

# United States Senate

WASHINGTON, DC 20510

June 25, 2018

The Honorable Kirstjen Nielsen  
Secretary  
Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20528

SCANNED/RECEIVED  
BY EXEC SEC  
2018 JUN 26 AM 6:42

Dear Secretary Nielsen:

We write to express our concerns about the timing of the Federal Register Notice (FRN) canceling Hondurans' Temporary Protected Status (TPS) and the justification provided for that decision.

On May 4, 2018 DHS issued a press release that announced your decision to cancel Hondurans' TPS. The TPS statute requires that the administration "shall provide on a timely basis for the publication of each such decision...in the federal register."<sup>1</sup> Yet your agency did not publish the FRN until June 5, 2018, 32 days after the announcement. Previous administrations posted TPS-related FRNs within days of the public announcements.

This is not an isolated occurrence. Under this administration, public notice of TPS decisions has consistently been less than timely. In November 2017, after extending the designation for Hondurans for 6 months, 39 days passed before publication in the Federal Register. In the Haitian case, 56 days passed before providing public notice. TPS beneficiaries from Sudan, Nicaragua, and Syria each had to wait more than 30 days.

For affected TPS beneficiaries, the FRN is more than just a formality. Failure to provide timely notice risks creating a gap in beneficiaries' work authorization on top of the stress from the lack of certainty surrounding their status. Additionally, prompt notice prevents fraudulent actors from exploiting TPS beneficiaries confused about the renewal process.

Substantively, we also find the explanation behind your TPS decision inconsistent with previous guidance and reports from diplomats on the ground. For example, in the 2016 decision to extend Hondurans' TPS, your agency cited a housing deficit of more than 1.1 million homes. Yet the FRN now relies on a 10% increase in residential construction projects to reverse course on TPS absent evidence that this growth closes this deficit. Additionally, the announcement does not address reports that throughout 2017, senior U.S. diplomats in Central America and the Caribbean warned then-Secretary Tillerson that canceling Hondurans' and other countries' TPS

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<sup>1</sup> 8 U.S.C. §1254a(b)(3)(A).

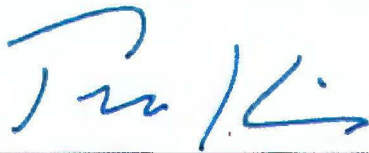
would jeopardize national security, threaten the safety of TPS beneficiaries and their U.S. citizen children, and increase unauthorized immigration into the United States.

With these concerns in mind, please provide information regarding the following questions:

1. Why is there a 32-day gap between the public announcement of the decision on Hondurans' TPS renewal in May and the publication of the FRN in June? What do you consider timely notice and why?
2. The delay with Hondurans' TPS is not an isolated incident; nationals of other TPS designated countries have had to wait even longer. Why has the agency not improved the process to make these publications more timely as required by statute?
3. Diplomats on the ground in Honduras recommended extending TPS for Hondurans given the rampant insecurity, gang violence and poverty in the country. President Trump has referred to the gangs in Central America as "animals" for the level of violence they inflict on innocent civilians. Yet in November 2017, then-Secretary of State Tillerson ignored cables from diplomats in Central America calling for the TPS extensions and instead recommended then-DHS Secretary Duke cancel the status. Would you consider re-designating Honduras for TPS given the current high level of insecurity in the country and the danger this poses to returning migrants and our own national security?

Thank you for your prompt attention to these matters.

Sincerely,



Tim Kaine  
United States Senator



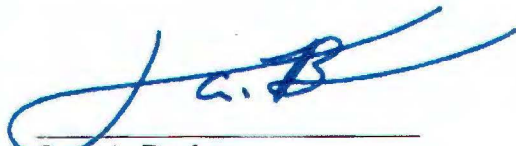
Benjamin L. Cardin  
United States Senator



Maize K. Hirono  
United States Senator



Richard Blumenthal  
United States Senator



Cory A. Booker  
United States Senator



Robert Menendez  
United States Senator





**U.S. Citizenship  
and Immigration  
Services**

August 6, 2018

The Honorable Tim Kaine  
United States Senate  
Washington, DC 20510

Dear Senator Kaine:

Thank you for your June 25, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Please find enclosed answers to your questions regarding the Temporary Protected Status designation for Honduras.

Thank you again for your letter and interest in this important issue. The co-signers of your letter will receive separate, identical responses. Should you require any additional assistance, please have your staff contact the U.S. Citizenship and Immigration Services Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, appearing to read "L. Francis Cissna".

L. Francis Cissna  
Director

Enclosure

**The Department of Homeland Security's Response to  
Senator Kaine's June 25, 2018 Letter**

- 1. Why is there a 32-day gap between the public announcement of the decision on Hondurans' TPS renewal in May and the publication of the FRN in June? What do you consider timely notice and why?**

Under federal law, the Secretary of Homeland Security is required to provide timely notice of each Temporary Protected Status (TPS) determination through publication in the *Federal Register*. See Immigration and Nationality Act (INA) § 244(b)(3)(A). In the case of Honduras, the Department of Homeland Security (DHS) worked to publish the *Federal Register* Notice as expeditiously as possible.

- 2. The delay with Hondurans' TPS is not an isolated incident; nationals of other TPS designated countries have had to wait even longer. Why has the agency not improved the process to make these publications more timely as required by statute?**

DHS works to publish each TPS determination in the *Federal Register* as expeditiously as possible.

- 3. Diplomats on the ground in Honduras recommended extending TPS for Hondurans given the rampant insecurity, gang violence, and poverty in the country. President Trump has referred to the gangs in Central America as "animals" for the level of violence they inflict on innocent civilians. Yet in November 2017, then-Secretary of State Tillerson ignored cables from diplomats in Central America calling for the TPS extensions and instead recommended then-DHS Secretary Duke cancel the status. Would you consider redesignating Honduras for TPS given the current high level of insecurity in the country and the danger this poses to returning migrants and our own national security?**

The Secretary maintains the discretionary authority under the INA to newly designate Honduras for TPS if conditions in Honduras fall into one or more of the following three statutory categories: (1) ongoing armed conflict, (2) environmental disaster, or (3) extraordinary and temporary conditions that prevent nationals of that country from returning to their country in safety. See INA § 244(b)(1)(A)-(C).