

From: (b) (5), (b) (7)(C)
To: (b) (7)(E)
Cc: (b) (7)(E); (b) (6), (b) (7)(C)
Subject: Flights and Juvenile
Date: Monday, March 23, 2020 9:39:32 PM

Chiefs,

I want to provide you and your teams with additional information on removal flights. Please share with your staff. I want to stress that the situation is very fluid and contingent on the cooperation of foreign governments.

- Currently ICE Air only has the capability to remove Northern Triangle aliens via Title 42 due to manifest and document requirements imposed by the foreign governments.
- (b) (5), (b) (7)(E)
(b) (5), (b) (7)(E) If Haitians and Indians should be processed under Title 8 and referred to ERO for custody determination.
- Hondurans: (b) (7)(E) any flights with family groups or minors. Family groups should be expelled to Mexico. Single minors will have to be processed via Title 8 as UACs with referral to HHS.
- Guatemala and El Salvador: (b) (7)(E) minors with 24 hour manifest requirement. Without sufficient numbers removals to these countries, it is difficult to put minors on these flights within the 72 hour window needed for minors. USBP will continue to coordinate daily and work to adjust schedules to the extent possible to place minors on flights. In the event minors are unable to be scheduled for flights with foreign departures within 72 hours of encounter, they will need to be converted to Title 8 and referred to HHS for placement.
 - (b) (7)(E) minors under the age of 14.
 - (b) (7)(E) minors under the age of 14. However, coordination with Watch Commander (b) (6), (b) (7)(C), detailed to ICE Air, is required for tender aged El Salvadorian minors prior to flight referral.

In order to increase efficiency, I am requesting a standing RFI requirement for Title 42 flight need. The reply should be sent to (b) (7)(E) @cbp.dhs.gov daily by noon. Please indicate the sector's Title 42 flight requirement broken down by nationality and demographic. The team will assess foreign government requirements and coordinate with ERO in attempt to schedule flights consistent with the above.

Do not hesitate to contact me if you have any questions or concerns.

Additional Information on Single Minors

The following definitions will apply to populations encountered during Operation Capiro as recommended guidance:

Single minor under Title 42: A minor 17 years of age or younger not traveling with any person with whom they have a familial relationship.

- Under Title 42, outside of exigent circumstances, efforts will be taken to ensure that single minors who have a familial relation to another single minor in the group, are not

to be separated.

Family Group under Title 42: Any group of people encountered together that have a familial relationship.

- Familial relationship - Any relative. This may include cousins, aunts, grandparents, etc. This may also include minors who are related (e.g. A 16 year old minor traveling with his 12 year old brother). Use discretion on a case by case basis as far as who may or may not qualify.

Acting Deputy Chief (b) (6), (b) (7)(C)

United States Border Patrol

Law Enforcement Operations

Operational Programs

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
To: (b) (7)(E)
Cc: (b) (7)(E)
Subject: Guatemala Age Restriction Lifted for T-42
Date: Tuesday, March 31, 2020 2:14:05 PM

Corridors,

Please relay the following to your sector POCs.

Beginning immediately, (b) (7)(E) single minors younger than 14 for expulsion flights under Title 42. (b) (7)(E) each request independently and the alien has to be of an age where they are self-sufficient and do not require a chaperone or any special accommodations. Sectors should continue to refer and manifest in accordance with current procedures to USBP's ICE Air Liaison for expulsion flights under Title 42. Manifests should be routed to the (b) (7)(E) @cbp.dhs.gov mailbox.

Separately, in preparation for Easter week, El Salvador has cancelled all flights for the week of April 6 through April 10 and the next scheduled flight is April 14. Guatemala and El Salvador have cancelled flights scheduled for April 9-10.

(b) (6), (b) (7)(C)
Assistant Chief
U.S. Border Patrol
(b) (6), (b) (7)(C)
@cbp.dhs.gov



**U.S. Customs and
Border Protection**

November 18, 2020

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

FROM: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
(A) Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Injunction Prohibiting DHS from Expelling Certain Minors from the
United States under Title 42

On November 18, 2020, Judge Sullivan issued a preliminary injunction, prohibiting DHS from expelling certain minors, defined as class members, from the United States under Title 42. *P.J.E.S. v. Wolf, et al.*, No. 1:20-cv-02245 (D.D.C. Aug. 14, 2020). As the order went into effect immediately, operational procedures must be amended to immediately prohibit the expulsion of class members under Title 42.

The court defined class members as “[a]ll unaccompanied noncitizen children who (1) are or will be detained in U.S. government custody in the United States, and (2) are or will be subjected to expulsion from the United States under the CDC Order Process.” In essence, a class member is any minor in the United States subject to the CDC Order who would otherwise be an Unaccompanied Alien Child (UAC) under Title 8. A UAC, as defined by the Homeland Security Act, is a child who: (a) has no legal status in the United States; (b) has not attained 18 years of age; and (c) does not have a parent or legal guardian in the United States or whose parent or legal guardian is not able to provide care and physical custody.

To be a class member, exempt from expulsion under Title 42, the UAC must have crossed the limit line/queue point and entered the United States. Thus, this injunction solely applies to UACs whose entry was not prevented at the limit line/queue point. Any alien subject to the CDC Order whose entry is prevented at the limit line/queue point should continue to be processed as covered aliens under the CDC Order, per existing procedures.

All UACs shall continue to be transferred to the custody of the Department of Health and Human Services (HHS) as expeditiously as possible, as required by the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). UACs should *generally* be transferred to a licensed facility within 72 hours of determining they are UACs. However, this may not always be possible due to exceptional circumstances, including those posed by the COVID-19 pandemic.

Consistent with existing policy, all minors (accompanied and unaccompanied) must be prioritized for processing and transferred out of OFO custody as expeditiously as possible. Additionally, all minors in OFO custody must be afforded the amenities and treatment required by the *Flores* Settlement Agreement, the CBP’s National Standards on Transport, Escort, Detention, and Search (TEDS) policy, and the CBP Medical Directive.

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Law Enforcement Sensitive

Muster

Date: November 18, 2020

Topic: Injunction Prohibiting DHS from Expelling Certain Minors from the United States under Title 42

Headquarters POCs: Enforcement Programs Division (EPD)
(b) (7)(E) @cbp.dhs.gov

Office: Admissibility and Passenger Programs (APP)

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CBP-2020-074326 - 00079

**Office of Field Operations
Operations Directorate
March 20, 2020**

Southwest Border Implementation of CDC Order, *Suspending Introduction of Persons from a Country where Communicable Disease Exists*

Executive Summary:

U.S. Customs and Border Protection (CBP) is supporting the U.S. Government's response to SARS-CoV-2 and the disease it causes, named "coronavirus disease 2019" (abbreviated "COVID-19"), which has since spread to 118 countries and regions worldwide. The Director of the Centers for Disease Control and Prevention (CDC) has determined to use his authority under Section 362 of the Public Health Service Act, 42 U.S.C. § 265, to prohibit the introduction of certain persons into the United States who, due to the existence of COVID-19 in countries or places from which persons are traveling, create an increase in the serious danger of the introduction of such disease into the United States. The CDC Director has further asked, in CDC's *Order Suspending Introduction Of Persons From A Country Where A Communicable Disease Exists* (March 20, 2020), scheduled to be published in the Federal Register on March 24, 2020 (the CDC Order), that CBP aid in the enforcement of this order, pursuant to 42 U.S.C. § 268(b).

Scope of Order:

- The CDC order applies to all aliens seeking to enter the United States, on or after the date of the order, without proper travel documents or otherwise subject to travel restrictions at land POEs, or between the POEs, coming from or transiting through Canada or Mexico (regardless of their country of origin), who are encountered at or approaching a POE.
- Based on training, experience, physical observation, technology, questioning and other considerations, if a CBP officer believes that it is more likely than not that a person is an alien seeking to enter the United States without a proper visa or travel document, is otherwise subject to travel restrictions, coming from or transiting through Canada or Mexico (regardless of their country of origin), the CBP officer shall apply the CDC order to the alien in accordance with the procedures below.

Exceptions:

- The CDC order does not apply to individual aliens who a CBP officer determines, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, or public health interests. If this exception is applied, then CBP will process the person in accordance with ordinary procedures but with sufficient safeguards for personnel.
- Aliens who affirmatively and plausibly claim a reasonable fear of torture in the country to which they will be sent will be segregated and referred to U.S. Citizenship and Immigration Services for assessment.

Implementation at Ports of Entry:***Southern Border Ports of Entry***

- CBP personnel working at southern border ports of entry will take the following actions:
 - Coordinate with the Government of Mexico to control flow of travelers approaching U.S. border and streamline the return of aliens.
 - Lift restrictions to current repatriation agreements to allow for 24/7 return of aliens.
 - Suspend or reduce routine queue management procedures at the limit line for those who appear to lack proper travel documents, as well as those subject to Presidential Proclamations pursuant to INA 212(f).
 - Screen individuals at pre-primary when operationally feasible.
 - Permit entry into POEs by travelers who appear to have proper travel documents and who are not otherwise subject to travel restrictions.
 - Limit the number of open vehicle primary lanes, as appropriate, to maintain operational control of all travelers seeking entry to the United States.
 - CBP officers will actively deter and prevent, as authorized under the use of force policy or temporary amendment of the use of force policy, the illegal entry of any subject into the United States.
 - CBP will utilize appropriate force protection and minimize potential exposure during operations involving national interest trade/travel.
- Leverage health interview procedures for CBP apprehensions to expedite repatriation of aliens subject to the CDC Order.
- With regard to aliens governed by the CDC order who enter a POE notwithstanding the above security measures, such as bypassing pedestrian lanes and entering the United States in a vehicle, the CDC order expulsion procedures apply consistent with guidance.
- If an alien enrolled in MPP has a case reset by EOIR, the alien appearing at the POE for their scheduled hearing will be provided an updated Notice of Hearing and a tear sheet with instructions detailing the date and time to appear for their new hearing. ICE will furnish these updated notices to OFO for delivery to the aliens at the port, and with respect to aliens who do not appear, OFO will annotate the notice to indicate that the alien did not appear, and sign and return each of those notices to ICE for next steps in immigration court.

Secondary Processing

- Curtail or limit administrative processing and return refusals foreign as quickly as possible to reduce potential exposure.
- Aliens who affirmatively and plausibly claim a reasonable fear of torture in the country to which they will be sent will be segregated and referred to U.S. Citizenship and Immigration Services for assessment.
- If the CBP officer determines, with approval from a supervisor, that an alien should be excepted based on the totality of the circumstances.
 - This may include coordination on a case-by-case basis with ICE/ERO and CDC.
- Suspend COMPEX.

Return to Mexico:

(b) (7)(E) the return of the following aliens:

- Nationals of Mexico and Northern Triangle countries (El Salvador, Honduras, and Guatemala) whose travel is suspended under Title 42. They should be processed under the CDC order instead of through the Migrant Protection Protocols

Other Expulsions

- Upon encountering an alien subject to the CDC order who cannot be returned to Mexico, you should coordinate with ICE/ERO and determine if the alien should be excepted from the CDC order.
 - This includes placement in any available removal pathway, such as the Humanitarian Asylum Review Process (HARP) or Migrant Protection Protocol (MPP)

Outbound Operations

- Outbound operations will be conducted in order to:
 - meet mission priorities
 - as an extra measure to ensure informative compliance

Physical Security and Port Hardening

- Increase outbound operations limiting non-essential travel to Mexico to prevent significant backlogs in CBP primary.
- Coordination with Border Patrol to ensure situational awareness of the locations that will be closed or have hours modified.
- Ensure all available port hardening equipment is deployed or obtained in an expeditious manner.
- Work in conjunction with Border Patrol to establish local security patrols off of the FIS grounds where applicable.
- Strategically place OFO marked vehicles to serve as a deterrent and provide the appropriate professional branding of our agency.

Public Affairs and CMO Messaging

- Create public messaging via local media to assist in advising the public on the new requirements.
- Create outreach to public/stakeholder strategy.
- Frequent outreach to our commercial and traveler stakeholders. DHS OPA messaging is critical to ensure consistency; field offices should then have the flexibility to engage locally.

Personnel Considerations

- Continue to practice social distancing, flexible scheduling/leave practices, engagement with NTEU, situational/episodic telework, etc.

From: (b) (6), (b) (7)(C)
To: (b) (7)(E)
Cc: (b) (7)(E); (b) (6), (b) (7)(C)
Subject: RE: Reminder guidance to all Sectors re: Documenting Title-42 Single Minors and Title-8 UACs
Date: Tuesday, May 5, 2020 1:48:07 PM
Attachments: [image001.png](#)

Corridors,

Please share update below. Additions/Changes in Red to ensure clarity of intent.

Respectfully,

(b) (6), (b) (7)(C) | Assistant Chief | U.S. Border Patrol Headquarters | (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) >
Sent: Tuesday, May 5, 2020 11:54 AM
To: (b) (7)(E)
Cc: (b) (7)(E),
(b) (6), (b) (7)(C)
Subject: Reminder guidance to all Sectors re: Documenting Title-42 Single Minors and Title-8 UACs
Importance: High

Good morning Corridors,

BLUF: Please share with all USBP Sectors the attached documents so that all sectors speak in one voice moving forward and everyone is aligned.

Attached are documents reflecting data that Chief Scott requested (b) (5) and previous guidance sent from USBP HQ. USBP HQ is receiving a great amount of scrutiny in regard to all Title-8 processing of unaccompanied alien children (UACs) and Title-42 processing of Single Minors (SMs). We are not alone, ERO is also facing a great amount of scrutiny as well (message from their HQ is forwarded below this email).

This message serves two purposes:

- Level set expectations and;
- Provide notice to all sectors to internally track all Title-8 and Title-42 processing of minors going forward. (Note – this problem isn't limited to just the tracking of Title-8 UACs, (b) (5) we (USBP as a whole) must be better documenting and accounting for Title-42 SMs).

Context:

1. These documents are an example for sectors to ensure they are keeping records to answer congressional inquiries, QFRs, and etc.. moving forward.
2. (A) Secretary Wolf has recently stated, too many UACs are ending up with ORR under Title-8. Having said this, USBP HQ strongly advises sectors to document in *greater* detail via I-213s, as many points of information necessary for auditors, OIG, and management to be able to make accurate and informed conclusions based on events written and stored within e3. All Title-8 UACs and Title-42 SMs need to have complete information **in their respective I-213s for T-8 or I-44s for T-42** describing the action taken leading to a Title-8 referral or a Title-42 expulsion. **The emphasis of this email is truly intended for those aliens turned over to HHS.**
3. Stations, Sectors and Headquarters must tighten their review process and leave no unanswered questions, ensure proper delegated secondary level of review was completed and if doubts or uncertainty remain, **(b) (5)** to protect both the minor in question and the Agency.

Thank you for all your tremendous work in these unique times, please continue be safe while you all protect this great Nation. If you have any questions, please contact the **(b) (7)(E)** [@cbp.dhs.gov](mailto:cbp.dhs.gov)

Respectfully,

(b) (6), (b) (7)(C) | Assistant Chief | U.S. Border Patrol Headquarters | **(b) (6), (b) (7)(C)**

From: **(b) (7)(E)** [@ice.dhs.gov](mailto:ice.dhs.gov)
Sent: Monday, May 4, 2020 2:15 PM
Subject: Title 42 UAC/FAMU Processes [CMD]

To: Field Office Directors and Deputy Field Office Directors

Please forward this message along to Assistant Field Office Directors and Field Office Juvenile Coordinators.

The ERO Custody Management Division's Juvenile and Family Residential Management Unit (JFRMU) provides guidance and operational support to the ERO Field Offices in matters related to juveniles and family units.

JFRMU has developed a temporary detention program and a set of processes to support CBP and ICE Field Offices with unaccompanied alien children (UAC) and family units (FAMU) processed under Title 42. Effective immediately, JFRMU will serve as the main coordinating entity between CBP, ICE Field Offices and ICE Air Operations (IAO) for UAC and FAMUs. In support of this effort, JFRMU provides the following guidance:

1. UAC and FAMU processed under T42, who require temporary detention with ICE awaiting an IAO flight, will be held in temporary detention through JFRMU's transportation contractor, MVM.
2. JFRMU will work with IAO to identify upcoming repatriation flights and will coordinate with CBP and ICE Field Offices to ensure that the T42 UAC and FAMU are manifested for expulsion.
3. JFRMU will track the time in temporary detention of T42 UAC and FAMU, and only when necessary, JFRMU will coordinate with CBP for any reprocessing.
4. JFRMU will coordinate pre-expulsion medical requirements with IAO and IHSC to ensure that temperature readings and testing, if required, are completed and in compliance with country specific requirements.
5. JFRMU will provide temporary detention for FAMU processed under Title 8 that require a quarantine period prior to entering an FRC.

JFRMU SDDO (b) (6), (b) (7)(C) will serve as the main point of contact for T42 UAC/FAMU and all issues related to the temporary detention of these populations. SDDO (b) (6), (b) (7)(C) can be reached at (b) (6), (b) (7)(C).

Any questions related to this broadcast should be directed to JFRMU Unit Chief (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Acting ERO Assistant Director, Custody Management

This message was sent in concurrence with AD Field Operations.

This message expires one year from the date it was sent, pursuant to ERO [policy](#).

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To: (b) (7)(E); (b) (7)(E); (b) (7)(E)
Cc: (b) (7)(E); (b) (6), (b) (7)(C)
Subject: Reminder guidance to all Sectors re: Documenting Title-42 Single Minors and Title-8 UACs
Date: Tuesday, May 5, 2020 11:54:02 AM
Attachments: [image001.png](#)
[CAPIO Overview - UAC processed as T8- bullets of results 05-4-2020- v2.docx](#)
[CAPIO Overview - Working Copy of UAC processed as T8- research results 05-4-2020.xlsx](#)
[FW Title 42 Definitions and Evidence of Trafficking.msg](#)
Importance: High

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Acting ERO Assistant Director, Custody Management

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