



Mayor's Office of
Immigrant Affairs
Bitta Mostofi
Commissioner

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Testimony of Commissioner Bitta Mostofi
NYC Mayor's Office of Immigrant Affairs

Before a hearing of the New York City Council Committees on Immigration:

**“Oversight – City Services and Supports for Immigrants
with Temporary Protected Status”**

Thank you to Chair Menchaca and the members of the Committee on Immigration.

My name is Bitta Mostofi and I am the Commissioner of the Mayor's Office of Immigrant Affairs. Thank you very much for calling a hearing on this critical issue; we truly appreciate the opportunity to discuss this crisis affecting thousands of New Yorkers.

Our agency works to remain consistently up to date on the rapidly shifting landscape of Temporary Protected Status designations and how it affects our communities. We are committed to doing everything we can as a City to protect our communities, inform the public, and ensure that if TPS recipients lose their status they can still access services and benefits to the greatest extent possible. Thus, our work takes an approach of providing legal services, community outreach and education, rapid research and analysis, as well as advocacy at the City, State and Federal levels.

Although it has at times received less national attention than many of the other crises caused by this federal administration, the termination of TPS designations for six countries is particularly cruel, as this disproportionately affects long-term residents with U.S. citizen family members and who have no serious criminal histories. The result will leave thousands of individuals undocumented, placing them at risk of deportation to countries that even federal officials have admitted remain unstable and unsafe for return. Moreover, the circumstances and rhetoric surrounding these termination decisions have revealed that the underlying motivations for these TPS terminations are anti-Black and anti-Latinx racism.

In today's testimony, I will provide the Committee with an overview of TPS, the current legal and political landscape surrounding recent TPS terminations, an overview of how these terminations directly impact New Yorkers, and a detailed overview of our efforts as a City to continue to serve and empower our communities.

Background and current situation

In 1990, Congress created, with bipartisan support, the Temporary Protected Status program to provide relief from deportation and work authorization for immigrants in the United States who cannot return to their home countries due to ongoing turmoil, such as armed conflict, natural disasters, or other extraordinary circumstances. To obtain TPS, individuals must meet certain eligibility requirements, including a lack of serious criminal convictions. TPS does not provide a pathway to citizenship, although some recipients may adjust their status through U.S. citizen family members or other avenues. Its "temporary" nature means that the Department of Homeland Security reviews TPS designations every six to 18 months, based upon a review of country conditions. Recipients must reregister for TPS each time DHS extends their country's designation. They must maintain their eligibility for TPS, and pay up to \$495 in application fees.

In a break from the last twenty years of previous practice spanning federal administrations of both political parties, the Trump Administration has decided to terminate TPS for six out of the

nine countries it has had opportunity to review. While past federal administrations have consistently considered country conditions that have arisen since the original designation in evaluating whether an extension of TPS is warranted, the Trump Administration has broken with that longstanding policy and instead only considered the original condition or event that sparked the initial designation. Litigation has challenged these terminations and remains ongoing. These cases have produced evidence that these terminations were made against the weight of evidence and against the recommendations of career federal officials. Moreover, the decisions accord with the President's racist and xenophobic rhetoric. It is not a coincidence that the majority of individuals affected by these terminations are Black and Brown people. Indeed, the President has made his motivations clear in referring to predominantly Black TPS-designated countries in vulgar and demeaning terms that I will not repeat here.

These terminations are particularly cruel given that most of the people with TPS are long-term residents, many of whom have U.S. citizen family members. The decision to cast away members of our communities is rooted in anti-Black and anti-Latinx racism which has been made evident by the President's own words. In addition to the economic harms resulting from the loss of work authorization and the breaking up of families, the Administration's actions to terminate TPS designations have created toxic levels of stress and anxiety amongst TPS recipients, particularly those with school-age children.¹

While uncertainty persists due to ongoing litigation, TPS recipients from six countries stand to lose legal status by 2020. Those six countries are Sudan, Nicaragua, Nepal, Haiti, El Salvador, and Honduras. Nationally, this totals to nearly 400,000 people.

Five federal lawsuits have been filed in response to these terminations. In October of last year, the federal district court for Northern California issued a nationwide preliminary injunction stopping DHS from terminating TPS for Haiti, Sudan, Nicaragua, and El Salvador. Notably, Honduran and Nepali TPS recipients were not part of this litigation or decision because the case was filed before TPS for those countries had been terminated. Major decisions in the other four cases remain pending. Central to all the cases challenging these terminations is the issue of racial animus.

TPS recipients in New York City

Last year, MOIA released a fact sheet on TPS recipients in New York City to provide local stakeholders with information about this population. We estimate that approximately 15,000 New Yorkers are TPS recipients, and over 8,000 U.S. born children live in households with a TPS recipient. Additionally, TPS recipients tend to be long-term U.S. residents—they have lived here an average of 15 years.

¹ See, e.g., K.M. Roche et al., *Impacts of Immigration Actions and News and the Psychological Distress of U.S. Latino Parents Raising Adolescents*, 62 *Journal of Adolescent Health* 525 (2018).

The vast majority of TPS holders in New York City are from Haiti, El Salvador, and Honduras; the Trump Administration has terminated TPS for all of these countries.

We also found that TPS recipients are important contributors to our City economy. They account for approximately \$260 million in income in New York City each year. In 2017, TPS recipients generated an estimated \$591.1 million in Gross City Product.² Additionally, TPS recipients have a higher labor force participation rate than the general population, and many work in the education and health service industries.

In addition to TPS recipients from the six countries the Trump administration has declined to extend, a number of Liberians in New York City protected by a similar program will also lose legal status. On March 23 of this year, all Liberians who have benefited from Deferred Enforced Departure will lose their protection from deportation. The size of this population is not large nationwide (as of 2017, at least 745 Liberians are covered), but we know that Staten Island is among the top areas of residence for Liberians in the United States.³

Access to services and benefits

Despite authorization from Congress to states and localities to deny benefits to TPS recipients, TPS recipients in New York are eligible for a range of public benefits, reflecting a local and state recognition of the importance of providing support to TPS recipients. Benefits for which TPS recipients are eligible include Medicaid, Affordable Care Act health insurance subsidies through the New York State of Health marketplace, and safety net cash assistance, as well as the full spectrum of services for which immigration status is not required, like IDNYC, public education, public health clinics, and more. However, because of federal eligibility limitations, there are other benefits that have eligibility requirements that exclude TPS recipients – these include SNAP, Supplemental Security Income, public housing, and Section 8, for example.

The City has also ensured that our unprecedented investments in immigration legal services provide assistance with TPS renewals. In response to federal actions, ActionNYC providers pivoted to provide urgent support to their communities affected by shifting immigration policy. For example, ActionNYC sites continue to prioritize TPS re-registrations. Our ActionNYC providers also provide assistance in exploring alternative avenues of immigration relief for TPS recipients at risk of losing their status. Further, NYIFUP and other City immigration legal services programs provide defense against deportation, which can help those TPS recipients who need assistance in removal proceedings.

² NYC Office of Management and Budget calculations based on April 2017 Executive Forecast. GCP is a measure of the value of the goods and services produced by the NYC economy in a given time period.

³ Jill H. Wilson, *Congressional Research Service, Temporary Protected Status: Overview and Current Issues* 9 (2018).

Outreach and public education

Among the most important ways in which we have responded to the Trump administration's attacks on TPS has been our outreach and public education. Beginning in 2017 MOIA has led a robust effort to provide information to residents, including regular conversations with community based organizations, labor unions, faith leaders, and elected officials. We have conducted multiple briefing calls with elected officials and consulates on our TPS fact sheet, and we have organized 15 TPS-focused outreach days of action, along with many TPS specific "Know Your Rights" forums, with the help of 144 volunteers. Through our outreach efforts, we have reached an estimated 50,000 constituents across the City. Additionally, we keep the public apprised of the latest news and developments on TPS with a specific page on our website designated for this subject – at nyc.gov/tps.

Challenges

TPS recipients whose country designations will imminently terminate or will terminate if the current preliminary injunction does not remain in place, will be rendered ineligible for a number of public benefits. Of particular concern from a public health and financial security perspective is the loss of Medicaid coverage for low-income TPS recipients. This same concern arose in 2017 when the Trump Administration attempted to rescind the Deferred Action for Childhood Arrivals (DACA) program. That decision precipitated the same concern: that DACA recipients would become ineligible to remain insured through Medicaid. We were very gratified that the State Department of Health promulgated guidance in January 2018 to address this concern, following engagement by local advocacy organizations and testimony I presented in December 2017 before a joint hearing of the Assembly Committee on Health, Puerto Rican/Hispanic Taskforce, and the Taskforce on New Americans. In that guidance, the State clarified that DACA recipients whose DACA status is terminated will continue to be treated as eligible for Medicaid. We look forward to working with our State partners on a similar solution here, to ensure that low-income TPS recipients are not stripped of their health insurance coverage as a result of the Trump Administration's terminations.

Even though the Trump Administration's terminations of TPS designations for Sudan, Nicaragua, Haiti, and El Salvador have been enjoined for now, the attempts to terminate have still posed challenges for TPS recipients. Rather than issuing new work authorization cards to TPS recipients from these countries to replace their now-expired cards, the federal government instead published a notice in the Federal Register to announce that work authorization cards for Sudanese and Nicaraguan TPS recipients are still valid through April 2, and if the injunction continues beyond that date then there will be a new notice published. This kind of automatic extension has caused challenges in the past for immigrants seeking to renew driver licenses or verifying their work authorization with employers, since the card still shows as expired.

We look forward to continuing to work alongside our State partners to find additional ways to mitigate TPS terminations, such as supporting the passage of the NYS Driver's Licenses for All bill, which could help former TPS recipients maintain driver's licenses.

C4A and Federal Advocacy

MOIA leads Cities for Action, a coalition of over 175 cities and counties across the country that together advocate for pro-immigrant policy and legislation. Our advocacy for the 116th Congress will focus on TPS—we will be helping to raise the profile of this issue and the crisis looming on the horizon. In particular, we will conduct extensive outreach to congressional offices, providing them with general information about the program and why legislation is so desperately needed to provide a pathway to citizenship for those who have lost TPS. And we will be highlighting why this issue is so important for cities in particular, across the country. TPS recipients are vital members of our communities, contributors to our economies, and pillars of our families. We will work to ensure that Congress knows just how much is at stake.

Our federal advocacy on TPS has been long underway. Through Cities for Action, Mayor de Blasio and mayors across the country have sent letters to the Trump Administration urging renewal for countries whose TPS extension decisions were coming up. And in November 2017, the NYC Children's Cabinet sent a letter to DHS Acting Secretary Elaine Duke, noting that 8,000 families in New York City have a U.S. citizen child living with a TPS recipient. The City also contributed to a multi-city amicus brief in the case that has resulted in the preliminary injunction against the termination of most of the TPS designations.

We will continue to use every tool available to advocate for relief for TPS recipients, whether in Congress, the federal executive branch, or the courts.

Conclusion

The City has been working to mitigate the damage of these TPS termination decisions. We have sought to keep the public informed in real time as the legal landscape has rapidly shifted. We have gone into communities to help ensure our immigrant New Yorkers and their families can continue to feel supported by their City. We have made tremendous investments in legal services to help protect our communities from overbroad immigration enforcement and help our communities navigate an increasingly complex immigration system.

I want to thank Chair Menchaca for calling this important hearing. I also want to thank our agency partners, our legal service providers, our community-based organizations, and most importantly our immigrant communities whose resiliency in the face of countless attacks motivate us every day to continue this work.