

February 12, 2025

United States House of Representatives
U.S. Capitol Building
Washington, DC 20525

Vote NO on H.R. 35, The Agent Raul Gonzalez Officer Safety Act

Dear Representative,

H.R. 35, the Agent Raul Gonzalez Officer Safety Act, is named for the Border Patrol agent who sadly lost his life in an ATV accident on the U.S./Mexico border. While this, and any, loss of life is tragic, the proposed bill is dangerously overbroad and is not tailored to solve the purported problem. Further, the bill is unnecessary — current federal law and policy already provide legal protections for law enforcement authorities engaged in immigration enforcement at the border. The bill as drafted, though purported to focus on undocumented individuals, will have the unintended consequence of sweeping in a broader set of people, namely U.S. citizens and longtime lawful permanent residents. For the following reasons, we urge you to vote NO on H.R. 35:

This bill is overbroad and not tailored to address the purported problem

Supporters of the legislation claim it is needed to address illegal border crossings at the southern border and cite numerous tragic circumstances that occurred when Border Patrol agents in Texas and Arizona engaged in high-speed chases.¹ However, there are no provisions in the legislation that focus on preventing “high-speed” chases, or even dangerous driving. Instead, the bill takes an unnecessary broad-brush approach to solving the purported problem.

This bill is not focused on the border, but rather criminalizes any supposed fleeing within 100 miles of any border, which includes ocean borders. This means anyone that flees federal, state, or local law enforcement working on behalf of the Border Patrol can be

¹ Report from the Committee on the Judiciary in regards to the Agent Raul Gonzalez Officer Safety Act, January 25, 2024, <https://www.congress.gov/congressional-report/118th-congress/house-report/359/1?outputFormat=pdf>.

charged with a federal crime that carries severe sentences. Fully two-thirds of people in the U.S. live within this 100-mile zone.²

While supporters of the bill claim this legislation is needed to address “high speed” chases, the language of the bill merely requires “fleeing,” which is not defined. It does not require excessive speed, dangerous driving, or recklessness. This allows for a subjective determination by law enforcement as to whether the person’s actions constitute fleeing.

This bill will harm U.S. citizens

This bill will make it a federal crime for anyone to “flee” federal, state, or local law enforcement working on behalf of the Border Patrol. Again, the scope of this bill includes areas of the country containing two-thirds of the population.

The majority of people who flee the police don’t do so because they have committed and are running from a serious crime. The majority of people who flee are accused of committing misdemeanors; the most common offense being speeding.³ Only about 10 percent of people who flee from law enforcement are doing so because they committed a serious felony.⁴ People panic and make foolish split-second decisions. We should not create a new federal offense with harsh consequences to address this.

This bill creates new mandatory minimums that give lawmakers, rather than experienced judges, the power to dictate sentences, are rife with racial disparities, and do not deter crime. Mandatory minimum sentencing schemes undermine the overarching directive set forth in 18 U.S.C. 3553(a), which directs sentencing judges to consider the totality of the circumstances to impose a sentence sufficient but not greater than necessary to achieve the goals and purposes of federal sentencing.⁵ At both the state and federal level, mandatory minimums disproportionately affect Black and Brown people, who are far more likely to be subjected to mandatory minimum sentences.⁶

² ACLU Factsheet on Customs and Border Protection's 100-Mile Zone, <https://www.aclu.org/documents/aclu-factsheet-customs-and-border-protections-100-mile-zone>

³ Los Angeles Times, *No Consensus on Why People Try to Flee From Police*, <https://www.latimes.com/archives/la-xpm-2002-jan-15-mn-22724-story.html>.

⁴ <https://www.pursuitsafety.org/innocent-victims/facts-and-myths/>

⁵ Report from the Committee on the Judiciary in regards to the Agent Raul Gonzalez Officer Safety Act, January 25, 2024, <https://www.congress.gov/congressional-report/118th-congress/house-report/359/1?outputFormat=pdf>

⁶ <https://www.sentencingproject.org/fact-sheet/how-mandatory-minimums-perpetuate-mass-incarceration-and-what-to-do-about-it/>

Mandatory minimums do not deter crime.⁷ To believe that they would requires believing that before committing a crime, an individual would research the criminal code, find the relevant penalty, and be discouraged because of the penalty. Research shows that that is not what happens, but it is especially implausible to believe that would happen with an offense such as fleeing that is spur of the moment and not planned in advance.⁸

This bill will harm longtime lawful permanent residents (i.e., green card holders)

As stated above, this bill is not confined to the border and will apply to areas of the country where the majority of people live. Again, people flee from police for all sorts of reasons that are removed from actual serious criminality. Often, people just panic. As the bill is drafted, if a lawful permanent resident who has built a life in the U.S. panics and flees from law enforcement, they can be deported – even absent a conviction. The bill only requires a supposed admission of the act of fleeing to result in deportation. This is a shocking departure from accepted norms of due process in the U.S. Lawful permanent residents have built their lives in the U.S. and should not be subjected to deportation with such a glaring lack of due process.

Criminal statutes and Border Patrol Policy already exist to deal with this problem

Again, supporters of this bill claim this is largely about people fleeing at the Southern border. There is already a law that criminalizes this: 18 U.S.C. 758 – which prohibits high-speed flight from an immigration checkpoint. Additionally, it is a crime to flee law enforcement in every state. Understanding the risks inherent to both officers and the public with vehicle chases, Border Patrol issued new directives in 2023. Pursuant to the policy, law enforcement should only engage in a chase when the government’s interest in “apprehending the subject at that specific time clearly outweighs the foreseeability of risk to the public, officers/agents, other law enforcement, and vehicle occupants.”⁹

⁷ Department of Justice, *Office of Justice Programs, National Institute of Justice: Five Things About Deterrence*, last accessed February 12, 2025, <https://www.ojp.gov/pdffiles1/nij/247350.pdf>

⁸ Families Against Mandatory Minimums, <https://famm.org/wp-content/uploads/2021/04/The-Case-against-Mandatory-Minimum-Sentences.pdf>

⁹ U.S. Customs and Border Protection, *U.S. Customs and Border Protection Emergency Driving and Vehicular Pursuits*, May 2023 (last accessed February 12, 2025), https://www.cbp.gov/sites/default/files/assets/documents/2023-Jan/cbp-directive-4510-026A_0.pdf

The bill is largely duplicative of immigration laws that already exist and therefore unnecessary

Under current law, people who are in the country unlawfully are already removable, this bill does not change that. Under current law, people with lawful status are already deportable for the conduct this bill claims to address. In many circumstances, people in the U.S. with lawful status can be deported if they are convicted of a crime of moral turpitude. The Board of Immigration Appeals, as upheld by multiple appellate circuits, previously determined that knowingly fleeing or eluding law enforcement is a crime involving moral turpitude.¹⁰ Under current law, people who admit to a crime involving moral turpitude are inadmissible without a conviction based on an admission of the offense.

The striking departure with this bill is that under current law people who have already been admitted—including green card holders—generally must be convicted of a crime before it can serve as the basis for an order of removal. This bill would make it so that a longtime lawful permanent resident can be deported simply based on a supposed admission of fleeing an officer, no conviction is required. When this bill was marked up in 2024, the Republican majority conflated deportability with inadmissibility,¹¹ and did not seem to recognize that under most circumstances, a conviction is rightfully required prior to deporting a person who is in the country with legal status.

For all the forgoing reasons, we urge you to vote NO on H.R. 35.

If we can answer any questions or be a resource in any way, please do not hesitate to reach out to Aiden Cotter, Senior Policy Counsel for Decarceration and Decriminalization at the Southern Poverty Law Center, at aiden.cotter@splcenter.org.

¹⁰ See, e.g., *Granados v. Garland*, 992 F.3d 755 (9th Cir. 2021); *Cano-Oyarzabal v. Holder*, 774 F.3d 914 (7th Cir. 2014) (“Knowingly fleeing or attempting to elude an officer is an act wrong in itself and therefore a crime involving moral turpitude.”).

¹¹ Bill markup in the House Judiciary Committee, January 18, 2024, <https://democrats-judiciary.house.gov/calendar/eventsingle.aspx?EventID=5245>.