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Policy Issue Resources

Expedited Immigration Hearings Pose Danger to Detained Childrens Right to a Fair Process

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In the first three months of 2020, the federal government made significant changes to unaccompanied childrens deportation proceedings. These changes speed proceedings, depriving vulnerable and traumatized children of due process as they seek protections granted by U.S. and international law. Many courts have also mandated [video or telephonic hearings](#) in which children and judges sit in separate courtrooms hundreds of miles apart. Together, the changes appear to form a targeted strategy to deport children as quickly as possible.

In January, the U.S. Department of Justices Executive Office for Immigration Review (EOIR) [announced](#) that all cases on the detained docket would be processed as quickly as possible, including cases of unaccompanied children housed in government-funded shelters. Previously, unaccompanied children were excluded from these detained docket requirements, which demonstrated the governments awareness that children cannot understand their cases or exercise their rights to due process on an expedited schedule.

The map below displays immigration court jurisdictions in which, over time, U.S. Immigration and Customs Enforcement (ICE) has begun to file documents initiating court proceedings within days of a childs arrival and where EOIR has scheduled hearings immediately thereafter. It also shows how the use of video-teleconferencing (VTC) technology has expanded over the same period (January through May 2020).

In the past, the government waited 60 days after an unaccompanied child was taken into custody to issue a charging document, a process that triggers deportation proceedings. This 60-day window typically allowed the child to be reunified with family, find a lawyer, and begin to gather evidence and witnesses for his or her legal defense against deportation before the substantive court proceedings commenced. This timeframe made sense from a legal and constitutional rights perspective, as well as a logistical one. It takes time for children to build trust and rapport with attorneys. They may not be comfortable, for example, immediately telling strange adults about past trauma that could support their claims for asylum.

However, in February 2020, ICE expedited the issuance of charging documents in childrens cases across the country, including for many children with imminent family reunification. As a result, children are being forced to appear in court within days of their arrival in the United States. While in government custody, children must appear alone pro se representing themselves or somehow find counsel to help them file applications for relief from deportation within a few weeks. Starting proceedings before a child is reunified with family wastes court resources if the child moves to another part of the country, requiring judges to issue change of venue orders to move court proceedings to the childs new home.

Since February 2020, children have been subjected to accelerated proceedings that deny them access to their due process and constitutional rights. The faster filing of charging documents and short continuances could mean that children will be forced to quickly disclose traumatic case histories and link those experiences to the complex immigration legal framework on their own and be ready to present their cases without sufficient time to meaningfully work with legal counsel to develop their cases. The result is that within 30 days of arrival, some children will be forced to proceed on the merits of their cases.

It has become increasingly clear first in Phoenix and Houston, and now as these practices are rolled out more broadly across the country that expedited dockets and changes in practice pose a danger to childrens ability to meaningfully participate in their proceedings, understand the process, and communicate their case histories to adjudicators, thus depriving them of a fair chance to access protections guaranteed under law.

For more information about VTC or expedited immigration hearings for children, please contact mmack@vera.org.

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