

Statesman

Fact check: Saying he ‘shielded MS-13,’ Trump mischaracterizes Beto O’Rourke vote

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President Donald Trump, stirring Texas supporters, charged Democratic U.S. Senate nominee Beto O’Rourke with voting to shield violent gang members from deportation.

Trump, urging voters Monday at a Houston rally to re-elect Republican Sen. Ted Cruz, said that O’Rourke, the third-term congressman from El Paso who opposes Trump’s avowed wall along the U.S.-Mexico border, “even voted to shield MS-13 gang members from deportation.” Trump went on: “He doesn’t want to deport them. He says they’re people, they’re people. They carve you up with a knife but they’re people.”

So, did O’Rourke vote to shield MS-13 gang members from deportation?

We didn’t get a White House reply to our request for Trump’s factual backup. But we identified a 2017 House vote on a proposal related to deporting or not admitting criminal gang members to the United States. The House approved the Criminal Alien Gang Member Removal Act along party lines. O’Rourke was among 174 Democrats and one Republican voting against it. It hasn’t received Senate consideration.

In a news story at the time, the Washington Post reported that that the proposal “would allow officials to take action against suspected gang members, regardless of whether they’ve been convicted of a crime.”

Advocates said the move would enhance public safety. Before the vote, the White House issued a statement saying advisers would urge Trump to sign the measure into law should the House version reach his desk. That statement credited the proposal with giving “law enforcement needed tools to help ensure that criminal alien gang members are deported quickly and never again allowed to enter the United States.”

Separately, the American Civil Liberties Union said the measure “would promote racial profiling, erode due process and unintentionally affect others, such as clergy who try to help gang members,” the Post story said. Immigrant advocates maintained “it would give law enforcement wide latitude in designating groups of people as gangs and seeking to deport, detain or block their asylum before a crime has been committed,” the story said.

In floor debate, a co-sponsor of the proposal, Rep. Raul Labrador, R-Idaho, said that without the legislation, MS-13 members could legally stay in the U.S. unless they were convicted of deportable offenses, according to a transcript in the Congressional Record. If the legislation became law, Labrador told members, ICE would newly “be permitted to place alien gang members into removal proceedings on the grounds of being criminal gang members” as determined by specifications in the measure of crimes considered to be gang related, Labrador said.

Democratic members countered that the proposal would enable the Department of Homeland Security to deny admission to or deport any immigrant, including one who has no criminal history or gang affiliation, so long as DHS believes the person is associated with such a group.

By our read, the legislation would enable federal officials to designate criminal gangs, defined as five members or more bent on criminal activity, and permit a consular or law enforcement official not to admit a person to the U.S. if the official knows or has reason to believe the individual is or has been in a criminal gang--with no requirement that the individual have criminal convictions. Also, the legislation permits immigration authorities to start deportation proceedings against anyone in the U.S. believed to be or have been in a criminal gang.

Chris Evans of O’Rourke’s campaign responded to our inquiry about Trump’s claim by disputing the president’s characterization of O’Rourke. Existing law, Evans said, “makes immigrants who commit crimes related to gang activity deportable.”

O’Rourke, Evans wrote, “believes in ensuring MS-13 members are held responsible for their crimes under our justice system and he believes in enforcing our current immigration law.”

We also heard back from David Bier, an immigration policy analyst for the libertarian-rooted Cato Institute. Bier, a former staff adviser to Labrador, called Trump’s claim about O’Rourke incorrect. Calling the legislation a “political effort,” Bier told us that significantly, neither the White House nor other supporters of the measure had identified examples of MS-13 members the government couldn’t deport without the House-approved changes in law. “If there were any examples,” Bier said, “they’d be displaying them.”

Early this year, PolitiFact looked into whether MS-13 members detained in the U.S. were being let go by authorities. To the contrary, Steve Yale-Loehr, who teaches at Cornell Law School, responded that the government by law must detain individuals who have committed certain crimes while going through deportation proceedings. He pointed out provisions in federal code requiring the government to take into custody any individual convicted of a range of offenses including those involving firearms, illegal drugs or aggravated assault.

Our ruling:

Trump said O’Rourke “voted to shield MS-13 gang members from deportation.”

We see an element of truth to this claim because O’Rourke did not vote for a Trump-backed measure pitched as easing deportations of suspected criminal gang members. But we spotted no evidence that O’Rourke’s “no” was a vote to shield violent gang members from deportation.

We rate this claim Mostly False.