THE WEAPONIZATION OF A PANDEMIC AGAINST UNACCOMPANIED CHILDREN

FLORENCE CHAMBERLIN
MANAGING ATTORNEY - KIND MEXICO

July 31, 2020
AGENDA

- Kids in Need of Defense (KIND)
- Unaccompanied Children (UC)
- Trafficking Victims Protection Reauthorization Act (TVPRA)
- Federal COVID-19 Response at US Borders
- Action Plan
KIDS IN NEED OF DEFENSE (KIND)
PROMOTING THE PROTECTION OF CHILDREN

We ensure that no child appears in immigration court alone without high quality representation.

We advance laws, policies, and practices that support children’s protection and uphold their right to due process and fundamental fairness.

We encourage durable solutions to child migration that are grounded in the best interests of the child and ensure that no child is forced to migrate involuntarily.

LEGAL SERVICES  POLICY AND ADVOCACY  INTERNATIONAL PROGRAMS  SOCIAL SERVICES  FAMILY SEPARATION RESPONSE

ATLANTA  BALTIMORE  BOSTON  EL PASO  HOUSTON  LOS ANGELES  NEWARK
NEW YORK CITY  SAN FRANCISCO/FRESNO  SEATTLE  WASHINGTON, DC/NORTHERN VIRGINIA
UNACCOMPANIED CHILDREN (UC)
WHO IS AN UNACCOMPANIED CHILD?

Homeland Security Act, 6 USC §279(g)

- no lawful immigration status
- under age 18
- no parent or legal guardian in the U.S. available to provide care & physical custody

Photo: Latinalista
Where do they come from?
- El Salvador, Honduras, Guatemala, Mexico, Guinea, China, India, Syria, Afghanistan, etc.

Why do they come?
- Gang violence or forced recruitment
- Severe abuse or domestic violence
- Abandonment or lack of caretaker
- Neglect or deep poverty
- Trafficked

How do they get here?
- Difficult journey by foot, plane, boat, car or train
- With a smuggler or as a victim of trafficking
- Some make their own way
TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT (TVPRA)
TVPRA 2008 & FLORES SETTLEMENT

- Flores governs the minimum standards for children in government custody
- Lays out procedures that must be followed in processing a child's claim for legal protection
- Procedural changes to detention and custody
- Prevents quick deportations for children from any non-contiguous country
TVPRA PROCESSING

Child Crosses Border and Apprehended by CBP or a Child may present at the Border

ICE identifies child and designates child as UAC

ICE issues NTA, which, if properly filed with Immigration Court, initiates Removal Proceedings

Child transferred to ORR custody

ORR provides services; locates and screens sponsor; LSP conducts legal screening

Child remains in ORR custody

LSP in shelter or ORR program provide representation

No Relief Deportation or Voluntary Departure

Applies for Relief from Removal

Removal proceedings, if initiated, transferred to local Immigration Court

LSP refers child to KIND

Child is released to live with sponsor in new home
FEDERAL COVID-19 RESPONSE AT US-MEXICO BORDERS
US-MEXICO BORDER MEASURES

- 3 Orders: CDC, DHS, Implementing CBP
- March 21, 2020 – Administration prohibits ALL non-essential travel across borders
  - CBP will immediately expel individuals to country of entry or origin
- Based in Title 42 of US Code Section 265
- Travel allowed, but notable exclusions for asylum seekers and unaccompanied children
March-June 2020, CBP expelled under Title 42:
- Total People: 69,210
- Total UC: 2,175

Total UC in ORR custody
- April 2019: 12,500
- May 2020: 1,600
Few migrant children are being transferred to the U.S. refugee agency as most continue to be expelled at the border.

The Office of Refugee Resettlement received only 61 children from border officials in June, compared to 39 in May and more than 1,800 in March.

- June 2020: Less that 4% (61 out of 1,650) UC apprehended at US-Mexico border transferred to ORR

IMPACT ON UC AT US-MEXICO BORDER

- Not applying legal definitions and no distinguishing between accompanied and unaccompanied child
- Children illegally blocked at border
- Children illegally expelled/deported in violation of TVPRA
- Detention of children in hotels with no oversight
- Summary expulsions without screening of children
- Complete denial to counsel and having your case heard before an Immigration Judge
COUNTRIES OF ORIGIN

- Conditions
  - Limited to no COVID testing
  - Mandatory quarantine
  - Limited or no protection screening
  - Travel restrictions
  - Limited follow-up

- New Dangers
  - Compounding reasons for departure
  - Food and hygiene shortages
  - Gender based violence and child abuse
  - Fragile health systems
  - Xenophobia
ACTION PLAN
WHAT CAN I DO?

- Get involved with KIND [https://supportkind.org/get-involved](https://supportkind.org/get-involved)
  - Follow KIND & share on social media
  - Sign petitions
  - Contact representatives
  - Volunteer pro bono
  - Translate
  - Provide other specialized pro bono services
- Vote when possible all elections: school board, local, state, federal
- Submit regulatory comments
- Support amicus briefs
- Advocating for inclusive recovery efforts, legislation, policy, and budget advocacy
- Prevent notario fraud
- Educate yourself and others at [supportkind.org/resource](http://supportkind.org/resource)
- Reduce anxiety and fear where appropriate