



President Joe Biden
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

September 23, 2021

Dear President Biden,

Kids in Need of Defense (KIND) writes to express our grave concerns over the ongoing treatment of migrant children and families at the U.S.-Mexico border. Those concerns have come to a head amid the Department of Homeland Security (DHS)'s mass expulsion of Haitian migrants, which proceeds even as Haiti stresses its incapacity to safely receive them.¹ These and other actions fundamentally contradict your administration's commitment to a fair and equitable immigration system. Two distinct paths lie ahead: a border policy framework increasingly resembling the deterrence-based approach of the last administration; or one that ensures humane and orderly reception. KIND calls upon you to take the latter.

DHS's expulsion of Haitian families and children places them directly in harm's way. As you know, Haiti is in crisis, roiled by a recent earthquake and presidential assassination. Governance failures have left many of its citizens, including returned migrants, without adequate food or security.² The head of Haiti's national migration office has requested a "humanitarian moratorium" on those returns,³ while the United Nations High Commissioner for Refugees deemed them "inconsistent with international norms."⁴ This week, the administration's special envoy to Haiti resigned, citing "the United States' inhumane, counterproductive decision to deport thousands of Haitian refugees."⁵ Yet expulsions of Haitians and deportations to these dangerous conditions in Haiti continue.

Images of Border Patrol agents employing horse reins against terrified Haitians in Del Rio, Texas⁶ have intensified KIND's alarm. These unacceptable actions directly evoke America's long, painful struggle with racial injustice. Indeed, U.S. immigration policy towards Haitians over the decades,

¹ Harold Isaac and Catherine Porter, "Haiti Protests Mass U.S. Deportation of Migrants to Country in Crisis" *New York Times* (Sep. 19, 2021); <https://www.nytimes.com/2021/09/19/world/americas/us-haitian-deportation.html>.

² *See id.*

³ *Id.*

⁴ United Nations High Commissioner for Refugees, "News Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border" (Sep. 21, 2021); <https://www.unhcr.org/en-us/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html>.

⁵ Joshua Goodman, Matthew Lee, Danica Coto, and Elliot Spagat, "US special envoy to Haiti resigns over migrant expulsions" (Sep. 23, 2021); <https://apnews.com/article/haiti-envoy-resigns-migrants-border-texas-8bdf813465adc48856eea352bd3bd6b5>.

⁶ Bill Chappel, "U.S. Border Agents Chased Migrants On Horseback. A Photographer Explains What He Saw" *NPR* (Sep. 21, 2021); <https://www.npr.org/2021/09/21/1039230310/u-s-border-agents-haiti-migrants-horses-photographer-del-rio>.

not least the interception by sea of Haitian refugees in the 1990s, has served as a prism of systemic bias. Your administration's commitment to racial justice demands instead the fair and humane treatment of Haitian migrants and, more broadly, the rooting out of racial inequity across the U.S. immigration system.

Although the policy underlying these expulsions—Title 42—embodied the Trump administration's restrictionist policies, your administration has failed to end it. Title 42 violates U.S. and international law while exposing vulnerable asylum seekers to danger—all without a valid public health rationale.⁷ Unaccompanied children's exemption from this measure helps afford them some access to protection in the United States, but many other children who flee harm together with their families, as well as single adult asylum seekers, remain shut out of avenues to safety. Last week's federal court ruling,⁸ which enjoined Title 42's application to families and found that the policy as a whole is likely illegal, presented a key opportunity to change course. But rather than rescind Title 42, the administration doubled down on it by promptly appealing the ruling.⁹

Compounding Title 42's harms, under a separate policy, DHS continues to block unaccompanied children and other asylum seekers from accessing ports of entry. KIND is deeply concerned that this restriction compels children to undertake ever more dangerous routes in search of relief in the United States, leaving them increasingly susceptible to exploitation by smugglers, traffickers, and others and thwarting the administration's own pledge to promote orderly border processing.

On top of these troubling measures, the administration has yet to take actions needed to prevent the reinstatement of another Trump-era policy—the Migrant Protection Protocols (MPP). MPP mandated the return of asylum seekers to dangerous conditions in Mexico; conditions that rendered hundreds of children unaccompanied. In a number of those cases, children's parents disappeared amid widespread kidnappings and other harm perpetrated by criminal groups against returned families, resulting in high numbers of family separations, leaving the affected children alone in Mexico and facing heightened peril.¹⁰ Your administration's original decision to terminate this program was the proper one. But since last month's federal court ruling, which required the resumption of MPP until the Biden administration demonstrates its lawful rescission,¹¹ DHS has not issued an updated memorandum clarifying that it is procedurally appropriate and substantively imperative to draw the policy to a close.

All these developments have converged into the present moment, creating a pivotal decision point for your administration. The choice you face to either deepen an identification with deterrence-

⁷ Program on Forced Migration and Health in the Heilbrunn Department of Population and Family Health at Columbia University Mailman School of Public Health, "Letter to CDC Director Walensky, HHS Secretary Becerra, and DHS Secretary Mayorkas on the August 2021 Title 42 Order" (Sep. 1, 2021); <https://www.publichealth.columbia.edu/node/76271>.

⁸ Rebecca Morin, "Judge orders Biden administration to stop expelling migrant families using Trump-era Title 42 policy" *USA Today* (Sep. 16, 2021); <https://www.usatoday.com/story/news/politics/2021/09/16/judge-orders-biden-admin-stop-using-title-42-migrant-families/8366812002/>.

⁹ Daniel Wiessner, "Biden admin looks to revive Trump-era order on migrant expulsion" *Reuters* (Sep. 17, 2021); <https://www.reuters.com/world/us/biden-admin-looks-activate-trump-era-order-migrant-expulsion-2021-09-17/>.

¹⁰ KIND, "Forced Apart: How the 'Remain in Mexico' Policy Places Children in Danger and Separates Families" (Feb. 24, 2020); <https://supportkind.org/wp-content/uploads/2020/02/MPP-KIND-2.24updated-003.pdf>.

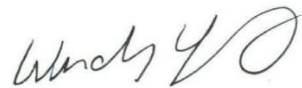
¹¹ Mabinty Quarshie, "Federal judge orders Biden administration to reinstate 'Remain in Mexico' policy" (Aug. 15, 2021); <https://www.usatoday.com/story/news/politics/2021/08/14/judge-orders-biden-administration-reinstate-remain-mexico-rule/8136111002/>.

based Trump administration policies or embrace humane and orderly border reception will shape not only the fate of thousands of Haitian migrants as well as other children and families, but also the legacy of an administration that came into office promising to make the United States once again a beacon of refuge. We urge you to uphold that pledge by ceasing all expulsions and deportations of Haitian migrants; ensuring that those migrants receive a full and fair opportunity to pursue humanitarian protection; ending Title 42; permitting unaccompanied children to request relief at ports of entry; and expeditiously terminating MPP for good.

But the way forward demands more than the reversal of harmful border policies. It requires the implementation of long-overdue ones.¹² To name only a few of these, the administration should hire licensed child welfare professionals at border facilities to properly screen and care for migrant children in Customs and Border Protection (CBP) custody. It should co-locate Department of Health and Human Services (HHS) specialists with CBP personnel to prevent needless family separations at the border and ensure safe, efficient placement of unaccompanied children with sponsors. It should establish border reception centers fully observant of U.S. laws and standards and steeped in trauma-centered practices. Finally, for those families and children who are deemed ineligible for asylum after a full and fair consideration of their cases, robust return and reintegration programs should be established in countries of origin to ensure their safe and sustainable return.

As ever, KIND stands ready to work with you across these arenas to help forge pragmatic solutions, repair racial inequities, build a strong, humane, and orderly immigration system, and achieve alignment with the administration's commitments. These goals can be accomplished but only if supported by the political will to achieve them.

Sincerely,



Wendy Young
President
Kids in Need of Defense

¹² See KIND, "KIND Blueprint: Concrete Steps to Protect Unaccompanied Children on the Move" (Nov. 2, 2020); <https://supportkind.org/resources/kind-blueprint-concrete-steps-to-protect-unaccompanied-children-on-the-move/>.