships, such as a grandchild and grandmother, are recognized as important because refugees have often lost nuclear family members. As a result, these relationships are recognized in the ordinary course in the resettlement system. For example, such family members are incorporated as part of the refugee “case” so that individuals are recognized as a coherent, mutually supportive unit; also, placement of one family member is often made based on the U.S. location of one of the now excluded family members. Alternatively, we recommend that waivers be granted to achieve or maintain family unity. We are greatly concerned about what the current definition given for “bona fide relationship” could mean in relation to family separation. The Catholic Church recognizes that the family is at the center of social life, and so the Church places family unity at the center of its advocacy for and service of migrants and refugees. It is of paramount importance that families, especially refugee families who have faced persecution, sometimes to the point of the death of a family member, be allowed to keep their extended family unit intact.

We further urge you to reconsider your position on the existence of a bona fide relationship between a refugee and a U.S.-based resettlement entity during refugee processing. Based on the DOS June 29th telephonic special briefing, we understand that DOS currently does not view such relationships to be demonstrated solely by a voluntary agency, such as USCCB/MRS, providing an “assurance,” or a guarantee that they will provide their services to that individual when they arrive. We strongly disagree with this narrow interpretation as an assurance demonstrates a concrete, formal relationship – a commitment to continued engagement and provision of services, made in the ordinary course between the refugee and the U.S. resettlement agency. Prohibiting these individuals’ entry to the U.S. would harm not only the refugees who would be left in unstable and potentially dangerous conditions but also the resettlement agencies that are carrying out commitments to the arriving refugees and have planned in advance to be able to do so. Once a refugee is assured, in preparation for their arrival, local resettlement agencies expend limited program funding, community donations, and in-kind volunteer services to secure housing, furniture and household goods, utilities, and other basic necessities to welcome and support the refugee during their transition to America. Barring the refugees’ resettlement would render these agency and community outlays and efforts administratively wasteful and deleterious to future community support and engagement.

In the DOS cable, there is no explicit guidance concerning unaccompanied youth and other particularly vulnerable refugee populations. We urge that DOS and DHS provide an immediate categorical waiver to the 120-day halt of the program for the following populations to the extent they do not otherwise have bona fide relationships with persons or entities in the U.S. At a minimum, we urge you to provide a presumption that arrival of these groups would be in the national interest.

- **Unaccompanied Refugee Minors.** Refugee minors are particularly at risk for malnutrition, neglect, child trafficking, sexual abuse, and even death. As the U.S. operates the only URM program in the world, for these vulnerable children, resettlement to the U.S. may be their only viable option and a life-saving measure.

We are confident that we can continue to welcome unaccompanied refugee children without compromising our commitment to national security. Resettling unaccompanied refugee minors also falls within our national interests. Resettling these children is not only in line with our historical commitment to this issue, but it would further help our nation adhere to our global leadership on the issue of human trafficking. Without parents or legal guardians, unsupervised in camps or struggling in urban settings in child-headed households, URM children are the most vulnerable of all refugees to trafficking and exploitation. This interpretation would be consistent with the recent DOS cable, which provides that, at least for the 90-day travel ban, waivers for infants and young children would be presumed to be within the national interest.

While the consequences of halting URM resettlement are grave, the number of children and youth covered by a categorical waiver would be small. In the 120-day period of July to October 2016, a total of 78 URM children were resettled to the United States. Another group of URM-related cases have one relative cross-referenced to URM children (e.g., an 18-year-old sibling of a URM who has aged out of eligibility for the URM program but whom, if referred to the United States for resettlement, would be placed with the same agency as the URM sibling to promote and preserve family unity). Therefore, an estimate of URM children and URM-related, cross-referenced cases that would be placed in the U.S., if URM children were exempted from the temporary halt, is an estimated 104 total cases.

- **Attached Refugee Minors & Cross-Referenced Cases.** Attached Refugee Minors (ARMs) are another population of at-risk refugee youth. They are particularly vulnerable because they are either traveling to the United States or resettling in the United States without their biological parents or legal guardian. Most ARM children arrive in the United States in pre-existing care arrangements with relatives or informal foster parents with whom they will resettle. Some may be living in the host county in temporary care arrangements and are coming to reunify with relatives or biological parents already in the United States. Because all children classified as ARM live overseas in arrangements without the care or support of their biological parents, they are at risk for trafficking, exploitation, and neglect while awaiting their case to be processed. The corresponding cross-referenced cases generally are the primary caregivers or become the support system for ARMs. These individuals are normally extended family members who provide care for the child while they wait to reunify with family in the United States.

Like URMs, ARMs represent a small fraction of the total number of refugees resettled through U.S. Refugee Admissions Program. In fact, in the last two fiscal years their numbers totaled less than 1,000 each year. Allowing continued processing and travel for this population of ARM cases during the 120-day suspension of the program, inclusive of their cross-references, would equate to approximately 180 individuals through the USCCB/MRS program.

Finally, we urge DOS and DHS to clarify in its further guidance that it will continue granting waivers to refugee applicants after the 50,000 ceiling has been met. We believe that to do otherwise would have the unintended consequence of prohibiting many refugees from arriving who would have otherwise been eligible to qualify for a waiver. Given the dire circumstances of certain refugees in our resettlement pipeline, interpreting Section 6(c) of the EO in any other way would lead to untenable and inhumane results.

We urge you to consider our recommendations as you evaluate how DOS and DHS will interpret and implement the Supreme Court's order.

USCCB/MRS stands ready to welcome these individuals to our great nation, and we look to continue our longstanding partnership with you in national resettlement efforts. We thank you for your consideration of these recommendations and our request for further clarification, and we look forward to your response. We also would welcome the opportunity to discuss our suggestions with you or members of your staff.

Sincerely,



William A. Canny  
Executive Director



U.S. Citizenship  
and Immigration  
Services

December 22, 2017

Mr. William Canny  
Executive Director  
Migration and Refugee Services  
3211 4<sup>th</sup> Street NE  
Washington, DC 20017

Dear Mr. Canny:

Thank you for your July 5, 2017 letter to the Department of Homeland Security. Secretary Nielsen asked that I respond on her behalf.

The provisions of section 6(a) of Executive Order (EO) 13780 *Protecting the Nation from Foreign Terrorist Entry into the United States* regarding the suspension of the U.S. Refugee Admissions Program are no longer in effect and have been updated by EO 13815 *Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities*, dated October 24, 2017. Refugee processing has resumed subject to certain conditions. In light of EO 13815, the bona fide relationship status of a refugee applicant of any nationality no longer has an impact on refugee adjudication or travel. For more information on this recent EO, please visit: <https://www.dhs.gov/news/2017/10/24/improved-security-procedures-refugees-entering-united-states>.

Thank you again for your letter and interest in this important issue. Should you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "L. Francis Cissna".

L. Francis Cissna  
Director