

## **Rep. Cuellar Supports Humanitarian Immigration Efforts and Family Reunification**

### **FY22 Homeland Security Appropriations Provisions**

1. **[REP. CUELLAR SECURED]** *Bill Language:* “(10) \$140,000,000 for the emergency food and shelter program under title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331), to remain available until expended: Provided, That not to exceed 3.5 percent shall be for total administrative costs.” (Bill Page 45)
2. **[REP. CUELLAR SECURED]** *Report Language:* “Joint Migrant Processing Centers.—The Committee recommends \$170,000,000 above the request for the CRSO for integrated, joint migrant processing centers (JMPCJ. The CRSO, in conjunction with CBP, ICE, and USCIS, shall work with the Office of Strategy, Policy, and Plans, the Office of the General Counsel, the Office of the Undersecretary for Management, the Office for Civil Rights and Civil Liberties; and the Office of the Immigration Detention Ombudsman, along with interagency partners such as HHS and the Department of Justice, to develop requirements for establishing JMPCs. CRSO shall act as the executive agent for the design and construction of such centers, which shall appropriately shelter unaccompanied children, family units, and single adults as they undergo processing required under the immigration laws, including adherence to Flores settlement requirements; enhance the coordination among federal agencies and between such agencies and nonprofit organizations or local jurisdictions that provide shelter and support to migrants following their release from DHS custody; and minimize the time migrants spend in DHS custody. Not later than 90 days after the date of enactment of this Act, the USM shall brief the Committee on joint requirements and plans for the design and construction of JMPCs, including their planned locations, estimated costs, and schedule for becoming operational. The total amount provided includes the reappropriation of \$90,000,000 rescinded in the bill from prior-year appropriations to CBP for joint processing centers in the Rio Grande Valley in Texas and Yuma, Arizona. The total also includes \$30,000,000 that was proposed in the budget request through the CBP PC&I account for a new migrant processing center in Del Rio, Texas.” (House Report Page 21).
3. **[REP. CUELLAR SECURED]** *Report Language:* “Humanitarian Response at the Border.—The Committee is aware that the Department has a Surge Force mechanism in place to deploy volunteer DHS personnel for emergency and disaster response around the country, as well as to help respond to migrant surges at the southern border. The Committee directs the DHS Chief Medical Officer (CMO) to collaborate with the Department of Health and Human Services Office of Refugee Resettlement (HHS ORR) and relevant stakeholders to develop a combined Humanitarian Response Operating Plan for responding to future migrant surges, particularly those involving large numbers of families or unaccompanied children. The plan should include:
  - (1) an assessment of the capabilities and capacity of DHS, HHS, and relevant stakeholders to provide the specialized services necessary to prioritize the welfare of children and families while in government custody and help avoid unnecessary delays in releasing families together on Alternatives to Detention with case management and releasing unaccompanied children to appropriate sponsors;
  - (2) mechanisms for participating federal agencies to deploy personnel from across the government to the southern border as necessary during migration surges, in coordination with affected state and local jurisdictions and national and local nongovernment humanitarian organizations, along with an estimate of the funding requirements associated with such deployment; and

(3) mechanisms for including personnel who are licensed to provide trauma-informed care, case management, and child welfare and plans for training other participating personnel in these areas, including estimates of the funding requirements for initial and recurrent training.

In developing the plan, the DHS CMO and HHS ORR should also consult with child welfare experts and organizations to incorporate best practices into the plan. The Committee directs the DHS CMO and HHS ORR to submit the plan to the Committee within 180 days of the date of enactment of this Act and to update the plan annually to reflect new information and lessons learned.” (House Report Pages 10-11)

4. **[REP. CUELLAR SECURED]** *Report Language:* “Family Separation.-The Department must ensure that family unity is a primary factor when making criminal and civil charging decisions and, whenever possible and consistent with an assessment that it is in the best interest of a child, that separated family units are reunited and transported together prior to removal, release from U.S. Customs and Border Protection (CBP) custody, or transfer to U.S. Immigration and Customs Enforcement (ICE) or Office of Refugee Resettlement (ORR) custody. Under no circumstances shall a child be separated from a parent or legal guardian solely to deter migration or promote compliance with immigration laws.

The familial relationships of each family unit taken into DHS custody must be immediately documented and the location of every member of a separated family unit must be continuously tracked and a specific justification for the initial separation must be recorded, along with a justification for any continued separation. DHS must ensure that individuals being transferred from CBP to ICE custody, in CBP or ICE custody, under ICE supervision, or referred to the Department of Justice (DOJ) for prosecution are asked about and have opportunities to report family separation incidents; verify the status, location, and disposition of family members; and regularly communicate with one another.

The Department should also work with DOJ to establish a mechanism for ensuring that any information related to family separation that is shared during the course of a criminal prosecution is conveyed to DHS for purposes of family tracking and reunification. (House Report Pages 8-9)

5. **[REP. CUELLAR SECURED]** *Report Language:* “Family Separation-Extended Family.-DHS has assured the Committee that it is no longer separating families at the border, absent indications of abuse or serious criminal activity by an adult family member. Because current law defines a family as a child accompanied by a parent or legal guardian, however, children traveling with other adult relatives are still routinely separated from them. CBP and ICE shall take the interests of extended family unity into consideration in determining whether to place such adults into section 240 removal proceedings in lieu of expelling them under title 42 authority or placing them into expedited removal, specifically those who would be categorized by ORR as a category 2-immmediate relative.

If such adult migrants are placed into section 240 removal proceedings based on family unity considerations, the Department shall ensure that ORR is made aware of the family relationship as soon as possible to help facilitate and expedite the potential sponsorship of those unaccompanied children by the immediate relative while they both proceed through the immigration adjudication process. Specifically, CBP should ensure that its electronic processing systems are modified to document immediate family relationships relevant to potential sponsorship of an unaccompanied child. (House Report Page 9)

6. **[REP. CUELLAR SECURED]** *Report Language:* “Family Reunification.-Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Committee

detailing the conclusions and recommendations of the Task Force established pursuant to Executive Order 14011, which shall include: (1) the number of children separated from a parent or legal guardian between January 20, 2017, and January 20, 2021, and the reasons for the separations; (2) the number of such children who have been reunited with such parent or legal guardian, differentiated by the number and legal status of reunited families present in the United States and the number reunited outside of the United States; (3) the number of such children who have not been so reunited, differentiated by the number present in the United States and the number not present; 4) a description of efforts by the Secretary to reunite families described in (3), obstacles to such reunification, and plans to overcome such obstacles; and (5) data on the exercise of parole under section 212(d)(5)(A) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(d)(5)(A)), the award of other immigration benefits, and the provision of services and support to families who were separated.

An administrative provision is included in title II of the bill that provides authority to use CBP and ICE Operations and Support funding to support the reunification of families who were separated under the so-called "zero tolerance" policy of the prior administration or were otherwise separated without a valid reason, such as acting in the best interest of a child when there is evidence of child abuse. The Department shall provide quarterly updates to the Committee detailing the use of funding for this purpose, with the first such report due not later than 30 days after the date of enactment of this Act." (House Report Pages 9-10).

7. **[REP. CUELLAR SECURED]** *Report Language:* "Migrant Families in Custody.-When considering whether a family unit should remain together while in custody, the Commissioner should consider the criminal history of the parent, safety and comfort of the child, and physical and mental health of all members of the family. When appropriate and feasible, CBP shall ensure that separated family units are reunited and transferred together prior to removal, release from CBP custody, or transfer to Immigration and Customs Enforcement custody. When CBP is responsible for the custody of unaccompanied children who are siblings, the Commissioner shall, to the extent practicable and when in the best interest of the children, place such siblings together in the same facility before HHS assumes custody pursuant to 8 U.S.C. 1232(b). (House Report Pages 29-30).
8. **[REP. CUELLAR SECURED]** *Report Language:* "Migrant Safety.-CBP shall continue its policies and activities that help protect people who travel on foot through dangerous terrain after having entered the United States between the ports of entry. CBP shall continue to prohibit its personnel from engaging in any activity that could damage water and food caches and also expand migrant safety efforts, including through the placement and maintenance of additional rescue beacons. The recommendation includes an additional \$1,500,000, for additional rescue beacons and for the Missing Migrant Program. for a total of \$3,000,000. Not later than 90 days after the date of enactment of this Act, CBP shall brief the Committee on planned obligations." (House Report Page 30)

#### **FY21 Homeland Security Appropriations Provisions**

1. **[REP. CUELLAR SECURED]** *Report Language:* "Operational Impact of Border Patrol Processing Coordinators.-The agreement provides \$20,000,000 for new Border Patrol processing coordinators. Within 90 days of the date of enactment of this Act, CBP shall provide a briefing to the Committees on the status of Border Patrol processing coordinator hiring, including the number of Border Patrol agents returned to the field as a result of such hires, the measures the agency is using to assess the costs and benefits of this position, and a summary of all training and certifications required for coordinators. Future funding requests for coordinator positions shall be

accompanied by descriptions of the expected operational impacts from additional investments.” (Joint Explanatory Report – Page 20).

2. **[REP. CUELLAR SECURED]** *Report Language:* “Migrants—Personnel Training.—Because of the high incidence of physical and mental trauma experienced by many migrants, particularly women and children, during their journey to the United States, the Committee directs CBP to provide training on trauma-informed care for all personnel who interact with migrants. This training should include field personnel as well as mission support personnel. Not later than 60 days after the date of enactment of this Act, CBP shall provide an execution plan for such training, to include a timetable for full implementation.” (House Report – Page 23).
3. **[REP. CUELLAR SECURED]** *Report Language:* “Migrant Property.—The Committee directs CBP to provide a briefing, not later than 90 days after the date of enactment of this Act, on its policies and protocols regarding the storage and transfer or return of the personal property of migrants.” (House Report - Page 23).
4. **[REP. CUELLAR SECURED]** *Report Language:* “Migrants—Safety.—CBP shall continue its policies and activities that help protect people who travel on foot through dangerous terrain after having entered the United States between the ports of entry. CBP shall continue to prohibit its personnel from engaging in any activity that could damage water and food caches and increase efforts to increase migrant safety, including through the placement and maintenance of additional rescue beacons.” (House Report - Page 23).
5. **[REP. CUELLAR SECURED]** *Report Language:* “Human Smuggling.—The Committee is concerned about reports that transnational criminal organizations may combine narcotics and humans in illicit smuggling attempts, thereby endangering the lives of individuals being smuggled. The Committee directs the Department to work with its federal law enforcement partners to ensure that the enforcement of anti-drug and anti-smuggling laws is carried out in a manner protective of human life and safety. In particular, DHS should work to prevent the passage of any vehicle through a checkpoint or port of entry for purposes of a controlled delivery by another law enforcement agency if the vehicle may contain individuals being smuggled under unsafe conditions, such as the smuggling of one or more individuals in a confined or non-air conditioned space.” (House Report - Page 21).
6. **[REP. CUELLAR SECURED]** *Report Language:* “Family Separations and Reunification.- Whenever possible and consistent with the best interests of the child, the Department shall ensure that separated family units are reunited prior to removal or release from U.S. Customs and Border Protection (CBP) custody and remain together upon transfer to U.S. Immigration and Customs Enforcement (ICE) or Office of Refugee Resettlement (ORR) custody. Individuals transferred from CBP to ICE custody, currently in ICE custody, or under ICE supervision should also have opportunities to report family separation incidents; to verify the status, location, and disposition of family members; and to regularly communicate by telephone with family members. The Department shall ensure that agents and officers are properly trained in child welfare screening for child victims of trafficking, in accordance with the Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110-457). CBP shall also continue to follow direction in Senate Report 116-125 regarding Immigration Reunification.

The Department is directed to continue to provide a monthly report to the Committees, to also be made public on the department's website, which shall document when and where all family separations occur;

- (1) the number of children separated from their parents at the border, delineated by age and nationality of the children and the parents or legal guardians;
- (2) the nature of administrative or criminal charges filed against adult family members;
- (3) the basis for the separation;
- (4) how often family units apprehended together are detained in ICE custody, referred to ORR, and/or deported separately;
- (5) whether child welfare experts were consulted prior to the family's physical separation;
- (6) whether a group presenting as a family unit arrived at the border and was separated after being determined not to meet the legal definition of a family unit; and
- (7) in cases where CBP separates individuals claiming to be a family unit on the basis of suspected human trafficking, information about whether any adult in the group was subsequently charged civilly or criminally with a trafficking offense.

The report shall also detail processes for ensuring the reunification of separated family units.” (Joint Explanatory Statement – Pages 3-4).

7. **[REP. CUELLAR SECURED]** *Report Language:* “\$110,000,000 for Alternatives to Detention Case Management, to remain available until expended: Provided, That such funding shall be awarded to nonprofit organizations and local governments and administered by a National Board for the purposes of providing case management services to any consenting individual enrolled into the U.S. Immigration and Customs Enforcement Alternatives to Detention program, including but not limited to: mental health services; human and sex trafficking screening; legal orientation programs; cultural orientation programs; connections to social services; and for individuals who will be removed, reintegration services: Provided further, That not to exceed 3.5 percent shall be for total administrative costs.” (House Report - Pages 53-54) (Funding – Page 26 of Joint Explanatory Statement).
8. **[REP. CUELLAR SECURED]** *Report Language:* “Expenditure and Operations Plan Requirements.—Despite the increased funding provided for the Office of the Chief Financial Officer in the fiscal year 2020 appropriation, the Department and ICE failed to comply timely with the requirements set forth in the explanatory statement accompanying Public Law 116-6 and reiterated in Public Law 116-93 regarding detailed operational and spending plans for fiscal years 2019 and 2020, respectively. While ICE has recently improved its efforts, significant work remains. The Department and ICE are again directed to fulfill such requirements for fiscal year 2021, to include greater detail on all funding initiatives and programs of significant public interest, including detention-related funding and contracting terms.” (Joint Explanatory Statement – Page 27).
9. **[REP. CUELLAR SECURED]** *Report Language:* “Detainee Access to Legal, Medical, and Mental Health Services.— ICE should not enter into, expand, or renew a contract with any entity to operate an immigration detention facility unless it is located fewer than 100 miles from:
  - (1) a Level IV (or lower) designated trauma center; and
  - (2) at least one government-listed, legal aid resource on the Executive Office for Immigration Review (EOIR) “List of Pro Bono Legal Service Providers” from which the Director has received confirmation that it is able to provide legal services to detainees at the facility.

ICE is directed to continue adhering to the requirements in House Report 116–9 regarding legal resources available to detainees and shall ensure that such information is provided in a language

in which the detainee is proficient or is made fully accessible to the detainee through the use of interpreter services.

The Committee directs ICE to publish on a public facing website, not later than 30 days after the date of the close of the fiscal year, a description of the medical and mental health staffing—delineated by position and qualification—at each detention facility with a capacity to house at least 50 ICE detainees, along with the average daily population of each facility. The report should indicate the hours of availability of in-person, specialized medical service typically available during the week; whether any positions were unfilled for more than one month of the previous year; and the average detainee wait time for seeing a medical professional. ICE shall also include in the report the number of individuals taken into ICE custody with a serious medical or mental health condition, including pregnant women, and their average and median lengths of time in ICE custody. The Committee urges ICE to reinstate the policies in its August 2016 directive on the Identification and Monitoring of Pregnant Detainees that was superseded by its December 2017 update.

The Committee directs ICE to ensure that each family detention center has on-site at least one medical professional qualified to provide pediatric care for every 200 children in residence. In addition, at least one such medical professional should be on-site or on-call for every 100 children detained in the facility. The Committee further directs ICE to ensure that each family detention center makes available at least one mental health professional specializing in pediatric care. The Committee urges ICE to explore working with nonprofit organizations for the provision of mental health services of those in its custody.” (House Report - Page 34).