



Statement of the U.S. Committee for Refugees and Immigrants

Submitted to the House Subcommittee on Immigration & Border Security
Hearing on "The Impact on Local Communities of the Release of Unaccompanied
Alien Minors and the Need for Consultation and Notification"
December 10, 2014

The U.S. Committee for Refugees and Immigrants (USCRI) submits this statement to the House Subcommittee on Immigration and Border Security of the Judiciary Committee. For over 100 years USCRI has addressed the needs and rights of persons in forced or voluntary migration worldwide by advancing fair and humane public policy, facilitating and providing direct professional services, and promoting the full participation of migrants in community life.

As part of our mission USCRI's Immigrant Children's Legal Program has worked with over 275 law firms and thousands of attorneys throughout the U.S. to provide unaccompanied immigrant children *pro bono* legal representation in their immigration proceedings since 2005. Through this work USCRI has made a difference in the lives of over 9,000 children. USCRI is also a grantee of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS) to help unaccompanied immigrant children deemed to be in need of additional services due to extensive histories of abuse, trauma or neglect. USCRI has provided in-home social services and linkages to education, legal, health, and mental health providers to over 1,500 children.

RECOMMENDATIONS

- I. Vote no on bills H.R. 5409, H.R. 5409 and H.R.5129 because they:**
 - **Increase bureaucracy** by creating obstacles to establishing facilities to safely house the children.
 - **Inhibit Compliance with Congressional Mandates-** Increased bureaucracy will prevent Customs and Border Protection (CBP) from fulfilling its duty to turn over custody of children to HHS within seventy-two hours of apprehension.
 - **Prevents CBP from Securing the Border-** These bills will force CBP to care for children in their custody for longer periods of time while preventing them from fulfilling their most important duty of securing the border. The needs of the children cannot be adequately met by border patrol facilities which is why Congress requires they are transferred.
 - **Puts children at risk** – There are strict rules of confidentiality, designed to protect children's right to privacy and deter potential traffickers, which would be violated by releasing information about specific children to local officials.
- II. Increase Post Release Services-** HHS funding should be increased to expand Post Release Services (PRS) for unaccompanied children to help them integrate into their communities.
- III. Consider USCRI's Six Solutions** – USCRI offered six policy solutions that will work to prevent trafficking, protect children and save money. The solutions which are discussed in depth below.

SUMMARY OF BILLS

Our Communities, Our Choices Act of 2014 (H.R.5158) Requires that state and local officials be notified before federal grants or contracts for housing facilities for unaccompanied children are awarded. Information such as the location and the duration of the child's stay must be disclosed to local officials. It also requires a public hearing be held with HHS in attendance.

Unaccompanied Alien Children Transparency Act of 2014 (H.R.5409)- This bill adds another layer of bureaucracy which would impede the rapid sheltering of the children. The Secretary of HHS must provide documentation and certification delineating the estimated impacts and risks for the community such as impacts on the health care system and an assessment of public safety risks posed by the child. After a public hearing the local government must approve the establishment of the detention facility.

UAC State Notification Act of 2014 (H.R. 5129) –This bill would require the Department of Homeland Security (DHS) or HHS to notify the Governor of a state forty-eight hours prior to the transfer of each unaccompanied child to a facility in their state..

ANALYSIS

The Homeland Security Act of 2002, Section 462 transferred to the custody of children to HHS and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) required it be done within seventy-two hours of being apprehended by CBP. All three bills will ensure violations of Congressional law. The additional requirements, as stated in these bills, will hinder the timely transfer of children from CBP to HHS custody. Children will remain in CBP holding cells for extended periods of time. This summer, the American public saw the pictures of the crowded and inhumane conditions children were held in at CPB facilities at the border. Children were sleeping on the floor in windowless cells without adequate sanitation or nutrition. These conditions are likely to be repeated if these bills are passed. Further, CBP will not be able to focus on its work in securing the border.

These bills are redundant in requiring local government officials be notified because all facilities must be licensed by the states where they are located. Additionally HHS requires that all detention facilities be in compliance with all state and local laws. These licensing requirements provide ample notice of the detention facilities to local government officials.

The bills aim to address the impact of these children on the local community. However children being held in dentition facilities are never allowed to leave the shelter, therefore they never have contact with or impact on the local communities. Education and basic health care is provided in the facilities. In the event a child needs hospital care the cost is 100% covered by HHS.

SOLUTIONS THAT CAN WORK

This past summer USCRI went to the office of every member of Congress to offer Six Policy Solutions.

1. Respect Families

Allow parents or legal guardians from El Salvador or Honduras who reside legally in the U.S. under Temporary Protected Status (TPS) to apply for their minor children to reunite. Their minor children may be residing either in the U.S. or in their country of origin and their status would be linked to their parents. This will immediately reduce immigration court backlogs and apply to an estimated 30-40% of the children surrendering at the borders.

2. Keep the Children Out of the Courtroom

Institute a Children's Corps based on the Asylum Officer Corps model. Children Corps officers would be trained in child-sensitive interview techniques and Best Interest Determination standards. They would determine if a child is eligible for legal relief such as asylum, Special Immigrant Juvenile Status (SIJS), Trafficking Victims Visa (T-Visa) or other forms of legal relief. This would move the adjudication process from an adversarial, judicial process to an administrative process for most children. Those who are not eligible for legal status would be placed in removal proceedings. It is estimated that 40% to 60% may be eligible for legal protection.

3. Help Children Avoid the Dangerous Journey

In-Country Processing allows applicants to apply for refugee status in their home country. The children would have to meet the U.S. refugee definition, be otherwise admissible, and would be resettled in an orderly fashion. In-country processing has been used in the past for the resettlement of Soviet Jews, Vietnamese, and Cubans, so they could avoid life-threatening escapes. Other countries in North or South America may also be willing to accept children for resettlement.

4. Engage the UNHCR

Unaccompanied children and adults can receive international protection from UNHCR after they have fled their home country. Through long established procedures, the UNHCR could then refer their cases for resettlement to a receiving country. The U.S. Department of State coordinates the program, the refugees are interviewed by a USCIS Officer and, if approved for entry, undergo extensive security and medical clearances prior to being moved to the U.S.

5. Forgive the Children

Grant Children's Protected Status (CPS) to all unaccompanied children who have already been brought into custody. As precedent, the Cubans and Haitians who arrived illegally during the Mariel Boatlift in 1980 were given Cuban/Haitian Entrant Status. Simultaneously with the announcement of CPS, the government could announce a cut-off-date for all future arrivals. After the cut-off date, new arrivals would be subject to expedited removal. Granting CPS will relieve the government of the burden and cost of adjudicating the cases of thousands of unaccompanied minors. This will increase capacity for the Department of Homeland Security to handle other immigration cases.

6. Introduce Hope

Create a Regulated Entry Procedure (REP) for 10,000 Unaccompanied Immigrant Children per year per country from Honduras, El Salvador, and Guatemala. As precedent, to end the Mariel

Boatlift in 1980, a lottery was established which allows 20,000 Cubans to enter the US every year. The hope of “winning” has kept Cubans from hazarding the ocean for the last 34 years. The Central American Children would be permitted to enter the U.S. legally through a regulated system managed and processed by the U.S. Government.
As Americans, we will not turn our backs on children.

USCRI urges your immediate intervention to honor America’s history of leadership in protecting the most vulnerable. For questions about this statement please contact Stacie Blake, Director of Government and Community Relations at sblake@uscridc.org or Esmeralda Lopez, Advocacy Officer at elopez@uscridc.org

Thank you for your consideration of this very important issue.