



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

SEP 23 2005

The Honorable Christopher H. Smith  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Smith:

Thank you for your letter regarding the treatment of juvenile victims of human trafficking by the Department of Health and Human Services (HHS). I share your concerns that this most vulnerable population receives the care that they need and to which they are entitled as rapidly as possible.

In implementing the Trafficking Victims Protection Act of 2000 (TVPA) (P.L. 106-386), as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193), HHS has been mindful of the twin purposes of this legislation: "...to ensure just and effective punishment of traffickers, and to protect their victims." I am committed to helping every victim of human trafficking rebuild his or her life while remaining in the United States, as the Act intended. In the case of unaccompanied juveniles, our policy is to utilize the Unaccompanied Refugee Minors (URM) program as the vehicle for providing care to these victims. I am confident that URM provides a very high quality of care in an appropriate environment for unaccompanied juvenile victims of human trafficking.

HHS is prepared to enroll unaccompanied juvenile victims in URM, through the issuance of a letter of eligibility, as soon as we have received reliable information that the juvenile is the victim of human trafficking as defined by TVPA. When such information is provided to us by a credible source with sufficient information for evaluation, enrollment can occur the same day, regardless of the child's willingness to cooperate with law enforcement.

As you noted, HHS entered into a Memorandum of Understanding (MOU) with the Departments of Justice (DOJ) and of Homeland Security (DHS) in July 2004 to set forth the basic functions and interrelationships of the departments in the identification and assistance of adult and minor victims of severe forms of trafficking.

This MOU provides that HHS will issue a letter of eligibility in the case of juveniles after a recommendation of DOJ or DHS. This MOU provision ensures that the appropriate experts have evaluated the facts of each case before an eligibility letter is issued. Juvenile victims are not required to cooperate with law enforcement to receive letters of eligibility. DOJ and DHS assist in the evaluation of facts presented to us, in determining whether the individual is under the age of 18 and the likelihood the individual is a victim of trafficking. We appreciate the assistance of DOJ and DHS in evaluating potential cases of human trafficking. To assist in bringing forward more victims of trafficking, our Trafficking Information and Referral Hotline has forwarded over

Page 2 - The Honorable Christopher H. Smith

120 leads to DOJ regarding potential cases of trafficking – even though the principal function of the hotline is to facilitate the provision of care for victims.

In practice, HHS will consult with DOJ or DHS prior to the issuance of a letter of eligibility. This does not mean that HHS has given DOJ or DHS a veto over the enrollment of victims in the URM program, that HHS will accept unreasonable delays in the enrollment of the juvenile or that the juvenile must speak with a law enforcement officer.

It may very well be that some in the trafficking victim advocate community have a misapprehension about our procedures, and HHS will endeavor to correct those misunderstandings. I want to assure you that we are keenly aware that TVPA pointedly did not establish a cooperation standard for juveniles, and that services were intended to be provided to juveniles prior to any immigration relief which they may obtain.

Thank you for sharing your perspectives. I also will provide a copy of this response to the other cosigners of your letter who expressed concern. Please call me if you have any further thoughts or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael O. Leavitt". The signature is fluid and cursive, with a large initial "M" and "L".

Michael O. Leavitt