

**Congress of the United States**  
Washington, DC 20515

July 26, 2005

Secretary Michael O. Leavitt  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Leavitt:

We write to request an immediate rescission of your policy and practice requiring child victims of trafficking to cooperate with law enforcement for purposes of receiving letters of eligibility for benefits and services under the Trafficking Victims Protection Act of 2000 (TVPA), P.L. 106-386. Conditioning a child's eligibility for benefits and services on the child's cooperation with law enforcement clearly violates the TVPA.

Based on current U.S. Government estimates, more than 7,000 children are likely being trafficked into the United States each year. Notwithstanding this substantial number of victims, the Department of Health and Human Services has provided benefits and services to fewer than 100 child victims since enactment of the TVPA.

We are aware that a Memorandum of Understanding concluded in July 2004 between HHS, the Department of Homeland Security, and the Department of Justice requires that child trafficking victims receive a recommendation from DHS or DOJ prior to HHS issuing a letter of eligibility for benefits and services. Moreover, HHS reportedly must forward to these agencies any and all evidence concerning the child victim, including affidavits concerning her or his trafficking experience, before DOJ or DHS will provide HHS with a recommendation.

By requiring a child to obtain a recommendation from a law enforcement agency prior to receiving a letter of eligibility, this MOU has created a de facto law enforcement cooperation requirement for child victims, akin to that which is required of adult victims under the TVPA. This policy clearly contravenes section 107(b) of the TVPA which explicitly exempts child victims of severe forms of trafficking from being required to cooperate with law enforcement for purposes of receiving benefits and services. Reflecting the importance that Congress attaches to providing life-saving assistance to child victims, the TVPA Reauthorization Act of 2003 raised to 18 years the minimum age at which victim assistance could be conditioned on cooperation with the investigation and prosecution of an act of trafficking.

The policy and practice established by the MOU undermines the protection which child victims of trafficking need and deserve. We have heard from advocates that many child victims of trafficking remain trapped in harmful and life-threatening situations since the children do not seek assistance from HHS out of fear of being interrogated by law enforcement authorities who

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seek to use them as witnesses in criminal cases. Child advocates firmly believe that this policy chills child victims from seeking benefits and services and explains, in part, why HHS has found so few child victims to protect.


Mr. Secretary, in order to comply with the letter and spirit of the law, HHS must cease from seeking DHS or DOJ recommendations as a prerequisite for issuing letters of eligibility to child trafficking victims. By providing benefits and services to child victims as soon as they are identified, HHS will be in the best position to protect children and provide a safe and stable environment. Whether a child ultimately decides to serve as a witness in the prosecution of his traffickers is a decision the child can make after his situation has been stabilized.

We request your immediate response to our expressed concerns.

Sincerely,



SAM BROWNBCK  
United States Senator



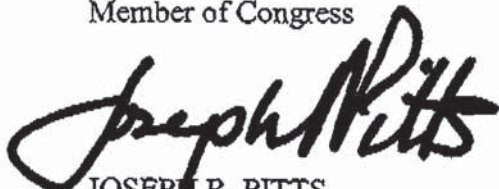
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