

# When Child Migrants Cross The Border, What Next Awaits Them?

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Robert Siegel speaks with Dana Leigh Marks, the president of the National Association of Immigration Judges, about the legal process facing unaccompanied children who cross the U.S.-Mexico border.

ROBERT SIEGEL, HOST:

The influx of children coming up from Central America, through Mexico and across the U.S. border, has focused attention on U.S. immigration law and how it's applied. We're going to hear now from Dana Leigh Marks, who is an immigration judge. In fact, Judge Marks is president of the National Association of Immigration Judges. She joins us from San Francisco. Welcome to the program.

DANA LEIGH MARKS: Thank you so much for having me.

SIEGEL: And first, clarify this point. Say a 13-year-old child crosses the border from Mexico with no visa. What's the difference between how that child is treated in the U.S. if he is Mexican or if he's a child from Central America?

MARKS: The difference is in an agreement that was made under our law that no children from noncontiguous countries are removed without being processed by the Office of Refugee Resettlement. But if a child is from Mexico or Canada, contiguous country, then there's an agreement with their governments where they may be returned by DHS without going through the processing by the Office of Refugee Resettlement.

SIEGEL: Well, let's now assume that the child is from Guatemala. How quickly does she appear before a court, or a magistrate, or somebody?

MARKS: That varies tremendously because there really are two different processes which are occurring at that time. The DHS would be required to have the Office of Refugee Resettlement interview her within 72 hours and make sure that she has an appropriate placement that physically safeguards her person - that keeps her safe. On the other hand, immigration proceedings, which begin when a charging document is issued and filed with the court - those come later and do not necessarily have any timeframe attached to them.

SIEGEL: Are you saying it's the obligation of the Department of Homeland Security to find housing and feeding and educating for that child?

MARKS: For an unaccompanied minor, yes. Our law requires that the Department of Homeland Security refer the case to the Office of Refugee Resettlement, who assesses whether there is a responsible individual, or a family member, or a different kind of placement that can be arranged, or if the government needs to take on that responsibility until the individual's immigration status is resolved.

SIEGEL: We hear that there are at least rumors throughout Central America that the way things work in the U.S., regardless of what Vice President Biden may say, if you can get into the United States, children don't get sent home - unaccompanied children won't get sent home. Are people typically correct in that belief? That is, if a Central American kid manages to cross the border, are the odds basically on her side that she'll at least be able to stay here for a few years?

MARKS: It is true that the immigration courts, in general, have been so resource-starved over the past 5 to 10 years that cases can remain pending for as long as four or five years. And, of course, someone who has a right to a

hearing before an immigration judge is allowed to remain in the country while they wait for that hearing.

SIEGEL: Our reporters have brought to us the voices of several people, typically mothers from Central America, saying, life is a dead-end here for my kid. I just want him or her to get into the U.S. for a better life. If a child said that to officials in the U.S. side of the border, or ultimately in court, does that - does that get them any greater chance at living legally in the United States?

MARKS: We immigration judges hear horrific stories of hardship and abuse and persecution. And it's really difficult to say what will be enough or not. There are many factors that can be considered. There are forms of relief which involve, was the child abused or abandoned in his home country? Would that, perhaps, qualify that child for a benefit under the immigration law?

SIEGEL: Does being sent 1,000 miles...

MARKS: Was that child...

SIEGEL: But does being sent 1,000 miles north, through Mexico, to get to the U.S. - does that count as a form of abuse or abandonment?

MARKS: I doubt it would qualify.

SIEGEL: Yeah.

MARKS: Are the rumors misleading people? Yes. That I can say unequivocally.

SIEGEL: Well, they're misleading them if the kids are sent back home. If they can count on a few years' stay in the United States, perhaps - perhaps they've gamed the system pretty well.

MARKS: I can't comment on that. It's a policy issue that would be best

addressed by Congress enacting a reformed immigration law, which would help address these issues much more directly.

SIEGEL: Judge Dana Leigh Marks, thank you very much for talking with us today.

MARKS: Thank you so much, Robert.

SIEGEL: Judge Marks is, in fact, the president of the National Association of Immigration Judges. She spoke to us from San Francisco.

MELISSA BLOCK, HOST:

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