

DHS may separate mothers from kids who cross border illegally

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By Samantha Schmidt / The Washington Post

In an attempt to deter illegal immigration from Mexico, the Department of Homeland Security is considering separating children from parents caught crossing the border, Secretary John Kelly said on CNN Monday.

The new proposal would result in detention for the parent while any children accompanying them would be placed in the care of the government or sent to live with relatives in the U.S., if they happen to have them.

Currently, women and children are generally detained together in one of three detention centers — two in Texas and one in Pennsylvania — for a few days or weeks before being released to wait for an immigration judge to decide their cases.

The splitting up of families is meant to serve as a deterrent to illegal border-crossing. “I would do almost anything to deter the people from central America getting on this very, very dangerous network that brings them up from Mexico,” Kelly told CNN’s Wolf Blitzer. He said children removed from their mother or father would be “well cared for as we deal with their parents.”

When asked if he realized how this change in policy would appear to the “average person,” Kelly responded, “It’s more important to me, Wolf, to try to keep people off this awful network.”

DHS officials have said President Donald Trump has called for ending “catch and release,” in which undocumented immigrants who cross the border are freed to live in the United States while awaiting court proceedings.

But immigration lawyers say splitting up families would be traumatic for children and would put additional pressure on an already overwhelmed judicial process.

In recent years, the department has been faced with an unprecedented number of undocumented women and children from Central American crossing the border into the U.S. About 54,000 children and their guardians were apprehended between Oct. 1, 2016, and Jan. 31, 2017, more than double the number caught over the same time period a year earlier, Reuters reported.

In response to an increase in families crossing the border in 2014, the Obama administration opened multiple detention centers to house families and to deter others from crossing. But in July 2016, a U.S. Circuit Court of Appeals ordered that child migrants who are accompanied by a parent and currently in family detention should be quickly released.

To comply with the order, the Obama administration implemented a policy of holding women and children together at family detention centers for no more than 21 days before releasing them. That relatively quick release, Trump administration officials say, encourages parents to bring children with them, in what officials consider an exploitative fashion.

Leon Fresco, who led the Justice Department's Office of Immigration Litigation under President Obama, said the government has been considering separating families since that 2016 federal court ruling, the Associated Press reported. The idea was never implemented because it was deemed too detrimental to the safety of the children, Fresco told CNN.

"The thinking was it was always preferable to detain the family as a unit or release the family as the unit," Fresco said. A number of civil rights groups — including women and immigrant rights advocates — have made similar statements in recent weeks in response to the reported proposal.

The American Academy of Pediatrics also announced its opposition, saying in a statement Saturday that in "any time of anxiety and stress, children need to be with their parents, family members and caregivers."

"Federal authorities must exercise caution to ensure that the emotional and physical stress children experience as they seek refuge in the United States is not exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers," the organization wrote.

When dealing with unaccompanied minors, Kelly said Monday, the government turns them over to the Department of Health and Human Services and "they do a very, very good job of putting them in foster care or linking them up with parents or family members in the United States."

But immigration lawyer Manoj Govindaiah said in an interview with The Post that children who cross with their family are less likely than unaccompanied children to have family members already living in the United States. Thus they are more likely to be placed into foster care, at considerable cost to the government.

Another problem, he said, is that separating children from their mothers could mean that they would have individual, rather than joint asylum claims, possibly in separate jurisdictions. That would require separate lawyers and judges, said Govindaiah, director of family detention services at the Refugee and Immigrant Center for Education and Legal Services in San Antonio.

“You have multiple court dates, one for mom, one for kid,” Govindaiah said, “which sort of makes absolutely no sense and really affects the efficiency of the judicial process.”

Govindaiah also worried that eliminating family detention centers would make it harder for detained parents to access legal services. Pro-bono lawyers often focus their efforts at the three current family detention centers, he said.

“There are so many adult detention centers out there where the same access to legal services does not exist,” Govindaiah said.

Barbara Hines, an immigration law expert, argues that it shouldn’t have to be a choice between detention or separation — families should be released from the beginning.

She also argued that such a policy change would likely do nothing to deter women from crossing the border illegally with their children

“The experts have established that when people are fearing for their lives, what is going to happen at the border is not going to deter them,” Hines said. Countries in Central America’s Northern Triangle — El Salvador, Guatemala, and Honduras — consistently rank among the most violent countries in the world. Gang-related violence in El Salvador brought its homicide rate to ninety per hundred thousand in 2015, making it the most world’s most violent country not at war. Families cite forced gang recruitment, extortion, poverty and lack of opportunity as their reasons for fleeing.