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We need to protect children at the border

By Steven H. Schulman

The U.S. border with Mexico is often a dangerous place. Those most vulnerable at the border are unaccompanied Mexican children, thousands of whom attempt to cross the border each year despite the risks. Many children are compelled to cross to join family members; others are used by traffickers, drug dealers, and other criminals.

Congress addressed the plight of these children in 2008, when it passed the William Wilberforce Trafficking Victims Protection and Reauthorization Act (TVPRA). The law is intended to ensure that each Mexican child unaccompanied by a parent or guardian is not immediately repatriated, but instead is interviewed to determine whether the child is a victim of trafficking, has a fear of persecution, or otherwise cannot (or will not) consent to be returned to Mexico.

If conducted properly, this screening should ensure that these children, many of whom have been victims of abuse or human trafficking, have a chance to make a claim to remain in the United States, legally, under federal law.

Unfortunately, despite Congress's best intentions, the revolving door at the border has not stopped. As found in the report "Children at the Border" by Applesseed and Mexico Applesseed, part of a network of public interest justice centers, un-



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accompanied Mexican children are quickly returned to Mexico without any substantial review of their claims to protection in the U.S., without regard to the harms that may befall them – including exploitation by criminal gangs and drug cartels.

Consider the case of Jose, a 16-year-old from Baja California in Mexico, who crossed the Rio Grande in 2010 with 22 other Mexican nationals. Jose was trying to join his immediate family in Houston, Texas. After being captured and detained in McAllen, Texas, the border patrol officer who interviewed him told Jose could not see an attorney or a judge because he was a Mexican minor and this was the first time he had crossed the border – information that was wrong.

Jose was then instructed to sign a document, which stated

that he had refused to see a judge, preventing him from asserting any claim he might have had to stay in this country legally. Based on bad advice from a border patrol officer, Jose waived any rights he had, and was returned to Mexico without any review of his vulnerability to trafficking or any chance to be reunited with his family.

We don't know what became of Jose. An unaccompanied American child treated like this would create a national outrage. For Mexican children, this treatment is the status quo. It need not be, and federal law mandates that it should not be this way.

Applesseed's report recommends changes in federal policy, consistent with the TVPRA, to protect these children and fulfill the requirements of the law. First, while the TVPRA dictates that the Department

of Homeland Security (DHS) conduct this screening, it did not require DHS to assign the responsibility to its Customs and Border Patrol (CBP) division, a law enforcement agency with the mission to protect the border from external threats. Within DHS, another agency – U.S. Citizenship and Immigration Services (USCIS) – already is tasked with interviewing unaccompanied minors who claim asylum. USCIS is obviously the agency within DHS better suited to conduct the screening of unaccompanied Mexican minors required by the TVPRA.

Second, minors should not be interviewed in desolate, prison-like CBP detention facilities. A child is unlikely to divulge sensitive information about trafficking or abuse in such an environment.

Third, whoever interviews these children – and it certainly should not be armed border patrol agents – must be given sufficient training to understand whether these children, who are sometimes as young as 9, are indeed victims of trafficking or abuse, and have a claim to remain in the United States.

The problems are not solely on the U.S. side. Mexican authorities have established a system of shelters staffed by child welfare workers, yet the system is under-resourced and its focus is on rapid screening and family reunification, largely ignoring threats to minors either in their home settings or because of gang activity.

If the changes recommended by Applesseed are implemented – and the mandate of Congress is heeded – children like Jose will be treated as they should be at the border.

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