



ATTORNEY GENERAL OF MISSOURI
ERIC SCHMITT

February 18, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

The Honorable Alejandro N. Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
Washington, D.C. 20536

Dear President Biden, Secretary Mayorkas, and Acting Director Johnson:

The undersigned Attorneys General of 18 States write to express our grave concern about the recent report¹ that Immigration and Customs Enforcement (“ICE”) has cancelled Operation Talon, a nationwide operation targeting illegally present convicted sex offenders for removal from the United States. This ill-advised decision threatens to empower sexual predators to victimize women and children in America, and to exacerbate the tragic crises of sexual assault and sex trafficking among migrant and immigrant communities. We urge you to reconsider this decision and restore an aggressive enforcement policy against convicted sexual predators who are unlawfully present in the United States.

The United States’ population of illegal immigrants includes disturbingly large numbers of criminals with prior convictions for sexual crimes. According to data collected by Syracuse University’s Transactional Records Access Clearinghouse, during the period from October 2014 to May 2018, ICE arrested 19,752 illegal aliens with criminal convictions for whom the most

¹ See, e.g., https://www.washingtonpost.com/national/new-biden-rules-for-ice-point-to-fewer-arrests-and-deportations-and-a-more-restrained-agency/2021/02/07/faccb854-68c6-11eb-bf81-c618c88ed605_story.html.

serious prior conviction was a conviction for a sex-related offense.² Among many other offenses, this included at least 5,565 individuals who had been convicted of sexual assault; 4,910 who had been convicted of child molestation, sex offenses against children, or lewd acts with a minor; 1,724 convicted of rape by force or weapon; 675 convicted of exploiting children through sex performance or child pornography by image or video; 637 convicted of forcible sodomy offenses against minors; and 115 convicted of human slavery or trafficking.³ Other prior sex offenses included procurement of minors for prostitution, enticement of minors for indecent purposes, incest with minors, kidnapping adults and minors for purposes of sexual assault, sexual exploitation of minors by prostitution, sexual assault of disabled persons, drug-induced sexual assault, and sexual assault of the elderly, among many others.⁴ And because this data captures only the most serious prior conviction for each arrested alien, it likely undercounts the actual number of illegal aliens arrested with prior convictions for sex-related crimes. For example, in this database, an illegal alien previously convicted of both murder and rape would be reported only as a murderer, not a rapist as well. If these arrests are representative of the kinds of offenders Operation Talon would have targeted, allowing them to remain unlawfully in the United States is unconscionable, and the decision to cancel the operation is baffling.

Meanwhile, an increasing number of illegal aliens are entering the United States after having been previously convicted of sexual offenses. Based on available data, in 2017, one percent of illegal aliens arrested by U.S. Border Patrol had prior convictions for sexual offenses.⁵ In 2020, that number rose to six percent.⁶ Again, given the limited data, these figures likely greatly understate the actual incidence of such prior convictions by illegal entrants. These illegal entries by convicted sexual predators have an ongoing impact on the nationwide population of illegally present sex offenders. In fiscal year 2018 alone, ICE arrested at least 3,716 criminal aliens in the United States who had a prior conviction for a sexual offense.⁷

In addition to failing to protect America's children and other victims from sexual predation, canceling Operation Talon will have other vicious effects as well. The cancellation of this program effectively broadcasts to the world that the United States is now a sanctuary jurisdiction for sexual predators. This message creates a perverse incentive for foreign sexual predators to seek to enter the United States illegally and assault more victims, both in the process of unlawful migration and after they arrive. It will also broadcast the message to other criminal aliens who have committed other offenses that any kind of robust enforcement against them is unlikely. If the United States will not remove even convicted sex offenders, whom will it remove?

² See Transactional Records Access Clearinghouse, Immigration and Customs Enforcement Arrests, ICE Data Through May 2018, at <https://trac.syr.edu/phptools/immigration/arrest/>.

³ *Id.*

⁴ *Id.*

⁵ U.S. Customs and Border Protection, Criminal Alien Statistics Fiscal Year 2021, at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-alien-statistics>.

⁶ *Id.*

⁷ Transactional Records Access Clearinghouse, Immigration and Customs Enforcement Arrests, ICE Data Through May 2018, at <https://trac.syr.edu/phptools/immigration/arrest/>.

Encouraging sexual predators to seek illegal entry into the United States ensures that they will injure more victims in the process. The problems of sexual assault and human trafficking during the processes of migration and illegal entry into the United States are deeply disturbing. Empirical statistics to quantify this problem are elusive, but every indicator suggests that these problems are both pervasive and horrific. Sexual predation reflects the brutal reality for many thousands of vulnerable migrants, especially children.

For example, a 2019 investigation by the New York Times found more than 100 documented reports of sexual assault of migrant women along the border in the past two decades—a number that certainly “only skims the surface” of a vast problem.⁸ In July 2019, a 23-year-old Honduran woman told authorities that she was sexually assaulted by a smuggler who had helped her and her sister cross into the South Texas city of Mission.⁹ In 2014, a 36-year-old Guatemalan mother of three was held captive for weeks, drugged with pills and cocaine, and repeatedly raped by the smugglers she paid to bring her to the United States.¹⁰ “They raped us so many times they didn’t see us as human beings any more,” she said of her captors.¹¹ “The stories are many, and yet all too similar,” the New York Times report stated.¹² “Undocumented women making their way into American border towns have been beaten for disobeying smugglers, impregnated by strangers, coerced into prostitution, shackled to beds and trees and ... bound with duct tape, rope or handcuffs.”¹³ The study “suggest[s] that sexual violence has become an inescapable part of the collective migrant journey.”¹⁴ Enforcement decisions that encourage people to place themselves at high risk of sexual predation cannot stand as the United States’ policy.

Human trafficking and rape at the border, moreover, are only part of an escalating nationwide crisis of human trafficking, commercial sexual exploitation, and forced prostitution of minors. The National Human Trafficking Hotline identified 11,500 situations of human trafficking in 2019 alone (the most recent year for which data is available).¹⁵ Each human trafficking situation may involve more than one victim.¹⁶ The Hotline has identified 63,380 situations of human trafficking from December 2007 to December 2019, and the annual number has more than doubled in the last four years alone—from 5,713 in 2015 to 11,500 in 2019.¹⁷ Sex trafficking is by far the largest category of human trafficking tracked by the Hotline, accounting for more than 70 percent of all

⁸ Manny Fernandez, *You Have to Pay With Your Body: The Hidden Nightmare of Sexual Violence on the Border*, N.Y. TIMES (March 3, 2019), at <https://www.nytimes.com/2019/03/03/us/border-rapes-migrant-women.html>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ The U.S. National Human Trafficking Hotline, 2019 Data Report, *available at* <https://humantraffickinghotline.org/sites/default/files/Polaris-2019-US-National-Human-Trafficking-Hotline-Data-Report.pdf>.

¹⁶ *Id.*

¹⁷ *Id.*

reported cases in 2019.¹⁸ This problem afflicts minors most heavily—the average age of a victim at the time sex trafficking begins is 17 years old.¹⁹ For cases where the victim’s age was known at the time trafficking began, 79 percent of victims of human trafficking (5,359 out of 6,794) were minors when they were first trafficked.²⁰ And the magnitude of this problem is increasing rapidly. The number of reported cases of sex trafficking has increased every single year for which the Hotline has data publicly available.²¹ And, as the Hotline itself reports, “Trafficking situations learned about through the Trafficking Hotline likely represent only a small subset of actual trafficking occurring in the United States.”²²

Sex trafficking within the United States afflicts the community of unlawful immigrants with particular vehemence. The National Human Trafficking Hotline reports that the overwhelming majority of victims of sex and/or labor trafficking in the United States were foreign nationals, not U.S. citizens or lawful permanent residents. For cases in which citizenship status was known, 77.5 percent of trafficking victims (4,601 out of 5,939) were not U.S. citizens or lawful permanent residents.²³ The Hotline identifies “Recent Migration/Relocation” as a critical risk factor or vulnerability for human trafficking.²⁴

The Polaris Project, which operates the National Human Trafficking Hotline, highlights the critical risks of human trafficking within the migrant community. Polaris’s 2019 Report, *The Latino Face of Human Trafficking and Exploitation in the United States*, emphasizes that “immigrants are extremely vulnerable to both sex and labor trafficking, in part as a direct result of their migration.”²⁵ “In particular, while anyone can fall prey to traffickers, the data shows that an incredibly high number of people who come to this country from Latin America and the Caribbean are being exploited in this way.”²⁶

For those who fall victim to such sex trafficking, the outlook is grim indeed: “Extreme physical and sexual violence, often accompanied by weapons, is common, as is coercion in the form of unmanageable quotas, debts, threats of harm or police involvement, excessive monitoring, gang intimidation, social isolation, and constant surveillance.”²⁷ Again, the Polaris Project emphasizes that the data gleaned from the Hotline almost certainly undercounts the actual incidence of human exploitation: “What we learn about through the Trafficking Hotline is likely only a miniscule sliver of what is really happening around the country.”²⁸

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Polaris Project, *The Latino Face of Human Trafficking and Exploitation in the United States*, at <https://polarisproject.org/wp-content/uploads/2020/04/EXECUTIVE-SUMMARY-The-Latino-Face-of-Human-Trafficking-and-Exploitation-in-the-United-States.pdf>.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

Encouraging sexual predators and sex traffickers to enter the United States without fear of deportation exacerbates this burgeoning crisis. We understand that ICE may have cancelled Operation Talon in response to the administration's January 20, 2021 memo to the Department of Homeland Security calling for a stay of nearly all interior immigration enforcement. If so, this outcome demonstrates the deficiencies of a laissez-faire approach to the humanitarian crisis at our border, and within our borders. We urge you to immediately reinstate Operation Talon, adopt an aggressive enforcement policy against illegal aliens convicted of sex crimes, and send a message to sexual predators that they are not welcome in the United States of America.

Sincerely,



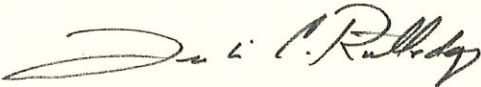
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Attorney General of Missouri



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Leslie Rutledge
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Derek Schmidt
Attorney General of Kansas



Ashley Moody
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Chris M. Carr
Attorney General of Georgia



Jeff Landry
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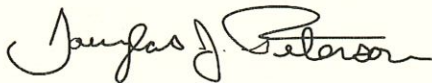
Jason R. Ravensborg
Attorney General of South Dakota



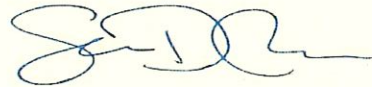
Austin Knudsen
Attorney General of Montana



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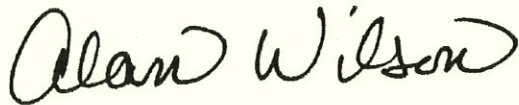
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