



Talking Points on Proposals to Roll Back TVPRA Protections for Unaccompanied Children

Several recently-introduced proposals^{*}, such as the HUMANE Act introduced by Sen. Cornyn and Rep. Cuellar, would put vulnerable children in harm's way by stripping away critical protections in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 for children from El Salvador, Guatemala and Honduras. The proposals would subject these children instead to the lower, inadequate standard of protection currently used primarily on Mexican children and/or would dramatically expedite the process by which children are removed through accelerated hearings.

In most cases, Customs and Border Protection (CBP) will do a cursory screening for persecution and trafficking within 48 hours and then quickly repatriate the children. However, CBP lacks the necessary training on how to effectively screen children. Most will be immediately sent back to their country of origin without being able to present their case to a judge.

These proposals trade the safety of children for expediency. It would be a "round-'em up and ship-'em back" approach, as Senator Harkin said in opposition to such an approach.

- The Northern Triangle of Central America is one of the most violent regions in the world. The 2014 U.N. Office on Drugs and Crime's Global Study on Homicide, concluded that Honduras is the murder capital of the world, with El Salvador and Guatemala ranked #4 and #5. The Central American children fleeing these countries are escaping sexual violence and forced gang recruitment. Deporting these children could very well mean returning them to further violence, abuse, and even death.
- Vulnerable children will be forced back to the same dangerous conditions from which they just fled without proper screening for asylum or trafficking. Many will end up in the hands of traffickers or the gangs from which they fled.
- Victims may be further traumatized when questioned by officials who lack training in sexual assault interviewing techniques.
- Victims' memories of the violence that they suffered might be triggered by the overcrowded conditions that they are being housed in, which will cause additional anxiety, fear and anguish.
- Unaccompanied children will be detained for longer periods of time in Border Patrol stations or jail-like detention centers that do not have adequate food, shelter or beds. The proposals deny Central American children adequate care and protection provided by the Office of Refugee Resettlement, and eventual placement with family members or sponsors while preparing their case in immigration court.
- The proposals put unaccompanied children at risk of abuse or sexual assault by strangers because they will be held for longer periods in CBP stations or detention centers. In June, advocacy groups filed a complaint with over one hundred cases of abuse and maltreatment while in CBP custody.

These proposals will silence victims who have suffered trafficking, gang violence and persecution.

- With the screening process currently in use for unaccompanied children from Mexico, CBP typically interviews children about persecution or trafficking within 12 hours of apprehension. That's not nearly enough time for a victimized child to be physically and psychologically ready to talk about sensitive traumatic events. Rape, sexual assault and child abuse victims often take weeks, months or longer before they can speak about such crimes.

^{*} Other proposals include [Sen. Flake's TVPRA Reform Amendment to S. 2363; H.R. 5053 \(Salmon, R-AZ\)](#); and [proposed McCain-Flake bill](#).

- Unaccompanied children need a safe space to talk about violence and abuse. A jail-like Border Patrol station is no place for an interview to happen, especially while they are still recovering from a harrowing journey and are likely hungry, cold, and scared. Victims may be further traumatized when questioned by officials who lack training in sexual assault interviewing techniques.
- Children will be denied proper medical care, including expert forensic care, if they are subject to a streamlined deportation process rather than the appropriate care and screening required for victims of sexual and other forms of violence.
- If a child is unable to make her case in short order to a CBP agent, or in an accelerated hearing before an immigration judge, she can be returned almost immediately to unsafe conditions

These proposals would subject Central American children to a flawed, unfair process that should not be used on Mexican children.

- “No meaningful screening is being conducted” of Mexican children by CBP as required by the TVPRA, according to the Appleseed Foundation 2011 report.
- The screening process in place for Mexican unaccompanied children is wholly inadequate for all children, but especially for those children who face high likelihood of violence, exploitation, and even death upon return. The HUMANE Act Bill (Cornyn/Cuellar) would subject all children to this limited screening by CBP.
- CBP lacks the resources and expertise to interview children. Border Patrol agents lack the necessary training on child welfare, trauma, abuse, and sexual assault to conduct the appropriate screenings, putting children who may be eligible for relief at risk of falling through the cracks and being returned to dangerous situations.
- Border Patrol has a track record of abuse and lethal use of force.
- Border Patrol cannot even screen *adults* properly for fear of return. In 2005, the bipartisan United States Commission on International Religious Freedom (USCIRF) found that Border Patrol was not following proper procedures in screening and referring adults for “credible fear” interviews. DHS Office of Civil Rights and Civil Liberties is now investigating 19 cases in which agents never asked about fear of return in the first place or ignored statements of fear.

Cornyn/Cuellar HUMANE Act curtails due process by subjecting children to a modified expedited removal process.

- Expedited removal, for its severely truncated process and near absence of review, had since its beginnings in 1996 been disfavored for use against children. The HUMANE Act Bill undermines long-standing protections for children that have existed before the TVPRA of 2008.
- Accelerated and truncated hearings force children to navigate the hurdles and the complexities of our immigration system in an unreasonably short timeframe.
- Children cannot be expected to present a claim in mere days, even more so without guarantees of counsel, counseling, and adequate time to recover. Also the stakes are higher as the children have no opportunity to appeal and there remains a lack of appropriate repatriation programs to ensure children’s safe return.

America should protect all children, not place them in harm’s way.

- The best interest of the child should be paramount in addressing this humanitarian crisis. Child safety should not be compromised for the sake of expediency.
- Subjecting Central American children to the failed Mexican screening process would be a retreat from America's commitment as a humanitarian leader and undermine our American values of putting children first and protecting them from harm.
- All children deserve protection, and Congress should be focused on strengthening protections rather than weakening them. There is no valid reason for treating vulnerable unaccompanied children differently based on their country of origin. But we should ensure that Mexican children are better protected instead of watering down the protection afforded Central Americans.

Brief summary of Cornyn/Cuellar HUMANE Act

- Eliminates protections for children in all non-contiguous countries, and creates a modified expedited removal procedure for all unaccompanied children from Mexico, Canada, El Salvador, Guatemala, and Honduras. Designates 40 immigration judges to this modified expedited removal process.
- Subjects all unaccompanied children to a limited screening by CBP within the first 48 hours of apprehension for risk factors such as trafficking and credible fear of persecution and inability to make an independent decision
- Forces children, without guarantee of legal counsel, to make a claim before an immigration judge within 7 days of their screening by CBP. Children who can prove they are eligible for relief will be placed in further proceedings. There is no review or appeals process for this swift decision by the judge.
- Children who express a fear of persecution will be referred to USCIS asylum officers for a credible fear interview. Those who are found to have credible fear will continue to be held by ORR [and not placed with a sponsor or family member] while their asylum application is pending.
- Directs DHS to report and outline a strategy to achieve situational awareness and operational control of the border and implement a biometric exit system. Expands and authorizes operation of National Guard units, authorizes increases in CBP personnel, and directs upgrading of technology along the Southern Border.

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