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David V. Aguilar  
Chief, Office of Border Patrol  
Customs and Border Protection  
U.S. Department of Homeland Security  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

**RE: Unaccompanied Minors in Expedited Removal Proceedings**

Dear Mr. Aguilar:

It has come to our attention, through the South Texas Pro Bono Asylum Representation Project (ProBAR), a project of the American Bar Association (ABA), that unaccompanied minors are being placed into expedited removal proceedings through Customs and Border Protection's pilot project in Laredo, Texas. ProBAR has come across four individuals over the past few months detained at the Port Isabel Detention Center (PIDC) with expedited removal orders out of Laredo CBP, Border Patrol sector, who all claim to be minors. These individuals report that after informing CBP officers that they were under eighteen, the officers insisted that they were older and had them placed into expedited removal proceedings. In some cases, they said the officers were physically abusive and otherwise intimidating, including telling them that they did not have legal relief.

ProBAR has already communicated its concerns about these practices to John Montoya, the Chief of Customs and Border Protection in Laredo, via telephone and in writing (please see the attached letter from ProBAR). Mr. Montoya stated that anyone claiming to be a minor would not be placed into expedited removal proceedings. If officers do not believe someone is a minor, he or she may get a dental exam through a dentist in San Antonio. Mr. Montoya further stated that he was certain that if anyone got an expedited removal order it was because he said he was an adult, and that anyone who claimed to have a credible fear of returning home would be referred to the Houston Asylum office.

Details regarding three of the individuals referred to above are as follows, as reported by ProBAR:

1. A Honduran male claims to have told a Border Patrol agent that he was a minor, but the agent insisted he was older. The officer allegedly told him that he would sit for an entire month in the

office until he admitted to being an adult. He claims to have been both verbally and physically abused. He finally relented, and told the officer what he wanted to hear, despite the fact that he was only 17 years old. He also stated that he expressed a fear of returning home, but the officer told him that he did not have a valid asylum claim. ProBAR immediately reported this case to the ICE officers at PIDC, and they transferred the young man back to Laredo. He was transferred to juvenile detention in Nixon, Texas soon thereafter. ProBAR has since received his original birth certificate from his family in Honduras, indicating his date of birth as August 22, 1987 (please see attached declaration, birth certificate and translation, and expedited removal order). This individual has since been released to family members in Colorado.

2. An uneducated Guatemalan male told a CBP officer that he did not know his exact date of birth, and the officer threatened to harm him physically if he did not say he was 18 years old. The young man's father told him over the phone that he was 17 years old and his date of birth is July 30, 1987. ProBAR contacted an ICE supervisor, Glenn Stuart, and he stated that the Guatemalan Consulate had already issued travel documents and all ICE could do was to send him back to Laredo (please see attached declaration, birth certificate and translation, and expedited removal order). He has since been released to his father in the United States.
3. A 16-year old Honduran male, whose date of birth is March 25, 1988, feared incarceration if he said he was a minor, so when Border Patrol in Laredo first apprehended him he said he was 18. When the agent asked him to raise his right hand and swear to a declaration under oath, he recanted, and told the agent he was 16 years old. The officer became angry, asked him for proof, and documented him as an 18-year-old. ProBAR faxed a copy of his birth certificate to his deportation officer at PIDC and later obtained the original and provided it to ICE (Please see attached declaration, birth certificate and translation, and expedited removal order). On February 9<sup>th</sup>, he was transferred to a children's facility under contract with the Office of Refugee Resettlement.

Following ProBAR's intervention in these cases, these individuals were all released as minors and had their expedited removal orders rescinded. ProBAR believes that the fourth individual that they encountered at PIDC, who claims to have told Border Patrol agents that he was seventeen but was coerced into saying he was eighteen, was deported pursuant to his expedited removal order because he could not obtain proof of his age.

Despite Mr. Montoya's assurances, and DHS' rescission of the removal orders, the ABA remains concerned about this situation as a systemic, ongoing problem. These minors were released and their removal orders were rescinded as a direct result of ProBAR's intervention, and we fear that there may be other cases of minors with expedited removal orders at PIDC that have

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not, and may not, come to ProBAR's attention. As an organization deeply committed to ensuring due process protections for unaccompanied minors, we urge you to promptly issue relevant field guidance and/or take other measures to ensure that local CBP officials are in compliance with your stated policy of not putting minors into expedited removal proceedings.

We greatly appreciate your time and attention to this very important matter.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans".

Robert D. Evans

Enclosures

cc: Rebekah Tosado, Senior Attorney  
Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security