

**ERODING THE LAW AND DIVERTING TAXPAYER
RESOURCES: AN EXAMINATION OF THE
ADMINISTRATION'S CENTRAL AMERICAN
MINORS REFUGEE/PAROLE PROGRAM**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND
THE NATIONAL INTEREST
OF THE
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UNITED STATES SENATE
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**ERODING THE LAW AND DIVERTING
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THURSDAY, APRIL 23, 2015

UNITED STATES SENATE,
Subcommittee on Immigration and the National Interest,
COMMITTEE ON THE JUDICIARY,
Washington, DC

The Subcommittee met, pursuant to notice, at 2:31 p.m., Room 226, Dirksen Senate Office Building, Hon. Jeff Sessions, Chairman of the Subcommittee, presiding.

Present: Senators Cornyn, Tillis, Klobuchar, Franken, and Blumenthal.

**OPENING STATEMENT OF HON. JEFF SESSIONS,
A U.S. SENATOR FROM THE STATE OF ALABAMA**

Chairman SESSIONS. Good afternoon. Thank you all for being here. I want everyone to be able to watch the hearing without obstruction. I hopeful that will occur and if someone stands up or blocks the view of the other or speaks out of turn, it is not fair or considerate to the others, so officers will remove those individuals.

Before we begin with opening statements, I want to explain how we will proceed. We have two panels today.

Senator Blumenthal, who is acting as the Ranking Member today, and I will give our opening statements. We will begin then with the first panel, with each witness having 5 minutes for an opening statement. Following their statements, we will begin with the first round of questions, which each Senator will have 5 minutes. After the first round, if any Senator wishes to continue with questions, we will go to another round.

We will then turn to the second panel and go through the same procedure. I will give my opening statement. As we go forward with this hearing, I hope we will learn some things as we go forward.

This is the second hearing of the Senate Subcommittee on Immigration and the National Interest. This hearing will focus on programs created by this administration, primarily the Central American Minors Refugee/Parole System, we think are outside the scope of current law.

We will hear from two panels of witnesses. On the first panel, we will have representatives from the U.S. Citizenship and Immigration Services and the Department of State. On the second panel,

we will have five witnesses with subject matter expertise on these issues.

During the summer last year, 2014, precipitate—precipitated by the President’s executive amnesty program for younger illegal immigrants, the southern border experienced a massive wave of illegal immigration. It was really startling.

The surge began in 2012, continued in 2013, and reached record levels in 2014 and continues today, and may expect another large problem this summer. This has placed enormous burdens on the Federal law enforcement, on states and local communities around the country.

However, rather than use existing laws to take decisive action to combat this tide of illegal immigration and eliminate administratively created programs that act as magnets for illegal immigration, the administration created this new in-country processing program, which promises, I am afraid, to erode law enforcement further and impose even greater costs on State and local communities.

The result is that large numbers of illegal entrants have concluded that they can bring in more family members unlawfully, often being subjected—those members coming in being subjected to danger across the country.

The goal of law enforcement is not to see how many arrests that can be made. The goal of law enforcement is to stop lawlessness from occurring, to create a climate where people realize this is not the way to enter the United States. Once that conclusion is widespread, we will see a dramatic reduction in the number of people attempting to enter unlawfully.

Rather than stop the new illegal immigration wave, it appears that the results, if not the objective of this program, is to capitulate to the illegality. Moreover, this action rewards illegal behavior by allowing those with executive amnesty, who have been granted that by the President, improperly, in my view, who are in the United States to bring in their foreign relatives as refugees.

Once here with refugee status, these individuals will have largely unfettered access to Federal benefits and the jobs market. Indeed, that includes Social Security numbers, Medicaid, food stamps, Medicare, and to be able to take any job in America.

Recent statistics from the Department of Health and Human Services’ Office of Refugee Resettlement indicated that 75 percent of refugees receive food stamps, more than half receive medical assistance, approximately half receive cash assistance, and 25 percent receive public housing assistance. Additionally refugee status provides a pathway to citizenship.

Even if these individuals do not qualify for refugee status under this program, it is not the end of the road for the entrant who has entered illegally or desires to, as the administration will now consider paroling them into the United States. This program appears to represent an unprecedented distortion of the law relating to parole. Unlike refugee status, there is no limit whatsoever on the number of people who would be allowed to enter on parole status.

While Congress has clearly provided for the admission of certain individuals as refugees, and we have always done that in this country, under Section 207 of the Immigration and Nationality Act, and has provided limited authority to parole certain individuals into the

United States under Sections 212(d)(5)(A) of the INA, this program, what we are hearing today, warps those authorities and undermines the integrity of the immigration system in these two critical areas of law.

It is troubling because this seems to be part of a continued process by this administration, whose actions and interpretations of law are actually changing law and making the system less effective.

Finally, I would just note that it has been widely reported that the administration is considering admitting dramatically higher numbers of Syrian refugees and I hope to find out more about this program and the mechanisms by which such refugees will be screened to ensure that individuals associated with terror organizations are not brought into communities across the United States.

I thank our witnesses for being here.

Chairman SESSIONS. Senator Blumenthal, we would be glad to hear your opening statement at this time.

**OPENING STATEMENT OF HON. RICHARD BLUMENTHAL,
A U.S. SENATOR FROM THE STATE OF CONNECTICUT**

Senator BLUMENTHAL. Thank you, Senator Sessions. Mr. Chairman thanks for having this hearing.

I am hoping that this hearing will establish the need for in-country processing. The administration has established that program in December of 2014 so as to uphold the rule of law, the rules that apply to young people coming to this country under established standards and criteria that have been followed and applied outside of the United States for young people coming to this country.

We can talk about the abstract principles and rules that are at stake here, but this issue has a human face. More than 1,000 children were murdered in Honduras in 2014 alone. I spoke just this morning to a woman named Berta Caceres, who has fought valiantly for environmental protection in that country and faces threats and intimidation from a regime that she, understandably and rightly, regards as oppressive.

The conditions there are life-threatening not only to people who speak their minds and speak truth to power, but also children who are innocent victims of gang warfare and lack of protection that is beyond their choice or control; 724 such children were murdered in El Salvador; 156 in Guatemala were murdered just in the first 3 months of this year. These numbers are stark statistics, but they constitute some of the highest homicide rates in the world, and too often the governments in question fail to prevent this violence.

The Obama administration's Central American migrant program may help a few hundred of these children. So far, not a single child has even been processed, not to mention rescued, and here we are in this forum holding a hearing on whether the United States is doing too much to save these children—whether we are doing too much when thousands are dying as a result of murder, oppression, and brutality.

That is a shame. I submit to you that no country has ever felt ashamed for doing too much to save children. There is a long list of nations, including our own, that have felt deep remorse for doing too little.

The Central American migrant program that we are discussing here unquestionably has its flaws, but there is no argument that it does too much to save children or helps too many people or rescues too many victims of oppression. That argument simply cannot be made. Or that it enables or has enabled people to come flowing into this country without the rule of law, without principles.

The Central American minor program focuses on a relatively narrow group of children who have ties to the United States. Every one of these children eligible for the program has a parent living legally in the United States. Every one of them qualifies for protection under U.S. law. Every one of them will pass in-depth background checks, including a DNA test.

The lives saved by this program effectively commit no cost to the United States. The program does not raise Federal spending by \$1, not a single \$1. Every dime spent on it has already been appropriated. Nor does this program increase by a single person the number of refugees who will be allowed in the United States. It is just a question of where they are processed.

Every slot reserved for a Central American minor has already been approved through the process Congress created. I know we are going to hear testimony today discussing the legal scope of refugee protections. That is a legitimate set of issues. Witnesses are going to debate what Congress intended in the somewhat opaque, one might say abstruse language of immigration law.

My personal view is that President Obama has been true to the letter and the spirit of this law and I think, with all due respect, arguments saying he is violating the law are unfounded.

Behind all these legal arguments—and I will just close on this note—behind every one of the legal issues, there is a bigger question. Does the United States do everything it reasonably can to save children—and I have seen them at the border—children who cannot speak English, who are tall enough barely to answer questions from a border patrol inspector seated while he interrogates them, children who are literally escaping.

They are not coming here to take jobs. They are not coming here to fill jobs that some American would take. They are not coming here because they want food stamps or any other benefits, Medicare, Medicaid. They are coming here to escape oppression, brutality, murder, rape, and they are seeking hope, security and they have a special tie to our country.

That is the central question before us today and the answer is central to who we are as a people, who we are as an American people, whether we will afford that kind of safety to young people fleeing oppression and brutality, processed not here, but in those countries where they are actually experiencing.

I hope that this Nation gives the right answer.

Thank you, Mr. Chairman.

Chairman SESSIONS. Thank you.

Would you please stand, our witnesses, and take this oath? Raise your right hand.

[Witnesses are sworn in.]

Chairman SESSIONS. Thank you. Take your seats.

As we go forward, I think it is so important that a great nation like the United States, which is the most generous nation in the

world with regard to taking in immigrants, refugees, asylees, and we work at it in a very effective way.

We are very generous through the State Department, USAID, and others, more than any other country in the world. We have got church people that go to Central and South American and the islands annually, helping people in need.

I am proud of this country and what we do, but we have to have a lawful system that serves in our national interest, is consistent with what is feasible and realistic.

Let us talk about this definition of—thank you. I am not a very good Chairman. This is my second time to start off talking without letting our witnesses have their say.

Mr. Langlois, he is the Associate Director for Refugee, Asylum and International Operations Directorate for the U.S. Citizenship and Immigration Service. He has been with the U.S. Citizenship and Immigration Service and its predecessor, Immigration and Naturalization Service, since 1991, 35 years of experience working on asylum, refugee immigration issues in the Federal Government and in non-government organizations.

I know that during that time you have seen the warp and the woof of all the issues. We would be delighted to hear from you at this time.

**STATEMENT OF MR. JOSEPH E. LANGLOIS, ASSOCIATE
DIRECTOR FOR REFUGEE, ASYLUM AND INTERNATIONAL
OPERATIONS, U.S. CITIZENSHIP AND IMMIGRATION
SERVICE, WASHINGTON, DC**

Mr. LANGLOIS. Chairman Sessions and distinguished members of the Subcommittee, thank you for the opportunity to testify at today's hearing on the Central American Minors Refugee and Parole Program, otherwise known as CAM.

My name is Joseph Langlois and I am the Associate Director of the Refugee, Asylum and International Operations Directorate within United States Citizenship and Immigration Services, USCIS, at the Department of Homeland Security. I oversee the U.S. refugee program abroad and certain parole programs within USCIS.

USCIS has a strong and longstanding partnership with the Department of State in administering the U.S. Refugee Admissions Program. We work together around the world to offer resettlement opportunities to qualified refugees, while vigilantly protecting the overall integrity of the process.

While the CAM program is new, it is rooted in traditional U.S. humanitarian principles, including facilitating family unity and providing resettlement opportunities to individuals who face harm, but remain in their country of origin.

Specifically, CAM is an in-country refugee and parole processing program in El Salvador, Honduras and Guatemala that provides certain minors from those countries a safe, legal and orderly alternative to the dangerous journey across the southwest border to reach the United States.

Only children with a lawfully present parent in the United States are qualified for resettlement consideration under this program. In addition, a parent living with the child, if married to the

parent lawfully present in the United States, may also be eligible to access the resettlement program in order to maintain family unity.

Furthermore, USCIS is committed to ensuring the integrity of the CAM program and this approach is reflected in many aspects of its design and implementation. For example, DNA testing is required to verify biological relationship between parent and child before a case is ever scheduled for a USCIS interview.

In addition, USCIS places paramount importance on training of our adjudicators. All officers interviewing refugee applicants abroad receive specialized training that includes comprehensive instruction on refugee law, grounds of inadmissibility, fraud detection and prevention, security protocols, interview techniques, credibility analysis, and country conditions.

Before deploying abroad, officers are also trained on the specific population they will be interviewing. For this program, officers also receive specialized training in interviewing children.

The refugee resettlement program has forged strong relationships with the law enforcement, national security and intelligence communities. As a result, refugee applicants are subject to robust screening protocols, including biometric and biographic checks to identify potential fraud, criminal or national security issues.

As with any refugee adjudication, CAM applicants must be found to meet the refugee definition and be otherwise admissible to the United States. No refugee applicant can be approved for resettlement until all security checks are completed.

CAM applicants who are found not to meet the definition of a refugee, who nevertheless still face harm in their country of origin, will be considered on a case-by-case basis for a discretionary grant of parole. In this way, the CAM program parallels other refugee programs in the past that used parole to complement the refugee status determination process.

Like refugee applicants, all security checks must be completed prior to a grant of parole. USCIS will make parole determinations based on all available evidence, including the information elicited at the refugee interview, to assess whether the child's case merits a favorable exercise of discretion.

To date, USCIS has not completed any applications for refugee or parole status through the CAM program because applications have only been recently filed and are awaiting DNA testing results. In the meantime, we have been working diligently on all aspects of the planning, logistics, and program implementation. In fact, my staff is in the region this week to lay the groundwork for our first processing trip, likely to occur late spring or early summer.

In conclusion, USCIS is committed to offering protection to qualified persons while remaining resolute in combating fraud, promoting public safety, safeguarding the national security.

Thank you for the opportunity to testify today and I would be more than happy to answer your questions.

[The prepared testimony of Mr. Langlois appears as a submission for the record]

Chairman SESSIONS. Thank you.

We also welcome next Mr. Simon Henshaw. He is the principal Deputy Assistant Secretary at the Department of State. He joined

the State Department in 1985—you are a 30-year person, too, I see—and has served in a variety of capacities and various posts across the world.

I will say it is good to have people with substantial experience. I think you can help us understand the law, how it is developed and the meaning that we have been utilizing and if changes are occurring.

Mr. Henshaw, we welcome you and thank you, both of you, for your service to the country.

**STATEMENT OF MR. SIMON HENSHAW, PRINCIPAL
DEPUTY ASSISTANT SECRETARY, THE BUREAU OF
POPULATION, REFUGEES, AND MIGRATION, U.S.
DEPARTMENT OF STATE, WASHINGTON, DC**

Mr. HENSHAW. Thank you for those kind words. Chairman Sessions and distinguished members of the Subcommittee, the Department of State appreciates the opportunity to appear before the Subcommittee on Immigration and the National Interest, along with U.S. Citizenship and Immigration Services, to talk about the Administration's new in-country refugee/parole program for certain minors in Central America.

The U.S. Government is taking an integrated and comprehensive approach to address the underlying economic and security challenges facing Central American countries and the unlawful migration of unaccompanied minors across the U.S. border.

The Administration has launched the refugee/parole program as part of that effort. As previewed in the Administration's fiscal year 2015 report to Congress on proposed refugee admissions and in consultations with Congress last September, this in-country refugee and parole processing program allows certain parents who are lawfully present in the United States to request U.S. resettlement for their children currently still in El Salvador, Guatemala, and Honduras.

The Administration established the program to provide a safe, legal and orderly alternative to the dangerous journey that some children are currently undertaking to join their parents in the United States. Our goal is to extend protection to those children with legitimate humanitarian claims while providing an effective alternative to a regular migration driven by dangerous criminal smuggling networks. Taken together with the efforts of Central American leaders and other U.S. Government efforts, we believe this measure will help keep people from sending children on this dangerous journey.

Addressing these issues requires cooperation and partnership, with Central American governments taking the lead and creating better economic, social, governance and security conditions, and with the private sector, development banks, and international donors.

That is why the Obama administration has asked Congress for \$1 billion in assistance for the region. This is critical, as is having a fairer, safer, and more humane system for identifying children eligible for humanitarian protection. To apply, an eligible parent in the United States must complete a form with the assistance of a State Department-funded resettlement agency. There are nearly

350 such agencies across the United States in 180 communities. This list is available on our website, where we also have information in Spanish and English.

Once an application is submitted by a parent, a case worker from the International Organization for Migration, IOM, acting on the U.S. Government's behalf, will contact a child in one of the three countries to arrange an in-person pre-screening appointment. A parent of the child still living in the country of origin may be added to the child's case if that parent resides with the child and is currently married to the U.S.-based parent who filed the form.

After IOM conducts the initial pre-screening with each minor, the Department of Homeland Security will conduct interviews with the minor to determine whether he or she is eligible for refugee resettlement, including whether he or she meets the refugee definition in the Immigration and Naturalization Act and is otherwise admissible to the United States.

All applicants must complete all required security checks and obtain a medical clearance prior to travel to the United States. For approved refugees, the resettlement support center will arrange travel to the United States.

There is a required DNA testing component to this program to verify biological parent-child relationships claimed in the application. DNA testing is a mechanism to deter fraudulent relationship claims in order to gain access to the program, a measure we already employ successfully in our refugee family reunification program.

Once the U.S.-based parent is notified to initiate the DNA testing process, he or she arranges and covers the cost for a certified lab to ship a testing kit to the child's location. When the biological relationship is verified, the lab sends the results to both the parent initiating the process and to the Department of State, which coordinates further processing.

DHS then takes the lead in reviewing the case to verify which applicants will have access to the program. Children admitted as refugees under this program will be assigned to a U.S.-based resettlement agency that will facilitate reunification with the parent and help the child after arrival with such things as enrolling in school.

Children found by USCIS to be at risk of harm, but not eligible for refugee resettlement will be considered on a case-by-case basis for parole, which is a discretionary mechanism under U.S. law to allow someone to come to the United States for urgent humanitarian reasons.

We have received 565 applications to date, 439 from El Salvador, 114 for Honduras, and 12 for Guatemala. These applications are being processed and we hope to begin USCIS interviews later this spring or early summer for those who have submitted the required DNA evidence of the parent-child relationship.

If an applicant informs us that or she is facing imminent danger, we have the capacity to expedite processing and/or work with NGO and IO partners to identify safe shelter as appropriate.

The Department of State continues to monitor the protection environments for the children in each of the three countries to assess the needs of the minors during the application period. The Depart-

ment of State is in regular contact with NGO's operating in the region to assess the changing environment and provide further guidance and training on the program as necessary.

The Department of State and USCIS have conducted considerable outreach on this program and the results are beginning to show with increased applications in recent weeks. Overall, the Department of State has explained this program to almost 40 media outlets since December. We have conducted more than 20 interviews with Spanish language media in the United States and the region. Additionally, we have provided information to the press via a dozen background interviews.

Finally, with the support of our embassies abroad, we continue to expand outreach efforts in all three countries.

Thank you for the opportunity to testify about this humanitarian program that is designed to provide a safe, legal and orderly alternative to the dangerous journey that some children are undertaking to reach the U.S. I would be happy to answer any questions.

[The prepared testimony of Mr. Henshaw appears as a submission for the record]

Chairman SESSIONS. All right. I have—the order of presence would be Sessions, Blumenthal, Tillis, Klobuchar, and Cornyn.

Under the program, as I see it, through the President's executive action, he is unable to give lawful status to people who have entered the country unlawfully. He has issued an order essentially giving lawful presence. If a person is here in America, that has been here unlawfully, is given by the executive order, which I think is not sound and not justified, but they are given lawful presence.

They are then able to bring in their spouses and children under this program. Would that not be fair to say, Mr. Langlois?

Mr. LANGLOIS. The eligibility of the program is basically the individual that is in the United States, the parent that is in the United States must be an LPR, legal permanent resident, a TPS, a temporary protected status recipient, deferred action, deferred action DACA, as well as deferred enforced departure, as well as withholding of removal.

These are the definitions of the lawfully present status. I would also state that the vast majority of parents that we have seen so far apply, although it is a very limited pool that we have received so far, are temporary protected status coming from El Salvador and from Honduras.

Chairman SESSIONS. My question was correct, was it not, that a person provided legal status in this country who came here illegally, in violation of our law, that received legal presence by order of the President is now able to bring in, under the President's order, his spouse and children or her spouse and children; is that correct?

Mr. LANGLOIS. That is correct, yes. They would qualify to apply for their child and spouse. However, the child and spouse would still need to meet the eligibility criteria for refugees, as well as—

Chairman SESSIONS. Meet the standards that you have set forth, I understand that. I just want to say Congress rejected this. Congress rejected this. The President executing it on his own.

We will have some more questions, but it is a new program and, in effect, establishes a new system of immigration to the United States.

With regard to cost of the program, it was mentioned earlier it would not have a cost. I see that there is a \$47 million cost over 2 years for a pilot program to bring in persons under this kind of system.

Are you familiar with that?

Mr. HENSHAW. No, Senator, there is no \$47 million pilot program. The CAM program does not have a separate budget. It is funded out of existing fiscal year 2015 PRM admissions, our admissions budget, and, more specifically, is included within our existing regional resettlement operations for Latin America.

Chairman SESSION. It has a cost, does it not?

Mr. HENSHAW. It does. At the beginning of fiscal year 2015, we included approximately \$7 million in the admissions budget for the in-country CAM program, but there was no increase in our overall admissions budget.

Chairman SESSION. The New York Times reported with regard to a Honduran program that the proposal prepared by several Federal agencies said the pilot program under consideration would cost \$47 million over just 2 years. At any rate, it is not free.

Mr. Langlois, Section 101(a)(42) of the Immigration and Nationality Act defines a refugee generally as a person who has experienced past persecution or who has a well-founded fear of future persecution, quote, "on account of race, religion, nationality, membership in a particular social group, or political opinion", closed quote.

In enacting this law, Congress specifically rejected a definition of refugee that would have included displaced persons, individuals who flee widespread conditions of indiscriminate violence resulting from civil war or military strife are not included in that status; is that correct?

Mr. LANGLOIS. Yes. That is certainly correct.

Chairman SESSIONS. Can you cite any precedential case that stands for the proposition that any of the beneficiaries in this program would qualify as refugees as that term is defined under law? Is there any history of doing this?

Mr. LANGLOIS. The in-country processing program has been adopted in numerous countries in the past, and I also would point out that we have not—we have not begun interviewing these individuals. I do not want to speculate as far as what their cases could be nor influence the decision of my officers in the future by predicting if they would be successful or not.

Chairman SESSIONS. Just to finish this up and I will go to Senator Blumenthal.

The question is the standard by which they will be reviewed in-country and the standard you are talking about applying has not been utilized before and is more liberal in its definition of refugee than current law; is it not, or at least than you have currently interpreted the law?

Mr. LANGLOIS. No. I would say that we are going to apply the same standard that we have applied worldwide for many years. I have a refugee officers that conduct refugee interviews in numer-

ous places throughout the world. They are very well trained and they will be applying the same standard that they do all places throughout the world.

The only difference is the country conditions are going to vary, of course, from country to country, which is logical. They will be taking the country conditions in account, but applying the same law rigorously in the same fashion that they have done in many countries throughout the world.

Chairman SESSION. Mr. Langlois, are you familiar with this new briefing paper of April 15, 2015 that tells how these individuals should be evaluated?

Mr. LANGLOIS. Excuse me. I cannot really see that that well.

Chairman SESSIONS. Update on New and Novelty SGS.

Mr. LANGLOIS. Who produced the document?

Chairman SESSIONS. USCIS. It changes the standard. It is breathtaking in its liberality with regard to what a refugee is and I believe it is quite contrary to any standard we have used before in any other situation.

Here are two recent formulations. Nationality, who reported a serious gang-related or core terror-related crime to law enforcement. You now have refugee status if you claim you have reported a serious gang-related incident.

Number two, female heads of household, that is all it says. A female head of household has some sort of preferential status as a refugee. Is that not a different standard? Just because you have reported a crime to law enforcement, you now have a right to be a refugee and apply to the United States.

Mr. LANGLOIS. Under the particular social group, it is an evolving area of law. However, there are tenets that must be strictly adhered to. The quality, the characteristic of the individual has to be immutable, it has to be socially distinct, it has to have particularity, and the case must be made on an individual basis.

Those are generalities for instructional purposes and I have not seen that document, so I apologize.

Chairman SESSIONS. We just received it. I will yield to others, but we need to follow-up on that because I think the pattern here is clear that they go further than we have before.

Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

One of the supreme ironies today is that the United States has just passed an anti-trafficking bill, a measure of very modest scope despite all of the self-satisfaction expressed about it, and here we are debating the merits of a program that stops human trafficking, particularly child exploitation.

I submit to the witnesses that this program is directed against exploitation and trafficking of children by enabling processing decisions to be made before they endure the susceptibility to those traffickers and criminals who would sell them into modern day slavery or otherwise exploit them. Am I right in that belief?

Mr. Henshaw. You have served in Honduras, have you not?

Mr. HENSHAW. I have, sir. I spent three years there and three years in the 1990's in El Salvador. Yes, I think you are correct, Senator. The purpose of this program, as in past in-country pro-

grams is to stop people from taking a dangerous journey when they could otherwise apply in-country for refugee status.

Senator BLUMENTHAL. Mr. Langlois, do you agree?

Mr. LANGLOIS. Yes. This program is designed to provide hope to children who have had long separations from their lawfully present parent in the United States. With this provision of hope, we attempt to discourage them from utilizing a criminal network in order to enter the United States without authorization.

Senator BLUMENTHAL. The criminal network is one of the great omnipresent, oppressive, brutal threats to them; is it not?

Mr. LANGLOIS. Yes. Gang violence is very present and smuggling networks are extremely dangerous, and this program is designed, as I stated, to discourage their involvement, to weaken their attraction in order for these individuals who, again, have parents that are lawfully present to come into the United States and the family to be reunited.

Senator BLUMENTHAL. These networks are traffickers. The criminal networks, the organized crime are the traffickers who sell them for prostitution, for slavery, for other truly horrific forms of oppression; is that correct?

Mr. LANGLOIS. That is my understanding.

Senator BLUMENTHAL. So far as the parents in this country, my understanding also is that this measure in no way expands the eligibility of those parents for legal status. They are here legally. It in no way expands the children's eligibility to come here because those parents have to be qualified, and, therefore, simply applies in Honduras, El Salvador, the same standards that would be applied here after that torturous, extraordinarily dangerous journey.

Is that statement correct?

Mr. LANGLOIS. The lawfully present parent is not created by this program.

Senator BLUMENTHAL. I understand that. Maybe I could be misunderstood. That is exactly my point, exactly right. The status of that parent is not affected by this program. This program is about the place where the processing occurs using the same rules and standards so as to avoid trafficking that is the evil that this body ostensibly is fighting through measures like the one we passed this week.

Mr. LANGLOIS. Yes.

Senator BLUMENTHAL. Thank you. I may have other questions, Mr. Chairman.

Chairman SESSIONS. Thank you.

Senator Tillis.

Senator TILLIS. Thank you, Mr. Chair.

While Senator Cornyn is here, I want to personally thank him for his tenacity in getting the human trafficking bill through. I tend to agree with Senator Blumenthal, it is a modest effort. That is one of the reasons why I am amazed it took so long to get done, but thank you for doing it and I hope there is more to come.

Gentlemen, I want to shift the focus more toward the things that we are doing to protect American citizens from decisions you make about the safety and security of those that you may admit into the country.

I want to start—it is my understanding that children under the age of 21 and their parents, under certain conditions, are eligible for CAM. I know you go through a series of background checks and do the kinds of—complete the due diligence to make sure that you are not, in fact, admitting someone who may be dangerous or have some criminal background. Can you give me some idea about the data bases that you are using as a part of the background checks to assess the risk of admittance?

Mr. LANGLOIS. Certainly. Thank you. First of all, the program is based on DNA, where we verify the relationship with biological children. Then we obtain fingerprints. Fingerprints are run through numerous data banks. The first data bank that we run the fingerprints to and then we enroll them into is IDENT, which is a system that the—is maintained, I think, by CBP. It is a DHS system. It has immigration records, it has criminal records.

We do have the FBI feeding into it, as well as State Department feeds into it.

Senator TILLIS. Mr. Langlois, as you are going through that, do we have either agreements or a memorandum of understanding with countries like El Salvador and Honduras and Guatemala that allow us to get insights into criminal background history within the country?

Mr. LANGLOIS. We are liaisoning. As we speak, I have a team that is in El Salvador and then going to Honduras, liaisoning with ICE and the FBI, their criminal gang units, in both of these countries in order to discuss how they can better assist us in the detection of criminals, as well as gang members in these countries.

Senator TILLIS. Does that mean that today we do not really have clear access into their criminal background information in-country on a consistent basis?

Mr. HENSHAW. If I could cut in here. Senator, having served 3 years in Honduras and previously in El Salvador, we have longstanding relationships with the police and have access to that information. We have had a long history of having units embedded in police forces both for anti-gang, anti-criminal and anti-drug efforts.

We have used this information in the past in other programs such as immigrant visas and non-immigrant visas. We have a long history of screening people before they come to the United States.

Senator TILLIS. Okay. Thank you. You may be aware that I am from North Carolina, the Charlotte area. We had the murder of three Americans by someone who was granted deferred status, who apparently had known gang affiliations. I think since this has come to light, we have had people in USCIS acknowledge that somehow this was an oversight. There was some sort of breakdown in the system that allowed that to happen.

It is something that Chairman Grassley and I have followed-up on. I am concerned with whether or not we have a repeatable process, particularly in the face of information that should have put the status of this person, who was admittedly from Mexico, but in a different status.

I guess really, in my time remaining, I would like to get some assurance from you all that you can confidently and unequivocally say that your agency is not going to make the same errors when

vetting people applying for refugee status under the CAM refugee/parole program. Can I get that assurance?

Mr. HENSHAW. Senator, we are committed to giving the utmost review of every single refugee applicant to make sure that it is safe to bring them into the United States.

Senator TILLIS. I guess the final question in my remaining time is since the CAM refugee/parole program was implemented, have any internal reviews been conducted to identify potential errors, internal, more or less, audits of the process and has the agency identified any people which were erroneously granted refugee or parole status in the program?

Mr. LANGLOIS. We have yet to interview anyone in the process. It is too early to begin an audit. We are still waiting for DNA results, which are required prior to the interview. The program is just being stood up and as I told you, we are reaching out.

Senator TILLIS. In just closing, Mr. Chairman, I know my time has expired, I actually share some of the concerns of the Ranking Member Blumenthal in terms of legitimate problematic situations and we should do everything we can to be the humane nation that we are. At the end of the day, I have to be absolutely convinced that we have processes that are protecting the safety and security of American citizens.

In this one case, it obviously broke down. We have got to be absolutely certain that these decisions are in no way putting American citizens at risk and it is something that I will continue to followup on in light of a very impactful situation that happened down in Charlotte.

Thank you. By the way, thank you very much for your long-standing service. You have transcended a lot of the folks that are up here and I appreciate your work. I am going to hold you to a high standard, though, when it comes to doing the right thing for American citizens.

Thank you, Mr. Chair.

Senator BLUMENTHAL. Mr. Chairman, I would just like to join Senator Tillis in thanking Senator Cornyn for his work on the anti-trafficking bill, along with Senator Klobuchar, who was here earlier. I was remiss in failing to express that gratitude earlier for his perseverance and his caring about this issue.

Thank you.

Chairman SESSION. It was a heroic effort and he gets an A for that, there is no doubt. Senator Tillis, I would just note that the problem I think you referred to in North Carolina was our using United States data and information.

What they are talking about is having to rely on data in Central America, which is far less accurate and extensive than we have. Thank you. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

Mr. Langlois, in the testimony that you and Mr. Henshaw submitted for today's hearing, you both made clear that one of the CAM program's primary objective is stemming the flow of unaccompanied minors across our southwest border by providing a safe, legal alternative to parents already lawfully in the United States who are seeking to reunite their families.

This program is designed to reduce the number of children who instead make this harrowing trip alone.

I understand that your work at the U.S. Citizenship and Immigration Services—that your work is there and not the Border Patrol, but can you tell me whether there are any efforts underway that are likewise designed to reduce the number of unaccompanied minors we are receiving now?

Mr. HENSHAW. Whether or not there are efforts underway to slow down the flow of immigrants coming up through Mexico and Central America?

Senator FRANKEN. Yes.

Mr. HENSHAW. Yes, Senator, there are. We are working with the Mexican government and the governments of the three northern tier states to improve their abilities to slow down the flow of immigrants, particularly children, through their borders and we have had a good deal of success within the last year with the Mexican government on that.

Senator FRANKEN. Thank you. It is no mystery that one of the purposes of this hearing is to portray the CAM program as skirting the law and a drain on Federal dollars. It is right there in the title, “Eroding the Law and Diverting Taxpayer Resources.” That actually seems like an unfair characterization to me.

Is it not true that if an applicant is approved for participation in the CAM program, that the government does not—does not simply pay for their travel, but instead provides those granted refugee status with a loan to cover travel expenses and that they must repay that loan?

Mr. HENSHAW. That is correct. Through the International Organization for Migration, we provide a loan to pay for the air ticket only and they are required to repay that and they do that through the U.S. Resettlement Agency which resettles them in the United States.

Senator FRANKEN. Thank you. What if an applicant is not granted refugee status, but is instead granted temporary parole, are they still eligible to receive a loan?

Mr. LANGLOIS. They are not eligible for a loan. No, they are not. They must pay their own airfare to come to the United States.

Senator FRANKEN. It is my understanding that in order to be approved for even temporary parole, an applicant must undergo a comprehensive medical screening; is that correct?

Mr. LANGLOIS. Yes, that is correct and that is not paid for, unlike refugees where the medical screening is paid for. Parolees must pay for their own medical.

Senator FRANKEN. I want to talk about children for a moment. This is a concern of mine, just the welfare of children in vulnerable populations in our current immigration system. Often in immigration proceedings children are left to represent themselves in court without access to counsel. They are detained in substandard conditions for far longer than should be necessary because our immigration courts are saddled with record backlogs.

According to the immigration lawyers in my State, a candidate for asylum will not be able to get a hearing until the fall of 2016 given the current backlog. When these kids finally do get a hearing, immigration judges are so overworked that they do not have

enough time to carefully consider the cases. This leads to the unfortunate reality that judges are likely to miss potential candidates for asylum and may send these kids back to danger in their own countries.

These problems, to me, in our immigration courts are inexcusable. That is why I have supported increased funding for immigration courts and advocated for comprehensive immigration reform that would provide children with access to counsel, keep them out of solitary confinement, and allow judges to have the time to really hear their cases.

Can you talk a little bit about the challenges facing children as they interact with our immigration courts?

Mr. LANGLOIS. Certainly, Senator. Individuals that are unaccompanied alien children that appear in front of an immigration judge that wished to apply for asylum are actually given the opportunity, instead of presenting the case to the judge, to come in front of an asylum officer first for a non-adversarial interview.

Asylum officers conduct these—these interviews with the unaccompanied alien child. The child has the ability to have a lawyer there, but it is not paid for by the government. So we do have some backlogs with—

Senator FRANKEN. Some appear without lawyers.

Mr. LANGLOIS. Yes. Some do appear without lawyers, although the pro bono attorney representation rate is quite high with unaccompanied alien children.

After the non-adversarial interview, if the case is granted, they are granted asylum status. However, if they are not granted, they get put back in front of the immigration judge for the judge to conduct a removal proceeding and they may renew their asylum request before the judge.

Again, the attorney should be at no expense to the government.

Senator FRANKEN. Thank you. Thank you, Mr. Chairman.

Chairman SESSIONS. Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

Mr. Langlois, Mr. Henshaw, neither one of you are policymakers, I believe; is that correct?

Mr. LANGLOIS. That is correct.

Mr. HENSHAW. Yes, sir.

Senator CORNYN. We will try not to shoot the messenger because I know you are just doing your job and you are trying to carry out the policies that are determined at some place else other than in your office. I want to start out just by distinguishing between the CAM program and the policies that you are implementing here and those that have been applied in other contexts.

First of all, there is a requirement that there be a lawfully present parent, as I heard you say, not somebody with a legal status, but somebody who is lawfully present. I think, Mr. Langlois, you did a good job of laying out the cafeteria plan of possibilities in terms of somebody being legally present.

That would include, for example, a beneficiary of the President's executive action, which is currently the subject of litigation. Isn't that right?

Mr. LANGLOIS. Yes, that is correct, Senator.

Senator CORNYN. Thank you. I was intrigued to hear about the attempt to try to place a child with a parent and the DNA testing and I actually applaud you having a criminal background check and taking other protections.

I do want to contrast that, though, with the roughly 50,000 children that appeared on our doorstep last year from Central America and the policies of the Administration. As I understand, the children, once they were processed by border patrol, were turned over to Health and Human Services and could be placed with somebody other than a parent. Isn't that correct? Mr. Langlois, can you confirm that?

Mr. LANGLOIS. Since I do not oversee that process, I would be very reluctant to speak on that process.

Senator CORNYN. Okay, if you do not know, that is fine. Do you know, Mr. Henshaw?

Mr. HENSHAW. No, sir, I do not.

Senator CORNYN. It is my understanding that there is no requirement under that procedure for the 50,000-plus children who appeared here from Central America last year. I understand the CAM program is designed to try to deal with this differently, but that causes me a lot of concern that while you recognize the importance of confirming by DNA testing that the child is actually being placed with a parent and indeed doing a criminal background check, neither of those requirements is present under the Administration's policy with regard to children who don't—who come to the United States outside of the CAM program.

Mr. Chairman, I think that is something we ought to look at because talking about the trafficking issue, I do not believe there is any assurance we could give anybody that the children who came here unaccompanied from Central America last year and who continue to come here, who are not necessarily placed with a parent who are not—and that individual is not given a DNA test to confirm that biological relationship nor are they subject to a criminal background check, could indeed be inadvertently placed with a child predator or a sex offender or someone else who might traffic the child, and that strikes me as a huge gap in our practice and our procedures.

Mr. Langlois, I was intrigued when Senator Sessions was asking you about the definition of refugee, you seemed to indicate that there was some flexibility in terms of the interpretation of what that legal requirement would mean. I think you used a phrase like evolving standard, maybe. I do not want to put words in your mouth. Could you repeat what you said?

Mr. LANGLOIS. Basically, the definition of a refugee is in the statute. Over the course of years, courts have fleshed out interpretations of what the standard is, what the requirements are, and it is the precedent decisions particularly involving the particular social group area that have seen the most activity or interpretations of court precedents over the last few years. That is what I meant to say or was referring to.

Senator CORNYN. Thank you for the clarification. As a recovering judge, I can—I understand the role of the Judiciary in this, but if you look at the statute, the statute is pretty particular and specific in terms of the requirement to pass persecution or a well founded

fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Mr. Chairman, I think that is something else we ought to look at. It seems to me like basically the refugee—the requirement of refugees to prove what the statute requires, we have gotten rather far afield and certainly immigration is something within the unique prerogative of the Congress and not the Judiciary, although obviously they will interpret what we write.

I guess the final thing I would just ask you two gentlemen is we understand the humanitarian crisis from Central America. I was down in Honduras with Senator Kaine recently in San Pedro Sula in what is reported to be the most dangerous neighborhood in the most dangerous city in the most dangerous country in the world. Thank goodness we had quite a bit of protection primarily from some vetted law enforcement that had been trained by the U.S. Government to help provide some basic security there.

If anybody and everybody who has a fear of harm qualifies as a refugee, I understand the humanitarian impulse and I sympathize with that, but if you look at places around the world, like Syria, for example, where 200,000-plus civilians have been killed in a civil war and millions of Syrians are refugees because they have literally been displaced both internally and externally, if that means that anybody who is subject to potential harm because of civil unrest or other circumstances in their home country, then I wonder what the limiting factor is on their ability to come to the United States and qualify for refugee status.

Would you care to offer a word of comfort or reassurance?

Mr. LANGLOIS. Yes, sir. Fear is not enough. They have to show that they are undergoing persecution because of their membership in one of the groups.

Senator CORNYN. Do you disagree or agree with Mr. Langlois?

Mr. HENSHAW. I always agree with Mr. Langlois.

Senator CORNYN. Always agree with Mr. Langlois. It sounds like you are saying it is something different and wonder, Mr. Langlois, would you care to respond?

Mr. LANGLOIS. Yes, certainly. In order to gain access to the refugee program, you have to be authorized access and we do have a cap of 70,000 for this year of individuals that can be admitted as refugees into the United States.

Just a fear of generalized violence, even if you do get access to be interviewed by USCIS, is not enough for a grant of refugee status. You have to meet the definition and a lot of it deals with is what you fear rising to a level of persecution or on account of one of the five protected grounds.

Simply fleeing civil strife or war does not meet the definition of refugee, as well as we do have ceilings and caps on how many individuals that we get to admit.

Chairman SESSIONS. Thank you, Justice Cornyn and Attorney General Cornyn. Actually, we have got some prosecutors here. Senator Blumenthal is experienced, too.

Look, page one of this April 15 document talks about PSGS. That is the particular social groups that is being expanded, pretty obviously, it appears to me, page one, people who reported a serious gang-related or cartel-related crime to law enforcement.

I do not think that meets the standard that Senator Cornyn just went over. I believe you have changed the standard if you adopt that. Further female heads of household, I think that is far from being a person being persecuted on that alone.

Mr. Henshaw, with regard to the ability of the people to be investigated or background checks in the foreign countries, most of those countries do not have good NCIC-type fingerprint data base systems, do they?

Mr. HENSHAW. No, sir, they do not. While we have worked—I am sorry, sir.

Chairman SESSIONS. If you do a data base, you are talking about inquiring as to whether or not they entered the United States and committed a crime in the United States and returned back; is that right?

Mr. HENSHAW. All I could add, sir, is that while I was in Honduras, we established a data base for gang members that were in jails. We did have some data base available us.

Chairman SESSIONS. Tell us what the real world is going to be like. If an individual comes to one of these centers to apply for refugee status, you are not going to do a neighborhood investigation, interview witnesses and that sort of thing, are you? You do not have the people to investigate the backgrounds of what could be thousands of people. You do not intend to do that.

Mr. LANGLOIS. We intend to interview the individual for approximately two hours, every case. We intend to check numerous data banks that the Department of Defense has information concerning criminal activity and gang activity, the FBI has information regarding criminal activity, as well as liaison with the FBI and ICE for their anti-gang units.

We will explore all available avenues in order to assess if this individual is a criminal or a gang member. We are trying to protect children from criminal activity and gang activity. I think we are motivated to pursue that.

Chairman SESSIONS. Look, I know what the position of the President is and I know what he is trying to achieve and we have a refugee program that we should utilize, but it needs to be fairly done. I do not think you should suggest to us in any way that the FBI is going to be a big player in this. In fact, I have been told they are not a part of this program and they do not have a data base in Honduras or El Salvador, anything approaching what we are talking about, and the Department of Defense does not either.

For the average person who is trying to claim access to America as a refugee, they are going to be able to learn the words to say to the interviewing officer, and I just do not see how you should be suggesting to the public in any real way that you are going to be able to guarantee that the persons who are admitted are cleared and are not involved in criminal activities, among other things. Am I wrong?

Mr. LANGLOIS. We will thoroughly pursue the aspect to ascertain if the individual is part of a gang or engaged in any criminal activity and we have got numerous ways of doing that.

Chairman SESSIONS. You are not going to be able to assure that, I am certain of it. How many refugees have been admitted from El Salvador, Guatemala or Honduras over the last 15 years?

Mr. HENSHAW. I am sorry, Senator, I do not have those numbers.

Chairman SESSIONS. Is it not about zero?

Mr. HENSHAW. It would be a low number, yes.

Chairman SESSIONS. Close to zero.

Mr. HENSHAW. I really honestly do not know, Senator.

Chairman SESSIONS. The reason is these countries are not believed and have not qualified as countries that participate in persecution of people with different religious backgrounds and nationality and social groups. If they did, they would be admitted. You are talking about large numbers of people being admitted as refugees.

I have got to ask you again, Mr. Langlois. In this—are we not changing the definition of refugee so the President can admit these children when they have not been admitted under the law as remains in previous years?

Mr. LANGLOIS. Senator, I think that the number of individuals admitted as refugees would be low because we did not provide access to the program for them to be interviewed.

I think that the more important figure on this is to look at the numbers of individuals that arrived in the United States and were granted asylum either by the asylum court or the immigration courts, and I would be more than happy to provide you with figures of individuals that have successfully been granted by the courts in the United States, as well as asylum officers of people gaining asylum from these three countries.

Chairman SESSIONS. We are not going to accept that in the sense that you are going to convince anybody that is listening to this that we have had a program that has admitted many people in the last 15 years as refugees from these countries, because they have not been. That is the fact.

How many do you anticipate being admitted as refugees under this program, the new standard?

Mr. HENSHAW. Senator, we just do not know what the numbers will be. It is too early to tell. So far, as we said earlier, it is only in the hundreds the number that have applied.

Chairman SESSIONS. Does USCIS currently grant asylum to any aliens from any country based on fear of gang violence or generalized threats or poverty?

Mr. LANGLOIS. Again, they would have to fit under the definition of the refugee. We would have to link that to one of the five protected grounds.

Chairman SESSIONS. Then just on those standards alone are not in the five protected grounds. On those standards alone, strictly done, they would—we do not admit any from any country, do we?

Mr. LANGLOIS. Senator, a gang could be a non-State persecutor, a non-State actor engaging in a persecution of an individual on one of the protected grounds. The fear of a gang, if it is tied to a protected ground, could be the basis of an asylum claim in the United States, as well as a refugee claim overseas.

Chairman SESSIONS. Is not—I think we can say any generally experienced person in the field would know that it is not fear of gang violence, it generally does not meet the standards and we are not admitting people from any country on that basis.

According to your document here and from what we hearing, this is going to be liberalized with regard to these countries. We have a limited number of refugees we can receive in America, so they will be using up slots, and I think at that point you are going to find this Administration begin to shift as many as they humanly can shift by any method to parolee status to justify this action.

My time, I have gone over. The clock did not run.

Senator Blumenthal is an excellent member here, and thank you for your patience.

Senator BLUMENTHAL. Thank you. Thanks, Mr. Chairman.

Just a few quick last questions. Is there evidence that the CAM program has discouraged children from making that tortuous, arduous journey and instead go through the processing in their home countries?

Mr. HENSHAW. Sir, the numbers are reduced that are approaching our southwest border compared with last year and we believe that is because of a number of efforts; enforced border protection, the work we have done with Mexico and the northern tier countries, and this program. Certainly in the case of the 500 people that have applied so far, a significant number of them could have attempted to come up illegally.

Senator BLUMENTHAL. The prospect of going through this processing without the threat of those gang networks, organized crime, traffickers who would prey on them while they are en route certainly has been a factor discouraging them from coming across the border to this country.

Mr. HENSHAW. Absolutely.

Senator BLUMENTHAL. One other question. Do you expect that there will be additional—based on the experience so far, that there will be additional children seeking to take advantage of this program?

Mr. HENSHAW. Yes, I do. I think once the program becomes more widely known, there will be other children that will try and apply for it.

Senator BLUMENTHAL. The answer to this question may seem obvious, but let me just ask it for the record.

In terms of cost-effectiveness, if a child is ineligible for this program, is there not a saving in money, not to mention human suffering and threat, in determining that eligibility while the child is still in Honduras or El Salvador or Costa Rica rather than in this country, where they would have to be transported back?

Mr. HENSHAW. That is correct. There would be no cost of transporting them back because they would already be in their home country.

Senator BLUMENTHAL. Whereas if they were here, there would be the cost of transporting.

Mr. HENSHAW. Yes.

Senator BLUMENTHAL. Thank you. Thanks, Mr. Chairman.

Chairman SESSIONS. Asylum claims should be filed in that country, in the home country of the applicant; is that correct? Refugee status, excuse me.

Mr. LANGLOIS. Yes, refugee, sir.

Chairman SESSIONS. Refugee status made in the country of Honduras or wherever.

Mr. LANGLOIS. Yes.

Chairman SESSIONS. If they come here, then—which is an improper claim of refugee status, they are still allowed to claim asylum.

Mr. LANGLOIS. That is correct.

Chairman SESSIONS. This is all problematic because we could end up with huge numbers of trials and hearings, inability to bring witnesses, in ability to do any real background, you have no background data, and I think the United States just needs to make very clear what our standards are.

I think the President has confused that by saying I am going to give legal presence, lawful presence to people who are here unlawfully. Then now you are saying because the President gave them lawful presence, they got the advantages of lawful status and can bring relatives here, and this just begins to erode the integrity of the system and confuse people around the world who probably will see this as further benefits to attempting to come unlawfully into the country.

Let me ask you this, Mr. Langlois. I would like to get a sense of what benefits Central Americans brought in under these refugee programs would be eligible for in the United States once they arrive. Would they be eligible for food stamps?

Mr. HENSHAW. Sir, could I answer that question?

Chairman SESSIONS. Yes.

Mr. HENSHAW. Anyone that comes in under our refugee program worldwide is eligible to apply for any benefit that any other legal resident in the United States could apply for. They would have to qualify for it.

Chairman SESSIONS. That would include Medicaid, public housing.

Mr. HENSHAW. Yes, sir.

Chairman SESSIONS. Other cash assistance programs.

Mr. HENSHAW. Any program that any other legal resident could apply for, sir.

Chairman SESSIONS. I am concerned about the parole. We have got another panel and maybe we can be a little—but essentially this parole is permission for an alien to enter who otherwise meets no standards for entry and has been denied entry.

How many individuals do you anticipate would be paroled into the United States under this program?

Mr. LANGLOIS. We do not have those figures. Individuals will first be considered for refugee status and if they are found not to qualify for the technical definition of refugee will be on a case-by-case considered for parole. We do not have the numbers right now.

Chairman SESSIONS. Is that an automatic thing or do they have to say, OK, you denied him a refugee, I want to be considered for parole?

Mr. LANGLOIS. No. We will take a look at does the individual still fear harm and is there that reason that we should be granting the individual parole into the United States to reunify with their lawfully present parent.

Chairman SESSIONS. Please, is it not true that this has historically been a very restricted program? It is not an open door to anybody you would like to admit who does not otherwise qualify for it,

right? Yes or no? It is not an open door to admit anybody that you would like to admit that does not otherwise qualify for it.

Mr. LANGLOIS. There are numerous precedent parole/refugee programs in the past that are very similar to the program that we are administering here.

Chairman SESSIONS. Would you submit those for the record?

Mr. LANGLOIS. Certainly.

Chairman SESSIONS. Can you name one?

Mr. LANGLOIS. Yes. The orderly departure program that I was participating in, in the 1980's attempted to basically stem a mass migration coming out of Vietnam, the boat people. We stood up a program in Vietnam, an in-country refugee processing program under President Reagan and President Bush and those individuals that had family members in the United States that were not granted refugee status were offered what we called public interest parole back then and it resulted in stemming the flow of boat people coming out of Vietnam. It was a very large program. It lasted many years.

Chairman SESSIONS. All right. We will take that. Submit the others that you have.

Mr. LANGLOIS. Certainly.

Chairman SESSIONS. The law says—the 212(b)(D)(5)(A)—the United States can use this temporary parole of individuals only on a case-by-case basis for urgent humanitarian reasons or significant public benefit, which I think traditionally public benefit has been unusually talented valuable persons, I think.

That is the standard, is it not?

Mr. LANGLOIS. Yes, it is.

Chairman SESSIONS. Do you agree that this statute authorizes people only a case-by-case basis?

Mr. LANGLOIS. Yes. That is what—

Chairman SESSIONS. I think you said that earlier.

Mr. LANGLOIS. That is what is in the statute, yes.

Chairman SESSIONS. Do you agree that the statute authorizes parole only for urgent humanitarian reasons and significant public benefit?

Mr. LANGLOIS. Yes. That is the statute.

Chairman SESSIONS. That is what the statute authorizes. You indicate that to grant parole under this program, USCIS must find that the individual is at risk of harm in his or her country, that the applicant meets as favorable exercise of discretion.

Now, merits a favorable exercise of discretion. I do not think that is the same standard we just read. Would you agree? Is it not a more liberal standard?

Mr. LANGLOIS. No. I would not agree that that is a more liberal standard. The significant public benefit is being achieved by basically attempting to deter the mass migration that we saw at the border last year. The significant public benefit element of the authorization of parole is being achieved in that fashion.

What we are doing is we are interviewing individuals and deciding on a case-by-case basis if it—

Chairman SESSIONS. You could submit that for the record, if you would like to go further. But the statutory standard is for urgent humanitarian reasons or significant public health benefits, and

your language, quote, “that the individual is”, quote, “at risk of harm in his country and that the applicant merits a favorable exercise of discretion,” closed quote.

That is much more subject to broad interpretation and that is the kind of guidance you are giving to your officers, I suppose, and it is going to result in a lot more admissions than the statute has always been interpreted to admit. Am I not correct?

Mr. LANGLOIS. I would disagree with that, Senator.

Chairman SESSIONS. All right. I will submit some additional questions for the record. I thank you for your patience. This is so important that we get this correct and that we have our officers have a clear understanding of what is admitted and what is not, that we not politically abuse the law passed by Congress, and that the world knows, so we do not have people coming under the belief that somehow, some way they are going to maneuver their way into the country when they really do not qualify.

We should tell them in advance do not apply if you do not meet these standards. At least that is my analysis.

Thank you both for your testimony and we will submit some additional questions for the record and keep the record open for that purpose.

[Response from one of the Witnesses] Thank you, Senators.

Chairman SESSIONS. If our second panel would come forward.

Senator BLUMENTHAL. Mr. Chairman, while the second panel is coming forward, I just want to apologize that I am going to have to go to another obligation, but I want thank them, as well as the previous panel, for your excellent work. I am familiar directly and personally with the excellent work done by Igor Timofeyev and I want to thank him for his participation on this panel and his help to the Committee and to my office.

Again, my thanks to the panel. I apologize, but I am unable to stay.

Chairman SESSIONS. Thank you, Senator Blumenthal. We appreciate your contributions. They are always excellent and it never hurts to have a good legal mind around here.

Senator BLUMENTHAL. Thank you.

Chairman SESSIONS. Thank you.

All right. If you would maybe stand, we will just take your oath. Everybody, if you will raise your right hand.

[Witnesses are sworn in.]

Chairman SESSIONS. Thank you. Please have a seat. I will briefly introduce our witnesses, but note that the full biographies are on the Committee’s Website.

First, we have Professor Jan Ting. Professor Ting is a Professor of Law at Temple University Beasley School of Law in Philadelphia, having initially joined the faculty in 1977. He was previously Assistant Commissioner of Immigration and Naturalization Service from 1990 to 1993. I am sure that was an exciting time.

Maybe you can go—we will let you give your statement—well, I will let you go first, Mr. Ting, and then I will introduce Ms. Meissner.

**STATEMENT OF PROFESSOR JAN C. TING, TEMPLE
UNIVERSITY BEASLEY SCHOOL OF LAW, FORMER
ASSISTANT COMMISSIONER OF THE IMMIGRATION
AND NATURALIZATION SERVICE,
PHILADELPHIA, PENNSYLVANIA**

Professor TING. Thank you, Chairman Sessions and all the Members of the Committee.

I just wanted to—my written testimony is on the record and I want to ad lib a little bit in response to the prior panel.

It is true that we have the most generous legal immigration system in the world. We admit more legal immigrants every year with a clear path to full citizenship. We give out more green cards every year than I think all the rest of the countries of the world combined.

Nonetheless, we have a restriction and Congress has specified what exceptions we are willing to make and one of them is for refugees who are in the well-founded United States. As the first panel noted, there is a standard, well founded fear of persecution, not discrimination, not harassment, but persecution on account of one of five specified grounds, including social group. The same standard applies in the overseas refugee program, where the United States goes out and finds refugees and brings them to the United States.

We have an international obligation under the Convention on Refugees with regard to asylum, but I think—I do not think we have an international obligation to go out and find refugees and bring them to the United States. I think we do that out of the goodness of our American hearts.

We have the most generous overseas refugee program in the world, as far as I am aware. Not very many countries do what we do, which is go out and find refugees. They are not in the country. We find them and we bring them to the United States financed by the American taxpayers in traveling to the United States.

As the first panel noted, the definition of who is a refugee is a critical definition and I think the advocacy community that wants more immigration has been pushing the definition of social group. That is the key point. I think the Congress, when they enacted the refugee standard, did not specify what is a social group.

I think it might be useful for the Congress to think about what did the international community mean when they inserted the term social group into international law, the Convention on Refugees, which was then adopted by the United States in the Refugee Act of 1980.

I think if we look back at the record, probably what we will find is people were thinking about the imperial family of Russia. That was a kind of immutable characteristic. It was not political opinion that led to their death, it was not nationality, it was not their religion. There was some immutable characteristic about the royal family that—and I think international lawyers wanted to provide for that possibility that there was something other than race, religion, nationality and political opinion that was worthy of protection, people are just after you because of your family blood.

I think you could also make the argument that it was post-World War II, maybe they were also thinking about gypsies who were persecuted by the Nazis. Maybe they were also thinking about homo-

sexuals who were being persecuted by the Nazis. I think you could specify, Congress could, if it wanted, specify what we mean by social group and that might be a useful way to go.

Congress has tried to specify who is eligible for parole. The prior panel made reference to the very generous parole provisions that were exercised after the end of the Vietnam War. Those were controversial and I think Congress thought that that was actually a misuse of the parole power. Congress—this was obviously before the Refugee Act of 1990, and Congress has specified that parole should not be used for refugees.

I think that was in the Refugee Act of 1980, said parole should not be used for refugees. We have taken care of refugees in our asylum law and in our refugee processing authorization. You cannot bring refugees in under parole.

Congress also specified in 1996 that only on a case-by-case for urgent humanitarian reasons or significant public benefit standard that the Chairman has referred to.

In doing so, the House Judiciary Committee in 1996 as very specific as to why they were making that change and they said parole should only be given on a case-by-case basis for specified urgent humanitarian reasons such as life-threatening medical emergencies or for specified public interest reasons such as assisting the government in its law enforcement-related activity. It should not be used—right?

The House Judiciary Committee was very clear that the parole power should not be used to circumvent congressionally established immigration policy or to admit aliens who do not qualify for admission under established legal immigration policies.

Mr. Chairman, my red light is on, so I will yield the floor.

[The prepared testimony of Professor Ting appears as a submission for the record]

Chairman SESSIONS. Thank you.

Ms. Meissner is a Senior Fellow at the Migration Policy Institute, a former Commissioner of the Immigration and Naturalization Service from 1993 to 2000. She first joined the Department of Justice in 1973 as a White House fellow and served in a variety of posts with the Immigration and Naturalization Service prior to her tenure as Commissioner.

Ms. Meissner, thank you for being with us.

**STATEMENT OF HON. DORIS MEISSNER, SENIOR
FELLOW AND DIRECTOR, U.S. IMMIGRATION POLICY
PROGRAM, MIGRATION POLICY INSTITUTE, FORMER
COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION
SERVICE, WASHINGTON, DC**

Ms. MEISSNER. Thank you. My full statement provides background about in-country refugee processing programs as the context for the Central American program. I am familiar with most of the programs and the policy debates that surrounded them from my time in government.

Beginning in 1979, the United States has administered in-country processing through special programs for select countries during and in the aftermath of periods of war, political repression, and other humanitarian crises. The programs have been in Vietnam,

Haiti, Cuba, Eurasian and Baltic States, and Iraq. Several of them remain in effect today.

In my experience, in-country programs have come about largely when policymakers are under severe operational and public pressure to respond to unmanageably large life-threatening flows or when refugee processing and admissions advance broader foreign policy commitments or goals.

In-country programs aim to improve access to humanitarian protection and to regulate refugee and humanitarian admissions to the United States under dire conditions. In-country programs have always been controversial. They have typically been implemented in combination with tough enforcement programs intended to curtail irregular flows. This has been true in the Central American case, as well.

The United States and Mexico responded to last year's migrant surge by quickly stepping up anti-smuggling measures, migrant interdictions, and deportations.

The various in-country processing programs share several additional characteristics. They have widely different numbers of admissions depending on the nature of the flows and program criteria. They have both broad and narrowly drawn criteria reflecting distinct program and policy goals that are tailored to the countries and to the humanitarian circumstances of concern to the United States.

They have long durations due to the intractability of the underlying conditions causing protection needs. Adjustments to the program criteria over time are based on and reflect experience and changes in the humanitarian circumstances in the countries.

They have congressional authorization either through explicit direction or through the annual refugee consultation process. And finally, the supplementary use of parole to admit persons with compelling humanitarian claims, but who are ineligible for refugee status, has accompanied all of the programs.

Against this backdrop, the newest in-country program is for minors in El Salvador, Guatemala and Honduras. As with previous in-country programs, it was established in response to a humanitarian migration emergency which peaked last year in 2014.

That, of course, was a result of endemic violence in Central America, the dangerous and sometimes deadly journeys to the United States. This processing—in-country processing program is now an important element in the U.S. Government's response to prevent a recurrence as happened in the prior year.

This Central American program is specific and targeted. It is more similar to the Haitian and to the Iraqi programs than to the Vietnam or the former Soviet Union programs.

Estimating the numbers of children who might be admitted depends on the number of eligible U.S.-based parents and qualifying minors who are in the region. Both are unknown. We do know that there are approximately 2.7 million Salvadoran, Guatemalan and Honduran immigrants who live in the United States. However, the majority are unauthorized and, therefore, cannot meet the program's lawful presence requirement for parents.

The share with qualifying children is also unknown. However, the largest group, permanent residents, is already eligible to sponsor their children for immigrant visas.

Most permanent residents wishing to bring their children to the United States will most likely have already done so under immigration criteria that are less rigorous than those for refugee eligibility. Those who are eligible to apply must then meet the statutory definition of a refugee, as has been discussed this morning—this afternoon.

Although many Central American young people are threatened by gang violence and may have compelling humanitarian protection needs, gang recruitment or violence does not generally qualify as a basis for refugee status, and there, of course, the availability of parole in especially serious cases will be an important element of this program.

Child migrant populations arriving at the border constitute a mixed flow. Thus some unauthorized children will be deported while others are entitled to humanitarian protection.

In-country refugee processing has inherent limitations. They include modest numbers, strict eligibility criteria, and lengthy processing times. At the same time, it has historically been an important dimension of responses to analogous compelling migration and humanitarian emergencies.

A well run in-country processing program can both reduce irregular flows and provide relief to some among those who need it most.

Thank you.

[The prepared testimony of Ms. Meissner appears as a submission for the record]

Chairman SESSIONS. Thank you.

Next, we have Mr. Igor Timofeyev, a partner in the Washington, D.C. office of Paul Hastings, where he specializes in appellant litigation and international arbitration. He previously served as Director of the Immigration Policy and Special Advisor for Refugee and Asylum Affairs at the Department of Homeland Security during the George W. Bush administration, among other things.

We welcome you and await your statement, Mr. Timofeyev.

**STATEMENT OF MR. IGOR TIMOFEYEV, PARTNER,
PAUL HASTINGS, FORMER DIRECTOR OF IMMIGRATION
POLICY AND SPECIAL ADVISOR FOR REFUGEE AND
ASYLUM AFFAIRS, U.S. DEPARTMENT OF HOMELAND
SECURITY, WASHINGTON, D.C.**

Mr. TIMOFEYEV. Thank you, Chairman Sessions, and thank you for the opportunity to testify before you today about the new refugee and parole program for Central American minors.

As the Administration announced, the new refugee program forms a part of its effort to combat the illegal migration of unaccompanied children from Central American countries to the United States. This migration not only strains our border enforcement resources, it poses great risks to the children themselves.

The Administration's desire to address the humanitarian plight of Central American children who are victims of pervasive violence in their society is commendable and children seeking to escape per-

secution that qualifies refugees under U.S. law deserve protection that our Nation has historically extended to refugees.

In creating a dedicated refugee program for Central American children, we must ask whether the children whom we intend to benefit will, in fact, qualify for the refugee status. If not, then as Senator Blumenthal noted, this program may not do enough for these children. Instead, it may create more problems than it solves.

Any refugee program must comply with the requirements of the U.S. immigration law and specifically the Refugee Act of 1980, the cornerstone of the modern U.S. refugee system. Under this law, to be considered a refugee, an individual must demonstrate government persecution on account of one of five grounds: race, religion, nationality, political opinion, or membership in a particular social group.

This last statutory ground, membership in a particular social group, is the one most often involved in cases of unaccompanied children fleeing organized gang-related violence.

Current law mandates that to qualify as a particular social group, members of a group must share some common immutable characteristic. They must be recognized within the society as a distinct group and the group be described with sufficient particularity to determine its membership.

To date, no U.S. court applying this criteria has approved a social group defined solely by childhood. Indeed, courts have rejected most specific social groups defined as young people resisting gang recruitment, as not being socially distinct or defined with the requisite particularity.

Courts have also made clear that generalized violence or lawlessness in the society is not sufficient to show persecution on account of a statutory protected ground. Therefore, it is uncertain whether the children who are the intended beneficiaries of a Central American minors program would qualify as refugees under the Refugee Act.

In designating unaccompanied minors in Central America for refugee processing, the Departments of State and Homeland Security were required to consider whether these children would qualify for admission as refugees under U.S. law.

In my view, this Committee, given its oversight responsibilities for the U.S. refugee program, is correct in asking the Administration to explain how the children from El Salvador, Honduras and Guatemala, as a group, would satisfy the refugee definition.

Indeed, we owe it to the children seeking access to this program to make sure the prospect of obtaining refugee status is real.

The Central American minors program also requires that children applying under this program have an anchor parent in the United States. Family reunification is an important goal and it informs much of our immigration law. Indeed, the U.S. refugee program already contains provisions permitting children of individuals admitted into the United States as refugees to join their parents in this country.

The Central American minors program, however, goes beyond these provisions and extends to individuals who are in the United States only temporarily without the permanent legal status and

whose presence can be terminated as a matter of discretion at any time.

Again, this Committee would act properly by examining whether this extension of the family reunification principle is consonant with the objectives of the U.S. refugee program.

I thank you, Mr. Chairman and members of the Committee, for your attention to these important issues and for the opportunity to share my thoughts today. I refer the Committee to my full written statement and I would be pleased to answer any questions.

[The prepared testimony of Mr. Timofeyev appears as a submission for the record]

Chairman SESSIONS. Thank you very much.

Next, we have Anastasia Brown, Director of Resettlement Services of the United States Conference of Catholic Bishops. She has over 20 years of experience with refugee resettlement and is familiar with both overseas and domestic resettlement issues.

Prior to her current position, she served in a variety of similar roles with other NGO's.

Thank you, Ms. Brown.

**STATEMENT OF MS. ANASTASIA BROWN, DIRECTOR
OF RESETTLEMENT SERVICES, MIGRATION AND
REFUGEE SERVICES, U.S. CONFERENCE OF
CATHOLIC BISHOPS, WASHINGTON, D.C.**

Ms. BROWN. I would like to thank you, Senator Sessions and the Ranking Member, for inviting me to testify today on the Central American minors refugee program.

Let me say that the U.S. Conference of Catholic Bishops supports this program and, in conjunction with the U.S. Government and other stakeholders, is working to ensure that it is efficient, cost-effective, and, most importantly, life-saving.

Mr. Chairman, the U.S. Catholic Bishops have seen firsthand the human consequences of the violence prevalent in the northern triangle of Central America, violence which is largely responsible for the flight of children to the United States. Not only have the Bishops traveled to the region to investigate the situation, they also communicate regularly with the bishops and the diocese in the region about ongoing violence and persecution in these countries.

From our experience, Mr. Chairman, the prevalent push factor compelling these children to migrate to the United States and the neighboring countries is violence and persecution, targeted persecution by organized crime networks in the region, violence which their governments are unable to protect them from.

While the lack of opportunity and the desire for family reunification have been factors in this migration, violence is the real driver. In fact, a report released by the United Nations last year found that 6 out of 10 children from the region had valid international protection claims.

Mr. Chairman, the personal stories of these children are heart-breaking. They are targeted and threatened with their life on a daily basis merely because they refuse to join in the persecution of others. Girls refusing to prostitute themselves are raped and killed. Families who do not pay renta to local gangs are threatened with death. The mothers of these children are faced with an unspeak-

able choice—send their child away to try to find safety or risk having their child and family killed. As one mother in El Salvador told one of our bishops, “I would rather my child die on a journey north than on my front doorstep.”

This program, properly administered, achieves several goals in keeping with our national interests. First, it provides an alternative avenue for children in peril to reach safety in the United States instead of taking this dangerous journey north, giving mothers like the one I mentioned another option for protecting her child. This helps honor our humanitarian obligations consistent with domestic and international law.

Second, it weakens smuggling networks that prey upon these children and families, taking away their market and reducing the chance that children become victims of human trafficking. Third, it helps manage this flow of minors as one part of a broader strategy to address this challenging issue. To clarify that last point, this program is just one element in a comprehensive strategy to address the challenge of children and families fleeing Central America.

First, we should not repeal current protections for these children when they do arrive in the U.S., but ensure they have the fair opportunity to tell their stories and receive protection. This is consistent with our American values of ensuring due process and providing safe haven.

We also need a regional approach in which Mexico and the Central American nations provide protection and safe haven to these children, a burden-sharing model. As Mexico is increasing its enforcement against these children, it must also increase its protection mechanisms by giving children a meaningful chance to obtain asylum there in Mexico.

In addition, we need to look at the root causes of this flight—violence, the lack of real opportunity—and address these root causes over the long term. The President’s budget request for assistance in the region, which includes programming for at-risk youth, is a good start.

In conclusion, let me reiterate that this program is no different than other in-country processing programs the United States has implemented in years past in places such as Vietnam, where I worked with the orderly departure program, the former Soviet Union, Cuba and Iraq. These have been successful programs which have provided life-saving protection to vulnerable populations.

If we can operate such programs in these places, we can certainly do so in this situation.

Moreover, the program is very limited in scope, restricted by the annual refugee allotment for the region. The current budget appropriation for the refugee program advise eligibility terms which only permit those with lawful presence in the United States to apply.

Mr. Chairman, this is an important program which is in its infancy. It should not be eliminated, but enhanced and improved. It reflects the best of American values, reinforces our heritage as a land of safe haven, and, most vitally, saves the lives of children in desperate circumstances. Saving children’s lives should never been characterized as a waste of resources.

Thank you.

[The prepared testimony of Ms. Brown appears as a submission for the record]

Chairman SESSIONS. Thank you, Ms. Brown.

Next, we have Jessica Vaughan, Director of Policy Studies for the Center for Immigration Studies, where she has worked since 1992. Prior to coming to the center, she served as a foreign service officer with the State Department.

Ms. Vaughan.

**STATEMENT OF MS. JESSICA M. VAUGHAN,
DIRECTOR OF POLICY STUDIES, CENTER FOR
IMMIGRATION STUDIES, WASHINGTON, D.C.**

Ms. VAUGHAN. Thank you for holding this hearing and for the opportunity to testify. It is an important discussion because the programs we are discussing are dramatic and troubling departures from existing law and policy on the admission of refugees, on grants of parole, and the family immigration process established by Congress.

Both programs we are talking about, and I would say CAM and also the Haitian program which is similarly set up, have been presented to the public as humanitarian programs that are in keeping with the President's authority. But, in fact, both are efforts to re-write immigration rules to benefit certain favored groups.

Besides being clearly outside the boundaries of the law, they are much larger in scale than past exceptional humanitarian programs and so will impose huge costs on taxpayers and on the American communities in which these newcomers settle.

I would add that there really is no indication that the CAM program in particular can ever succeed in achieving the stated goal of deterring people from contracting with criminal smuggling organizations. I actually think it is more likely that illegal attempts to arrive here will increase by parents hoping to get that lawful presence status so that they can send for their family members that they leave back home.

As discussed, it is unclear if many will ever meet the definition of a refugee. Let us take the Central American minors program first. This has been misleadingly pitched as only for lawfully present Central Americans to bring in their family members.

As you have noted, there is a big difference between lawfully present and having legal status. Legal immigrants do not need to use smuggling organizations or these kind of trumped up programs to bring in their family members.

What this does is create a whole new family reunification program for people who came here illegally and are not eligible to use the legal system.

It is well established that the primary reason for the influx of Central American minors is to join family members, not to escape persecution. We know this from intelligence reports, surveys and statements of the migrants themselves. They know that due to the policy changes made by the Obama administration to relax immigration enforcement, if they make it to the U.S. border, they will be allowed to stay indefinitely.

Because this is not truly a refugee situation, most of the entries will be in the form of grants or parole, but the law does not permit

parole to be used in this way. Parole is supposed to be used in unique compelling cases of humanitarian need. Traditionally, only about 140 minors a year have been allowed to enter with humanitarian parole out of about 400 total grants of parole.

We do not know exactly how many Central American minors might be allowed to enter under the program, but likely it will be measured in the tens of thousands each year, judging by, first, the size of the population of illegal alien anchor parents, the large number of Central American minors we have seen surging over the border, the current enforced culture of rubber-stamping approval of benefits by USCIS, and the fact that the refugee contractors that support lenient admissions will be helping prepare the applications.

The anchor parents, those with so-called lawful presence, are people with temporary protected status—that is about 276,000 aliens—people who came illegally as part of the recent border surge and have been given parole themselves—that is about 100,000 people, we think—and maybe a few legal immigrants from Central America whose children are inadmissible because of prior deportations, criminal convictions, fraud or other reasons.

Regular parole applicants normally have to pay a fee of \$360, but applicants for CAM will not. Legal immigrants are actually subsidizing this program.

Especially concerning to me is that according to the established rules, those who have been deported before or who have criminal convictions are supposed to be disqualified for humanitarian parole, but the Administration has already announced that people in those situations will be allowed to participate by getting the I-602 waiver that is usually available only to actual refugees. This is asking for trouble.

In 2012 and 2013 alone, the Administration deported more than 2,400 juveniles to those three countries who had criminal convictions and who are still young enough to apply for CAM if their parents are still here.

Meanwhile, there are 77,000 people in El Salvador alone, plus thousands more in Honduras and Guatemala, who have been sponsored by a legally resident family member or employer who have paid hundreds of dollars in fees and are waiting their turn as these CAM applicants will get special treatment.

Similarly, the Haitian family reunification program is a flagrant abuse of the executive's parole authority. They are ordinary family based immigrants who are getting parole for two reasons: to be able to come two years early and so they can get a generous array of publicly funded services and benefits.

This is in direct conflict with congressional intent that family based immigrants should not be admitted if they will be dependent on government assistance, in other words, public charges.

These two parole programs do not further a significant public interest as the law requires and as the Administration claims, but they will impose a significant public burden on American communities that will be absorbing them.

Thank you.

[The prepared testimony of Ms. Vaughan appears as a submission for the record]

Chairman SESSIONS. Thank you all. It is a very important question. I guess as a former Federal law officer for almost 15 years, you develop a certain understanding I think that is sound, which is law needs to be clear, needs to be enforced with integrity and consistency, and that produces compliance with law and less illegality and you move in a virtuous circle or spiral instead of the dangerous spiral where there is more illegality that breeds more illegality, that breeds more illegality.

When government leaders take policies, Ms. Vaughan, that actually suggest if you would like to get to America and bring your family, one member can go forward and will later be able to bring them and get legal status, then you have created a dangerous situation.

Although I am so proud of our NGO's, our church groups who give of themselves sacrificially to help around the world, a nation State is required to serve its citizens first and effectively with policies that I think are moral and defensible.

Professor Ting, I am looking—I just missed this on this document I raised that suggested what the new training manual will be for the PSGS, and that is the particular social groups that you talked about and the effort to expand that definition until it becomes pretty open door.

I think Mr. Timofeyev and Ms. Meissner also discussed that issue. I just overlooked the title of it is "Update on New and Novel PSGS." I mean, the agency itself seems to be suggesting we have got a new definition, novel definition for the particular social groups. Does that give you cause for pause?

Professor TING. Yes, Senator Sessions. I think that document apparently came out of the government training for immigration officers and it has notations on it that say, you know, and in difficult cases, consult your supervisor.

Clearly they are contemplating, I think, pushing the standards of who qualifies. I think they are pushing the standards in a lot of different ways.

I do not think the CAM program can find precedence in Vietnam or in the Soviet Union. It is true that those were large-scale parole programs in-country also, but those programs preceded a congressional effort in 1996 to restrict the parole power.

I think since the 1996 redefinition of the parole power and specifically case-by-case for specified reasons and particularly in light of the House Judiciary Committee Report that said it should not be used to circumvent established immigration policy or admit people who do not qualify for admission under legal immigration policies, I do not think those are adequate precedent.

It is true that the Administration has also launched this Haitian family reunification parole program, which is comparable in the sense that it is in-country. We are not just going out to find refugees, as authorized by Congress in a refugee program. We are going out to find people who do not qualify as refugees, who do not qualify as immigrants, and we are going to issue them parole. That I think is unusual.

Legal precedent is claimed for the Haitian program, but not for CAP in the 2007 Cuban family reunification parole program. It is true those are in-country parole programs, too. The difference is that in both the Haitian and the Cuban programs, the only spon-

sors are people that are in the United States legally either as U.S. citizens or as legal permanent residents.

As has been mentioned a couple of times now, the CAP program is unusual in that it also allows people who are illegal immigrants, beneficiaries of these new executive order deferred action programs, to also sponsor parolees under these programs. I think it is hard to find a clear precedent for the CAP program in prior practice.

Chairman SESSIONS. I thank you. Just a brief answer. Does it create more ambiguity and uncertainty and can that be detrimental to an orderly policy?

Professor TING. As my written testimony suggests, there has been an ongoing tension between the executive branch and the Congress. The executive branch likes to use parole in a variety of different ways to solve whatever immediate political problem they are confronting and I think Congress has clearly made multiple efforts to try and restrain the executive branch's use of parole power in trying to narrowly define and limit the executive branch's parole authority.

Chairman SESSIONS. Commissioner Meissner, would you like to comment on that?

Ms. MEISSNER. I think that the nature of these emergencies and the unpredictability of them is the starting point for all of this.

Clearly, from the standpoint of the agencies that are administering these laws and administering these programs, it is their job to as fully as possible manage flows, respond effectively, prevent irregular flows, but the nature of the world that we live in frustrates that frequently, and that certainly has been the case for the United States. It is absolutely the case as we are seeing right now in the Mediterranean, in Europe. That was the United States 20 years ago with some of the circumstances that we faced in the case of Haiti, in the case of Cuba earlier than that, what the world faced, facing Vietnam.

That, as a result, requires action. It requires responses certainly within the statutory frameworks that are available to us, certainly in a way that is intended to be respectful of our overall values and policies and legal requirements.

Circumstances change and situations evolve. This particular program now in Central America is a clear effort to create a different set of dynamics than what led to the flows in the past several years.

I think everybody would agree that this is a narrow, limited program. There will be a modest number of people that succeed in coming to the United States through this program either with refugee status or under parole.

I do not believe that parole is going to be used in a willy nilly fashion in this program. That has not been the practice of immigration officers in the past. I do not see that it will be here.

What this program is is an effort to offer a limited group of people who are under seriously dangerous circumstances an alternative. It cannot stand on its own alone. It is not the only response as a country that we can give, but it is a legitimate element of a response.

Chairman SESSIONS. All right. Mr. Timofeyev, would you like to comment on all of this and offer anything that you would like to share?

Mr. TIMOFEYEV. Thank you, Senator Sessions. I would note that there are certainly—there has always been a tension within the scope of parole between the fact that it has to be applied on a case-by-case basis with individualized determination and the fact that parole quite often has been used and is still being used with respect to particular groups—groups of people within the case-by-case adjudication being done subsequently.

I think that tension is there and I think this Committee is quite right to probe at that tension to make sure that the use of parole remains consistent with what Congress intended.

I would add that with respect to the Central American minors program, it is not presented and it is not structured at least formally as just a parole program. It is structured as a combined refugee and parole program. I think then the question becomes in a program where the refugee consideration ostensibly the primary one, is the group that is selected for that particular refugee processing, in fact, such that it would satisfy the refugee definition and I think that, in my view at least, is really the central question here.

In looking at the case law, certainly case law, as you well know, case law is always evolving to some extent, but looking at the precedents that even Mr. Langlois has acknowledged there are the resettle requirements which are shared by the vast majority of the courts of appeals, by the boards of immigration appeals and by others which say that a particular social group has to demonstrate immutable characteristics, social distinction within the society, and be defined with particularity.

In looking at those—at those requirements, looking at the way that the Federal courts have interpreted them, it is very difficult to me to conceptualize how these Central American children, as a group, would, in fact, satisfy the refugee definition.

Chairman SESSIONS. Even from your study of the case law, it would not back up just fraud or a definition that would justify large numbers of children qualifying. They just do not qualify. They just do not meet that test even under case law.

Mr. TIMOFEYEV. Senator, the case law was—to date, no court, again, as I mentioned, has accepted that childhood status, of being a child by itself, as sufficient to qualify as a member of a particular social group.

I think also, again, what troubles me is that the case law suggests quite strongly and, in fact, holds that simply being the child who resists or being a minor who resists the gang violence or being a minor who was recruited by a gang, that is also not sufficient to satisfy the refugee definition.

I think that, in my view, in setting up any program that seeks to admit refugees, in fact, we owe it to the law, as well as to the potential applicants, to make sure that, in fact, they would be able to qualify under the definition as the law requires.

Chairman SESSIONS. Ms. Brown, you—one reason I think even our State Department officers want to push things like parole is because people present sympathetic human faces to them.

You have met with and dealt with refugees for years. To what extent, though, do you believe that the government has the authority and the responsibility to set clarity in its laws of immigration and then enforce those, including deporting those who enter the country unlawfully?

Ms. BROWN. Of course, the government must have clear laws and laws that are understandable and are enforced by the officers, and this I believe this program actually does that.

I would just like to respond to a few things with regard to the children we have seen, and the U.S. Bishops Conference does serve both children who are approved in the refugee—overseas refugee context throughout the world and also has served children who have been released from Federal custody and have then managed to receive asylum, for example.

If you take the two cases, you can, in fact, see that they do meet the refugee criteria. This is one of the reasons that we do feel that this is an important program, because many of the children, not all of the children, many of the children will meet the refugee criteria.

I would say that there has been a lot of focus on the initial criteria of filing for the applicant. That is not the person here is a refugee, but it was a way to narrow down who may be applying for the program so as not to just say any child in Guatemala should apply for this program, any child in Honduras should apply for this program, but rather to say who might, in fact, be trying to take this journey to join their parents and to focus the attention there on them.

Chairman SESSIONS. Thank you.

It is a big world and there are a lot of people in very difficult circumstances, including children, and we have to work our way through this. Ms. Vaughan, what would you like to share with us as we wrap up here and any thoughts that you would share with us? It does seem to me that—I think Commissioner Meissner's reasoning and our first panel, we are utilizing reasoning that seems to me to be difficult to limit just to Central America.

I mean, it is a big world out there. Do you see that, for whatever reason, we ended up with this surge, do you see a danger that we could be setting precedence that would be unwise for a nation who wants to establish a lawful system of immigration that serves the interest of the American people?

Ms. VAUGHAN. There is no question that these repeated special circumstances kind of programs leads to "me tooism" kinds of requests from other groups around the world. I think it is really important to address some of what I think are really flawed assumptions behind this idea that we need to provide a safe, orderly alternative for these kids to come to the United States.

First of all, there is this assumption that this surge of kids and also families from Central America is like a force of nature that cannot be stopped and the best thing is for us to manage it in a safe way, when, in fact, it is the result of rational people making rational choices based on information they have received that they will be allowed to stay.

The second flawed assumption is this idea—

Chairman SESSIONS. That is a very important thing. I totally agree with that. We have sent a very poor message and it has re-

sulted in the surge of illegality. Sending the right messages would, I think, have dramatic positive effects. Some of the message we are sending in responding to this problem is actually wrong.

It could indeed increase the flow even more in the future, which would be terrible. Excuse me, you had a second point.

Ms. VAUGHAN. No. I agree completely and we know that there is good evidence that that is the case, that people are responding to the policy changes and the lax enforcement climate that has been created here in the United States by the Obama administration's policies.

The other flawed rationale for this program is that we somehow need to provide an avenue for these individuals to come here rather than enforce the law, you know, and deal with the fact that by giving benefits to their parents, that that somehow entitles these people who are not here with any legal status to bring in their family members.

The response to the surge really should have been for the Department of Homeland Security to dust off its official mass migration plan that they had carefully studied and figured out other ways to deal with this kind of surge rather than just trying to legalize it.

Chairman SESSIONS. We worry about some of the messages we are sending, such as allowing people who enter the country to be paroled in the country or released pending hearings on some sort of bail; children being turned over to somebody who claims to be a relative who, as Senator Cornyn said, may be a dangerous person.

The result of all that, I think, creates a negative message that encourages more people to believe our borders are open and illegal entries will eventually be rewarded.

I—my law enforcement background tells me that effective enforcement of the law and a humane and responsible, but effective way deters. Failure to prosecute effectively results in a failure of deterrence and an increase in the bad behavior.

Giuliani's small broken windows theory in New York, you do not allow even small crimes to grow and build. It creates an instability and a lack of respect for law that is threatening to any nation who desires to be great.

We thank you for that. I would say that I truly believe that our policy should serve the national interest. It should serve the interests of the American taxpayer first. We are a nation State. We are not a humanitarian or religious organization and we serve the constituents that elect us. We have a legal bond to their interests.

To me, we are not serving that interest if we allow lawlessness to continue, if we have the President exceeding his executive powers, which I have no doubt that he has done, and that we do not attempt to do the right thing with immigration policy.

I thank you for that. Open borders are indeed facilitating gangs and crime and drugs and enormous fiscal and economic burdens on our country. Our immigration system is in chaos. We do not know what law is going to be enforced and who will be held to account.

The Administration is using resources that are appropriated to it to further and advance the interests of unlawful entrants rather

than to improve law enforcement and we are rewarding illegal behavior too often rather than deterring it.

A refugee—a refugee cannot be someone who lives in a country where there is a high crime rate. We just cannot have that as a lawful policy. We have got our neighbors in this country too often living in high crime neighborhoods.

A nation, as a sovereign entity, they have borders and they have a right to enforce those borders and to maintain a legal system of immigration. We just cannot continue on the path we are going.

I believe your testimony has been helpful to us. I appreciate you being here. We are going to continue to analyze this.

I guess I would say, Professor Ting, you have looked at this and studied it for years, but would you not agree that it is an essential component of a lawful system of immigration that even down to the lowest Federal law officer, we ought to have clarity in our policy and that that clarity ought to be transmitted worldwide, in which we essentially say to the world please come lawfully, do not come unlawfully?

Is that a winning message for this country?

Professor TING. Yes. I think there is a clear role for Congress in this. I welcome the interest of Congress in many of these immigration issues that are out there and I think without congressional interest and without some effort to assist the Administration in clarifying what the legal result is, the Administration is left to its own devices. It is free to interpret, broadly interpret its powers.

I think—I welcome the interest of Congress and the courts in clarifying what is the appropriate role for each branch of government with regard to immigration.

Chairman SESSIONS. That is what Professor Turley has testified to, Law Professor Turley, that our Congress has an absolute duty to defend its duties and responsibilities against executive encroachment, which tends to happen.

Thank you all for being here. You are now dismissed. The record will stay open for one week.

The Committee stands in recess.

[Whereupon, at 4:47 p.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing before the
Senate Committee on the Judiciary
Subcommittee on Immigration and the National Interest

On

“Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's
Central American Minors Refugee/Parole Program”

Thursday, April 23, 2015
Dirksen Senate Office Building, Room 226
2:30 p.m.

Panel I

Mr. Joseph E. Langlois
Associate Director for Refugee, Asylum and International Operations
U.S. Citizenship and Immigration Services
Washington, D.C.

Mr. Simon Henshaw
Principal Deputy Assistant Secretary
The Bureau of Population, Refugees, and Migration
U.S. Department of State
Washington, D.C.

Panel II

Professor Jan C. Ting
Temple University Beasley School of Law
Former Assistant Commissioner of the Immigration and Naturalization Service
Philadelphia, PA

The Honorable Doris Meissner
Senior Fellow and Director, U.S. Immigration Policy Program,
Migration Policy Institute
Former Commissioner of the Immigration and Naturalization Service
Washington, D.C.

Mr. Igor Timofeyev
Partner
Paul Hastings
Former Director of Immigration Policy and Special Advisor for Refugee and Asylum Affairs
U.S. Department of Homeland Security
Washington, D.C.

Ms. Anastasia Brown
Director of Resettlement Services, Migration and Refugee Services
U.S. Conference of Catholic Bishops
Washington, D.C.

Mrs. Jessica M. Vaughan
Director of Policy Studies
Center for Immigration Studies
Washington, D.C.



**U.S. Citizenship
and Immigration
Services**

WRITTEN TESTIMONY

OF

JOSEPH LANGLOIS

**ASSOCIATE DIRECTOR, REFUGEE, ASYLUM AND
INTERNATIONAL OPERATIONS DIRECTORATE
U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

FOR A HEARING ON

**“Eroding the Law and Diverting Taxpayer Resources:
an Examination of the Administration’s Central
America Minors Refugee/Parole Program”**

BEFORE

**THE SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND THE NATIONAL INTEREST**

APRIL 23, 2015

2:30 PM

**226 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC**

Chairman Sessions and distinguished Members of the Subcommittee: Thank you for the opportunity to testify at today's hearing on the Central American Minors Refugee and Parole Program. I am Joseph Langlois, the Associate Director of the Refugee, Asylum and International Operations (RAIO) Directorate within U.S. Citizenship and Immigration Services (USCIS) at the Department of Homeland Security (DHS). I supervise the overseas refugee program and certain parole programs within USCIS, and my testimony today will focus on the Central American Minors (CAM) Refugee and Parole Program.

The CAM Program is a new in-country refugee and parole processing program in El Salvador, Honduras, and Guatemala that provides certain minors from those countries a safe, legal, and orderly alternative to the dangerous journey across the Southwest border to reach the United States.

USCIS's Role in the U.S. Refugee Admissions Program (USRAP)

Before turning to the CAM Program, however, I would like to provide an overview of USCIS's role in refugee resettlement. USCIS works in close partnership with other components within DHS and with colleagues at the Department of State's Bureau of Population, Refugees, and Migration (PRM) and at the Department of Health and Human Services' Office of Refugee Resettlement (ORR) to meet the USRAP's mission of offering resettlement opportunities to eligible refugees while safeguarding the integrity of the program and our national security.

As you know, the United States has a proud, long-standing tradition of offering protection, freedom, and opportunity to refugees from around the world who live in fear of persecution and are often left to languish in refugee camps and other difficult situations overseas. USCIS remains dedicated to fulfilling this mission, in partnership with PRM and ORR, and continuing the United States' leadership role in humanitarian protection. An integral part of this mission is to ensure that refugee resettlement opportunities are provided to those who are eligible for such protection and do not present a risk to the safety and security of our country. We are committed to deterring and detecting fraud among those seeking to resettle in the United States, and we continue to employ the highest security measures to protect our national security.

As a representative of USCIS, I can assure you that this dedication to our humanitarian and national security mandates is shared inside and outside of DHS. The refugee resettlement program has forged strong and deep relationships with the law enforcement, national security, and intelligence communities, and we continue to benefit enormously from their expertise, analysis, and collaboration. It simply would not be possible for us to support a resettlement program of the size and scope that the United States has maintained for many years without this critical interagency infrastructure.

As I mentioned above, USRAP is a shared responsibility of the State Department and USCIS. The State Department is responsible for the overarching coordination and management of the USRAP, including determining which individuals or refugee groups are considered to be "of special humanitarian concern to the United States" under section 207 of the Immigration and Nationality Act (INA) and are therefore qualified to access the USRAP for resettlement consideration. Determinations regarding the overall refugee admissions ceiling, regional

admission allocations, and processing priorities are only made following formal, annual consultations with Congress, as required under the INA.

USCIS is responsible for conducting individual, in-person interviews with applicants to determine their eligibility for refugee protection. In 2005, to maximize flexibility and program integrity, USCIS created the Refugee Corps. The Refugee Corps is a cadre of specially-trained USCIS officers who are dedicated to adjudicating applications for refugee protection overseas. These officers are based in Washington, D.C., but they travel around the world to the locations where refugees reside. In addition, USCIS has a small number of officers posted at embassies overseas and assigns well-trained officers from other programs—such as the Asylum Corps and Office of the Chief Counsel—to supplement the Refugee Corps. Using this model, USCIS has been able to respond to an increasingly diverse population in the refugee admissions program.

Recognizing that a well-trained cadre of officers is critical to protecting the integrity of the refugee process, we have focused our efforts on providing the highest quality training to refugee adjudicators. In addition to the basic training required of all USCIS officers, refugee officers receive five weeks of specialized training that includes comprehensive instruction on all aspects of the job, including refugee law, grounds of inadmissibility, fraud detection and prevention, security protocols, interviewing techniques, credibility analysis, and country conditions research. Before deploying overseas, officers also receive pre-departure training, which focuses on the specific population that they will be interviewing. This training includes information on the types of refugee claims that they are likely to encounter, detailed country of origin information, and updates on any fraud trends or security issues that have been identified.

In order to fully explore refugee claims and to identify any possible grounds of ineligibility, specially-trained USCIS adjudicators conduct an in-person, in-depth interview of every principal refugee applicant. The officer assesses the credibility of the applicant and evaluates whether the applicant's testimony is consistent with known country conditions and all available evidence. These adjudicators also interview each accompanying family member age 14 and older to determine his or her admissibility to the United States. In addition, refugee applicants are subject to robust security screening protocols to identify potential fraud, criminal or national security issues. All refugee status determinations made by interviewing officers undergo supervisory review before a final decision is made.

Establishing the CAM Program

The President makes determinations regarding the number of admissions under the USRAP each fiscal year after appropriate consultations with Congress in accordance with section 207 of the INA. Under that process, the Executive Branch provides a report to the House and Senate Judiciary Committees, which is followed by in-person consultations between a Cabinet-level representative and Members of the Judiciary Committees. This year's report, submitted to Congress on September 17, 2014, and made available to the public the next day, described plans to launch the CAM Program, along with other in-country refugee programs planned for FY 2015. The CAM Program was also discussed with Committee and Subcommittee staff in preparation for the formal consultations. This year, Secretary Kerry provided the consultations with

Members of the Senate Judiciary Committee, while Secretary Johnson engaged in consultations with the House Committee. President Obama signed the Presidential Determination for FY 2015 on September 30, 2014, including the authorization for in-country refugee processing in El Salvador, Guatemala, and Honduras.

Vice President Biden announced the CAM Program publicly on November 14, 2014, at the Inter-American Development Bank as part of a broader U.S. commitment to working with Central American countries to help create the economic, social, governance, and security conditions to address factors contributing to increases in migration to the United States. Since that time, USCIS has worked closely with the Department of State and the White House to develop and implement the CAM Program, which began accepting applications on December 1, 2014. The USRAP has received 565 applications as of April 20, 2015, which are in various stages of prescreening before they are ready for USCIS interview: 439 for individuals in El Salvador, 114 for individuals in Honduras and 12 for individuals in Guatemala. As I mentioned earlier, the purpose of the CAM Program is to provide qualified children from El Salvador, Honduras and Guatemala a safe, legal, and orderly alternative to the dangerous journey across the Southwest border to the United States.

CAM Program Eligibility and Processing

The CAM Program allows certain parents lawfully present in the United States to request a refugee resettlement interview for their unmarried children under the age of 21 in El Salvador, Guatemala, and Honduras. The CAM program is not a pathway for undocumented parents to bring children to the United States. In addition, under certain circumstances, a parent with whom the child resides in one of the three countries will also be eligible to access the resettlement program in order to maintain family unity. This provision only applies if: (1) the parent seeking resettlement is part of the same household and economic unit as the qualifying child; (2) he or she is legally married to the qualifying parent at the time the qualifying parent in the United States files the CAM-Affidavit of Relationship; and (3) he or she continues to be legally married to the qualifying parent.

A multistep application process is in place whereby the parent or parents in the United States first contact a local resettlement agency, which helps them submit a request for refugee resettlement interviews for eligible children to the Department of State. In order to ensure that vulnerable children are not exploited by this program, we require DNA testing to verify that claimed biological parent-child relationships are genuine. This is comparable to the preexisting practice for DNA testing for family-based access to the resettlement program, known as "Priority 3." Once the Department of State receives DNA test results confirming the parent-child relationship, a USCIS officer will conduct an in-country interview with each applicant child to determine whether he or she is eligible for refugee resettlement. This includes a determination of whether he or she meets the refugee definition in INA section 101(a)(42) and is otherwise admissible to the United States.

Individuals who are determined not to meet the definition of a refugee but still to be at risk of harm will be considered on a case-by-case basis for a discretionary grant of parole. Parole allows certain individuals to enter the United States temporarily for urgent humanitarian

reasons or significant public benefit. A separate parole application and interview is not required to be considered for parole under the CAM Program; USCIS will make parole determinations based on the information elicited at the refugee interview. To grant parole under this program, USCIS must find that the individual is at risk of harm in his or her country and that the applicant merits a favorable exercise of discretion. Individuals granted parole under this program generally will be authorized to remain in the United States for an initial period of two years. Parole does not, in itself, lead to any permanent immigration status. To seek to remain in parole status in the United States, an individual will need to apply for re-parole prior to the expiration of parole status.

DHS has implemented combined refugee and parole programs previously. For example, from 1988-2011, the Immigration and Naturalization Service (INS) and then USCIS offered parole on a case-by-case basis to individuals from the former Soviet Union who were denied refugee status. From 1989-1999, INS also offered parole to certain Vietnamese applicants denied refugee status under the Orderly Departure Program.

All applicants under the CAM Program will be subject to thorough background screening, including biographic and biometric security checks. These are among the most thorough for any immigration benefit. For those who are approved for refugee protection, the State Department has a well-established process to conduct medical examinations and to schedule travel to the United States. Refugees receive a loan to pay for their travel, which they are required to repay. In order to receive approval for parole, an applicant must undergo medical screening at his or her own expense. Unlike those approved for refugee protection, individuals approved for parole will not be eligible for travel loans. To ensure the safety of children traveling, USCIS will require as a condition of parole that the family arrange travel to the United States through an approved intermediary.

As stated previously, to date, USCIS has not yet interviewed any applicants for refugee or parole status through this program in any of the three countries. The USCIS Refugee Affairs Division expects to begin conducting interviews as soon as cases have completed the prescreening process and become ready for interview. Given that interviews have yet to take place this fiscal year, there will likely be relatively few minors from Central America who will be admitted under this program to the United States in FY 2015.

Conclusion

USCIS is committed to offering protection to qualified refugees, while maintaining a strong, unequivocal position to combat fraud and safeguard national security. The same rigorous security screening protocols that are in place for other refugee populations are being employed with this program. Well-trained USCIS officers will conduct thorough interviews of all applicants to elicit their claims, evaluate them based on known country conditions information, and assess applicants' credibility.

USCIS will continue to work cooperatively with the State Department to implement this program. Thank you for the opportunity to testify. I would be happy to answer any questions.

**Statement of Simon Henshaw
Principal Deputy Assistant Secretary
Bureau of Population, Refugees, and Migration
U.S. Department of State
Before the
Senate Committee on the Judiciary
Subcommittee on Immigration and the National Interest
April 23, 2015**

Chairman Sessions, Ranking Member Schumer, and distinguished Members of the subcommittee, the Department of State appreciates the opportunity to appear before the Subcommittee on Immigration and The National Interest along with U.S. Citizenship and Immigration Services (USCIS) to talk about the Administration's new in-country refugee/parole program for certain minors in Central America. The U.S. government is taking an integrated and comprehensive approach to address the underlying economic and security challenges facing Central American countries and the unlawful migration of unaccompanied minors across the U.S. border. The Administration has launched the refugee/parole program as part of that effort. As previewed in the Administration's FY15 Report to Congress on Proposed Refugee Admissions and in consultations with Congress last September, this in-country refugee and parole processing program allows certain parents who are lawfully present in the United States to request U.S. resettlement for their children currently still in El Salvador, Guatemala, and Honduras.

The Administration established the program to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to join their parents in the United States. Our goal is to extend protection to those children with legitimate humanitarian claims while providing an effective alternative to irregular migration driven by dangerous criminal smuggling networks. Taken together with the efforts of Central American leaders and other U.S. government efforts, we believe this measure will help keep people from sending children on this dangerous journey. Addressing these issues requires cooperation and partnership—with Central American governments taking the lead in creating better economic, social, governance and security conditions; and with the private sector, development banks, and international donors. That is why the Obama Administration has asked Congress for one billion dollars in assistance for the region. This is critical, as is having a fairer, safer, and more humane system for identifying children eligible for humanitarian protection and bringing them to the United States.

To apply, an eligible parent in the United States must complete a form with the assistance of a State Department-funded resettlement agency. There are nearly 350 such agencies across the United States in 180 communities. This list is available on our website where we also have information in Spanish and English. Once an application is submitted by a parent, a caseworker from the International Organization for Migration (IOM), acting on the U.S. Government's behalf, will contact the child in one of the three countries to arrange an in-person pre-screening appointment. A parent of the child still living in the country of origin may be added to the child's case, if that parent resides with the child and is currently married to the U.S.-based parent who filed the petition.

After IOM conducts the initial pre-screening with each minor, the Department of Homeland Security (DHS) will conduct interviews with the minor to determine whether he or she is eligible for refugee resettlement, including whether he or she meets the refugee definition in the Immigration and Nationality Act (INA) Section 101(a)(42) and is otherwise admissible to the United States. All applicants must complete all required security checks and obtain a medical clearance prior to travel to the United States. For approved refugees, the Resettlement Support Center (RSC) will arrange travel to the United States.

There is a required DNA testing component to this program – to verify biological parent-child relationships claimed in the application. DNA testing is a mechanism to deter fraudulent relationship claims in order to gain access to the program, a measure we already employ successfully in our refugee family reunification program. Once the U.S.-based parent is notified to initiate the DNA testing process, he or she arranges and covers the costs for a certified lab to ship a testing kit to the child's location. When the biological relationship is verified, the lab sends the results to both the parent initiating the process and to the Department of State, which coordinates further processing. DHS then takes the lead in reviewing the case to verify which applicants will have access to the program.

Children admitted as refugees under this program will be assigned to a U.S.-based resettlement agency that will facilitate reunification with the parent and help the child after arrival with such things as enrolling in school. Children found by USCIS to be at risk of harm but not eligible for refugee resettlement will be considered on a case-by-case basis for parole, which is a discretionary mechanism under U.S. law to allow someone to come to the United States for urgent

humanitarian reasons or significant public benefit. USCIS will provide more detail on the parole component of the program.

We have received 565 applications to date: 439 for El Salvador, 114 for Honduras, and 12 for Guatemala. These applications are being processed and we hope to begin USCIS interviews in May or June for those who have submitted the required DNA evidence of the parent-child relationship. If an applicant informs us that he or she is facing imminent danger, we have the capacity to expedite processing and/or work with NGO and IO partners to identify safe shelter as appropriate. The Department of State continues to monitor the protection environments for the children in each of the three countries to assess the needs of the minors during the application period. The Department of State is in regular contact with NGOs operating in the region to assess the changing environment and provide further guidance and training on the program, as necessary.

The Department of State and USCIS have conducted considerable outreach on this program, and the results are beginning to show with increased applications in recent weeks. Overall, the Department of State has explained this program to almost 40 media outlets since December. We have conducted more than 20 interviews with Spanish-language media in the United States and the region. Additionally, we have provided information to the press via a dozen background interviews. We continue to collaborate with DHS/USCIS to engage the embassies and consulates of El Salvador, Guatemala and Honduras present in the United States as well as other stakeholders in the United States via outreach seminars. Fact sheets and frequently asked questions are available in Spanish and English on the Department of State/PRM and USCIS websites. Finally, with the support of our embassies abroad we continue to expand outreach efforts in all three countries.

Thank you for the opportunity to testify about this humanitarian program that is designed to provide a safe, legal, and orderly alternative to the dangerous journey that some children are undertaking to reach the U.S. I would be happy to answer any questions.

Testimony of Jan C. Ting

Professor of Law, Temple University Beasley School of Law, Philadelphia
(Former Assistant Commissioner, Immigration and Naturalization Service, U.S.
Department of Justice)

United States Senate Committee on the Judiciary

Subcommittee on Immigration and the National Interest

April 23, 2015, Dirksen 226, 2:30 p.m.

“Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration’s Central American Minors Refugee/Parole Program”

I.

I first want to thank Chairman Sessions, and all members of the Subcommittee on Immigration and the National Interest for the invitation and opportunity to testify on the Obama administration’s Central American Minors (CAM) Refugee/Parole Program and its Haitian Family Reunification Parole Program (HFRP), both announced in late 2014.

Both programs arise in the larger context of expanding use of parole power by the executive branch over many decades, and efforts by the Congress to limit the exercise of that power. Both programs also arise in the immediate context of President Obama’s executive orders for deferring immigration enforcement action against certain childhood arrivals announced in 2012, and a larger deferred action announced in 2014 for parents of citizen or legal resident children, and expanding the category of childhood arrivals qualifying for deferred action.

Immigration parole was codified in the 1952 Immigration and Nationality Act. Both after that enactment, and before as administrative practice, parole was used mainly to permit the temporary release of aliens in exclusion proceedings

pending a final decision on their admissibility or inadmissibility. The 1952 Act authorized the Attorney General to parole aliens “temporarily under such conditions as he may prescribe for emergent reasons or reasons deemed strictly in the public interest.”

In 1958 the U.S. Supreme Court explained that, “The parole of aliens seeking admission is simply a device through which needless confinement is avoided while administrative proceedings are conducted.”¹ By that time, however, President Eisenhower had begun the practice of using the parole power to bring 30,000 Hungarian refugees to the U.S. whose entry was not otherwise authorized, after the failed 1956 Hungarian uprising. Later presidents used the parole power to allow the entry of large numbers of refugees from Cuba and Indochina after communist revolutions there.

Congress responded to this generous use of the parole power by enacting in the Refugee Act of 1980 an explicit ban on the paroling of refugees except for compelling reasons in the public interest pertaining to particular individual aliens.² Congress felt that other provisions of the 1980 Refugee Act were sufficient protection for refugees.

After 1980, presidents continued to use the parole power to admit large numbers of Cubans, Haitians, and Soviet nationals who did not qualify as refugees. Congress responded to that practice in 1996 by restricting the parole power to “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit”.³

According to the report of the House Judiciary Committee in 1996 when that language was added to the statute, “Parole should only be given on a case-by-case basis for specified urgent humanitarian reasons, such as life-threatening medical emergencies, or for specified public interest reasons, such as assisting the government in law-enforcement-related activity. *It should not be used to*

¹ *Leng May Ma v. Barber*, 357 U.S. 185 (1958).

² INA Section 212(d)(5)(B).

³ INA Section 212(d)(5)(A).

circumvent Congressionally-established immigration policy or to admit aliens who do not qualify for admission under established legal immigration policies (emphasis added).⁴ Judicial notice of this reason for the 1996 change restricting the parole power appears in a 2011 opinion from the U.S. 2nd Circuit Court of Appeals which states that Congress' concern in enacting this legislation was that "parole under § 1182(d)(5)(A) was being used by the executive to circumvent congressionally established immigration policy."⁵

By executive order in 2012, President Obama offered illegal aliens work authorization and other benefits if they qualified for "deferred action" as "childhood arrivals" (DACA) under the age of 31 as of June 15, 2012. By another executive order announced on November 20, 2014, those deferred action benefits were extended to "childhood arrivals" regardless of age, and to parents of U.S. citizen or legal permanent resident children (DAPA). Operation of the second executive order has been temporarily enjoined by Federal judge Andrew Hanen of the Southern District of Texas.

In 2014 the United States experienced a "surge" of alien minors and families across our southern border. According to Department of Homeland Security statistics, 68,541 unaccompanied alien minors were apprehended at the border in 2014, an increase of 945% over the 6,560 apprehended in 2011, before President Obama's DACA executive order was announced. In addition, 68,445 alien family members traveling together were apprehended at the border in 2014, an increase of 815% over the number apprehended in 2011.

Central American newspapers reported that U.S. government policies now permitted unauthorized alien minors to enter the U.S. and stay, and reported that

⁴ Section 523, House REPT. 104-469 on HR 2202 (March 4, 1996).
<https://www.congress.gov/104/crpt/hrpt469/CRPT-104hrpt469-pt1.pdf>.

⁵ Cruz-Miguel v. Holder, 650 F.3d 189, 198-200 (2nd Cir. 2011), footnote 15.

such migrants received accommodations, food, and English classes before being reunited with family members in the U.S.⁶

As a result of the border “surge”, the Wall Street Journal has reported growing backlogs and delays in removal hearings scheduled to be heard in the U.S. immigration court system. “Nonpriority” cases are being bumped off the court docket and assigned a November 29, 2019, court date as “a bureaucratic placeholder.”⁷

II.

Both the CAP and HFRP appear to exceed the parole authority under INA Section 212(d)(5) as enacted and as intended by Congress. Both programs contemplate the availability of parole for broad categories of beneficiaries defined by nationality who would not qualify as refugees or for admission under established immigration admission policies.

Legal precedent is claimed for HFRP, but not for CAP, in the 2007 Cuban Family Reunification Parole program.⁸ Perhaps this is because the Cuban and Haitian parole programs require family sponsors who are either U.S. citizens or legal permanent residents. In sharp contrast, CAP allows as sponsors qualifying parents who are “lawfully present in the United States”, which is defined as not limited to U.S. citizens and legal permanent residents, but also includes parolees

⁶ Chumley, Cheryl K., “El Salvador, Honduras newspapers tell youth: Go north—U.S. life is good,” Washington Times, June 12, 2014. <http://www.washingtontimes.com/news/2014/jun/12/el-salvador-honduras-media-tell-youth-go-north-us/>.

⁷ Barrett, Devlin, “Save the Date: Immigrants Face Judge in 2019”, page A6, The Wall Street Journal, January 29, 2015.

⁸ USCIS press release, October 17, 2014, “DHS To Implement Haitian Family Reunification Parole Program”.

and beneficiaries of deferred action, and even beneficiaries of withholding of removal.⁹

Although President Obama's DACA and DAPA executive orders have been defended as mere exercises of prosecutorial discretion, it is clear that they are more than that. They offer work authorization, allowing illegal immigrants to compete legally and directly with U.S. citizens and permanent residents for jobs in the United States. They offer social security numbers allowing access to social security, medicare, and other benefits.

And while proponents say deferred action beneficiaries will pay income taxes, the reality particularly for DAPA beneficiaries is that many will instead take revenue from the federal treasury in the form of refundable Earned Income Tax Credits (EITC) available only to low-income taxpayers with social security numbers. The Internal Revenue Service has ruled that illegal aliens who are disqualified from receiving the EITC can retroactively receive EITC benefits for years worked without a valid Social Security number if, after receiving a valid Social Security number, they file an amended return for the previous years worked.¹⁰

We now also know that among the benefits that illegal immigrant DAPA beneficiaries may receive is the ability through CAP to bring children from their home countries to join them in the United States through parole, even though those children like their sponsoring parents do not otherwise qualify for admission under established legal immigration policies.

Although the deferred action executive orders have been described as not providing a pathway to citizenship, the reality is that even that benefit is available to DACA and DAPA beneficiaries. Many DACA beneficiaries will eventually qualify for green cards either through marriage to a U.S. citizen or through

⁹ USCIS, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM), last updated 02/09/2015.

¹⁰ Chief Counsel Advice No. 200028034, June 9, 2000, <http://www.irs.gov/pub/irs-wd/0028034.pdf> (last accessed 4/22/2015).

employer sponsorship or in some other way like the green card lottery. Many DAPA beneficiaries will qualify for green cards when their U.S. citizen minor children attain the age of 21, at which they can sponsor their parents as immediate relatives.

Any alien who qualifies for an immigrant visa which is currently available (always the case for immediate relatives) can apply for and claim it at a U.S. consulate abroad. But if deferred action beneficiaries try to do that, most will be barred from re-entering the U.S. because their illegal presence in the U.S. for more than one year makes them inadmissible for ten years after their departure from the United States.¹¹

There is a statute that allows some aliens who are in the U.S. already to claim an available immigrant visa in the U.S., without departing from the U.S. or triggering the statutory 10-year inadmissibility bar. But that statute providing “adjustment of status” is only available to aliens “admitted or paroled” into the U.S., and those who have entered illicitly without inspection do not qualify.¹²

Generous exercise of the parole power may clear the pathway to citizenship for deferred action beneficiaries when they qualify for an immigrant visa. The Board of Immigration Appeals, a branch of the U.S. Department of Justice, ruled in 2012 in *Matter of Arrabelly*, that despite prior illegal presence in the U.S., an alien departing from the U.S. with an advance parole allowing later re-entry is not a departure under INA Sec. 212(a)(9)(B)(i)(II) which would trigger the 10-year inadmissibility bar.¹³

So upon returning to the U.S. under an advance parole, the alien having been “paroled” now magically satisfies the threshold requirement of INA Section 245 and qualifies for adjustment of status, and can claim the immediately available immigrant visa without leaving the U.S.

¹¹ INA Section 212(a)(9)(B)(i)(II) (8 U.S.C. Sec. 1182(a)(9)(B)(i)(II)).

¹² INA Section 245(a) (8 U.S.C. Sec. 1255(a)).

¹³ 25I&N Dec. 771 (BIA, 2012), <http://www.justice.gov/eoir/vll/intdec/vol25/3748%28final%29.pdf>.

USCIS has made clear its expansive interpretation of the parole power. In USCIS Form I-131, “Instructions for Application for Travel Document”, the agency specifies on page 4 for DACA beneficiaries that “USCIS may, in its discretion, grant advance parole if you are traveling outside the United States for *educational* purposes, *employment* purposes, or humanitarian purposes (emphasis added).” Does this seem consistent with the language of and congressional intent behind INA Sec. 212(d)(5) authorizing parole into the United States “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit”?

Although the administration has not yet mentioned the possibility of advance parole for DAPA beneficiaries, it seems likely that the expansive interpretation of parole power will also be available to DAPA beneficiaries, another benefit awaiting them if and when the temporary injunction blocking that program is lifted. Possession of an immigrant visa/green card is the essential prerequisite for naturalization as a U.S. citizen.¹⁴

III.

I remain puzzled by the administration’s dogged efforts to bring more immigrants into the United States in the face of restrictions enacted by Congress. Ever since Congress started limiting the numbers of immigrants, our courts have repeatedly found that protecting the jobs and wages of Americans was one of “great” and “primary” purposes of Congress for limiting immigration.¹⁵

In 2002, in *Hoffman Plastic Compounds v. NLRB*, the Supreme Court found “combatting the employment of illegal aliens in the United States central to the policy of immigration law.”¹⁶ In overturning the decision of an executive branch

¹⁴ INA Sections 316, 319 (8 U.S.C. Sec. 1427, 1430).

¹⁵ See, for example, *Karmuth v. United States*, 279 U.S. 231, 244 (1929) and *Sure-Tan v. United States*, 467 U.S. 883, 893 (1984).

¹⁶ 535 U.S. 137 (2012).

agency to provide benefits to illegal aliens, the high court said that allowing such benefits would “unduly trench upon explicit statutory prohibitions critical to federal immigration policy” and “would encourage the successful evasion of apprehension by immigration authorities, condone prior violations of the immigration laws, and encourage future violations.”

But that is what President Obama is doing by ordering executive branch agencies to issue work authorization to millions of illegal aliens so they can compete directly with American workers for jobs.

The latest official jobs report shows 8.6 million Americans unemployed and looking for work, plus 6.7 million involuntary part-time workers counted as employed but who can't find full-time work, and 2.1 million marginally attached to the labor force and not looking for work, many discouraged by long unemployment. Nearly 47 million Americans are receiving food stamps, almost one in six.

Lack of jobs with good wages is at the root of most of America's social problems. Jobs have been outsourced and lost to automation. Does anyone think the technology and globalization revolutions have ended? But business leaders want more immigration to hold down labor costs and keep profits and the stock market rising.

It is the job of Congress to balance the interests of business and labor, to set limits on immigration that allow the economy to innovate and expand, while also allowing American workers to share in the prosperity of a growing economy. Congress has enacted immigration limitations that, in its judgment, strike the right balance, and it can modify those limitations at any time. But because President Obama has failed to get lawmakers to enact the modifications he wanted, he feels justified to unilaterally promulgate new immigration rules.

Low-wage American workers are organizing to demand a \$15/hour wage. Good luck with that since employers know that President Obama will issue 5 million new work authorizations to illegal immigrants if the courts allow him to.

The courts should not allow him to. In 1952 the Supreme Court ruled that President Truman lacked authority to seize steel mills even in wartime in the absence of authority in the Constitution or conferred by Congress. As Justice Robert Jackson famously explained, “When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum,” but, “When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb.”¹⁷

Even the 33-page Nov. 19, 2014, opinion of the Office of Legal Counsel, on which President Obama relied in issuing his DAPA executive order, warned that “the Executive cannot, under the guise of exercising enforcement discretion, attempt to effectively rewrite the laws to match its policy preferences.”¹⁸ The opinion also noted that, “Abdication of the duties assigned to the agency by statute is ordinarily incompatible with the constitutional obligation to faithfully execute the laws.”¹⁹

This concludes my testimony, and I again thank Chairman Sessions and all the members of the subcommittee for the invitation and opportunity to testify today.

¹⁷ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

¹⁸ At page 6.

¹⁹ At page 7.



Testimony of

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*Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's
Central American Minors Refugee/Parole Program*

Before

U.S. Senate Committee on the Judiciary, Subcommittee on Immigration and the
National Interest

April 23, 2015

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to appear before you today for this examination of the new Central American Minors Refugee/Parole Program that began in December 2014.

My statement provides background about United States in-country refugee processing programs as the context for the Central American Minors program (CAM). It also outlines some of the policy questions surrounding in-country refugee processing. I am familiar with a number of the programs and the policy debates that surrounded them from my time in government as Executive Associate Commissioner of the Immigration and Naturalization Service (INS) in the 1980s when I had responsibility for the INS role in the first such in-country programs, and later as INS Commissioner in the 1990s for subsequent in-country processing programs.

The History of In-Country Refugee Processing Programs

A refugee is defined by U.S. and international law as any person who is outside his or her country of nationality and is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.¹ Under a lesser known-provision of the *Immigration and Nationality Act* (INA), the president in special circumstances may specify that any person *within* his or her country of nationality may also meet the refugee definition.²

Beginning in 1979 the United States has administered in-country processing through special programs for select countries during and in the aftermath of periods of war, political repression and other humanitarian crises: Vietnam from 1979-2009, Haiti from 1992-1995 and Cuba from 1987-present. A long-standing designation for certain groups of individuals in Eurasian and Baltic states still exists, in addition to a recent, narrowly focused program in operation in Iraq since 2008.

¹ *Immigration and Nationality Act* (INA) § 101(a)(42); United Nations, *Convention and Protocol Relating to the Status of Refugees*, Article I (New York: United Nations, 1951), www.unhcr.org/3b66c2aa10.html.

² INA § 101(a)(42)(B); The president issues an annual presidential determination establishing refugee admissions ceilings and a list of countries authorized for in-country refugee processing for each fiscal year. The FY 2015 determination, for example, specifies that persons in Cuba, Eurasia and the Baltics, Iraq, Honduras, Guatemala and El Salvador, and, in exceptional circumstances, persons identified by a U.S. Embassy in any location, are eligible for in-country refugee status consideration and resettlement.² See the White House, "Presidential Memorandum, Refugee Admissions for FY 2014" (memorandum for the Secretary of State, October 2, 2013), www.whitehouse.gov/the-press-office/2013/10/02/presidential-memorandum-refugee-admissions-fiscal-year-2014.

Below are the countries and groups eligible to seek refugee status through in-country programs as designated in presidential determinations dating to FY 1994.

Table 1. In-County Programs by Presidential Determination, FY 1994-2015*

1994-1995	Vietnam Cuba Haiti Former Soviet Union
1996-2004	Vietnam Cuba Former Soviet Union
2005-2008	Vietnam Cuba Former Soviet Union In exceptional circumstances, persons identified by a U.S. Embassy in any location**
2009	Vietnam Cuba Former Soviet Union Iraq In exceptional circumstances, persons identified by a U.S. Embassy
2010-2011	Cuba Former Soviet Union Iraq In exceptional circumstances, persons identified by a U.S. Embassy
2012-2014	Cuba Eurasia and the Baltics Iraq In exceptional circumstances, persons identified by a U.S. Embassy
2015	Cuba Eurasia and the Baltics Iraq Honduras, Guatemala and El Salvador In exceptional circumstances, persons identified by a U.S. Embassy

* Presidential determinations, which have been issued since 1980, are not included for fiscal years earlier than 1994 because they are not publicly available on a consistent basis.

** The State Department in the FY 2005 *Proposed Refugee Admissions* document first proposed to extend in-country processing authority to any location in the world on a trial basis during FY 2005 “to meet the needs of extraordinary individual protection cases for whom resettlement is requested by a U.S. ambassador.” The language has been included each year since.

Source: The White House, Presidential determinations, FY 1994-2015.

The United States thus has operated several in-country refugee programs at any one time for more than 20 years. A brief overview of the programs — Vietnam, Cuba, Eurasia and the Baltics, Haiti and Iraq — follows:

- **Vietnam:** The United States designated Vietnam for in-country processing from 1979 through 2009, with the program passing through several different phases. In-country processing in Vietnam began with the Orderly Departure Program (ODP), created in response to a massive exodus of boat people fleeing post-Vietnam War upheaval. Initially an “automatic presumption of refugee status” allowed almost all applicants to qualify for admission and resettlement in the United States.³ Criteria were added in 1988 to restrict the program to people eligible for immigrant visas because of family members already in the United States, former U.S. government employees and others closely associated with the U.S. presence in Vietnam before 1975, including Amerasians and their family members.⁴ Those found ineligible for refugee status were eligible to enter the United States as Public Interest Parolees, a humanitarian program implemented by the Attorney General in February 1989.⁵ In total, the ODP processed more than 523,000 individuals for admission.⁶ After the ODP ended in 1999 Vietnam remained designated for in-country processing and the criteria permitted applications from one-time “re-education center” detainees and adult children whose parents were Vietnamese re-education camp survivors.⁷
- **Cuba:** Cuba’s in-country program began in 1987 and is still operational.⁸ It was put in place to stem irregular boat migration, which has occurred in sizeable waves since the 1959 Cuban revolution. The refugee admissions program was originally designed for former political prisoners. Eligibility was expanded in 1994 and currently includes former political prisoners, members of persecuted religious minorities, human-rights activists, forced labor conscripts during 1965-1968, those deprived of their professional credentials or subjected to other harsh or discriminatory treatment because of their political or religious

³ See General Accounting Office (GAO), *The Orderly Departure Program from Vietnam: Report to the Chairman, Subcommittee on Immigration, Refugees, and International Law, Committee on the Judiciary, House of Representatives* (Washington, DC: GAO, 1990) <http://archive.gao.gov/r2pbat10/141353.pdf>.

⁴ Under the INA, Amerasians are individuals who were born in Korea, Vietnam, Laos, Kampuchea (Cambodia) or Thailand between January 1, 1951 and October 21, 1982 and fathered by a U.S. citizen. See U.S. Citizenship and Immigration Services (USCIS), “Green Card for an Amerasian Child of a U.S. Citizen,” last updated March 22, 2011, www.uscis.gov/green-card/other-ways-get-green-card/green-card-amerasian-child-us-citizen.

⁵ Similar to parole elements of the Central American Minors (CAM) program, Vietnamese Public Interest Parole was available to those able to prepay their travel expenses and obtain affidavits of support from sponsors in the United States.

⁶ U.S. Department of State, Bureau of Population, Refugees and Migration, “Refugee Admissions Program for East Asia” (fact sheet, January 2004), <http://2001-2009.state.gov/g/prm/ds/fs/2004/28212.htm>.

⁷ In 1997, Sen. John McCain (R-AZ) sponsored a provision enacted in that year’s *Omnibus Consolidated Appropriations Act* that afforded eligibility to adult children whose parents were Vietnamese re-education camp survivors. The *McCain Amendment* was revised and extended several times until being repealed in 2009.

⁸ The program had originally opened in 1984 but was suspended later that year and resumed in 1987.

beliefs and others who face persecution.⁹ Since 1995, an average of approximately 3,300 Cubans have arrived each year through the in-country processing program.¹⁰

- ***Eurasia and the Baltics:*** Eurasia and the Baltics (previously the Soviet Union and then the Former Soviet Union) were originally designated for in-country processing through the Lautenberg Amendment, passed in 1989 to offer humanitarian protection to religious minorities. The in-country designation extends to those covered by the *Lautenberg Amendment*, including Jews, evangelical Christians and Ukrainian Catholic and Orthodox religious adherents who also have close family in the United States.¹¹ Also under the amendment, these individuals are considered for refugee status under a reduced evidentiary standard for establishing a well-founded fear of persecution.¹²
- ***Haiti:*** Haiti's in-country program operated from 1992 to 1995 and was created in response to a military coup in 1991 that led to deteriorating human-rights conditions and prompted thousands of Haitian nationals to flee the country, attempting to reach the United States by boat. Application centers were established in three locations around the country. The initial criteria included formal political prisoners, human-rights activists, those subjected to harsh or discriminatory treatment because of their political beliefs or activities, those fearing persecution because of their leadership roles in political or religious organizations, former government officials or those in fields that may be targeted (such as journalism), dissidents and other refugees of compelling concern to the United States. These criteria were periodically revised over the course of the program. Nearly 6,000 Haitians were settled through the in-

⁹ U.S. Department of State, Bureau of Population, Migration and Refugee Affairs, *Report to the Congress on Proposed Refugee Admissions for FY 1995* (Washington, DC: State Department, 1994), http://dosfan.lib.unc.edu/ERC/population/1995_Refugee_report.html.

¹⁰ Migration Policy Institute (MPI) analysis of data from Ruth Ellen Wasem, *Cuban Migration to the United States: Policy and Trends* (Washington, DC: Congressional Research Service, 2009), www.fas.org/spp/crs/row/R40566.pdf; U.S. Department of State, Bureau of Population, Refugees and Migration, "Refugee Arrivals by Processing Country," October 1, 2013 – September 30, 2014, [www.wrapsnet.org/Portals/1/Arrivals/Arrivals%20FY%202014/Arrivals%20by%20Processing%20Country%20and%20Nationality%20-%20Map\(10.6.2014\).pdf](http://www.wrapsnet.org/Portals/1/Arrivals/Arrivals%20FY%202014/Arrivals%20by%20Processing%20Country%20and%20Nationality%20-%20Map(10.6.2014).pdf).

¹¹ The *Lautenberg Amendment* was first passed in 1989 as a provision of the *FY 1990 Foreign Operations Appropriations Act* and was amended in 2004. It has been periodically extended, most recently in the *Consolidated and Further Continuing Appropriations Act of 2015*, Public Law No. 101-167, § 599D, 103 Stat. 1261 (1989) (codified at 8 U.S.C. § 1157) as amended ("Lautenberg Amendment").

¹² Andorra Bruno, *Refugee Admissions and Resettlement Policy* (Washington, DC: Congressional Research Service, 2015), www.fas.org/spp/crs/misc/RL31269.pdf.

country refugee program by 1994, out of 55,000 applications representing more than 106,000 people.¹³

- **Iraq:** Iraq's program began in 2008 and continues today. Its aim is to offer protection to a small number of Iraqis who worked with or were associated with the U.S. government during the Iraq War and U.S. military involvement in the country from 2003 to 2011. The eligibility criteria include U.S. government employees, U.S. government-funded contractors or grantees, those working in Iraq for U.S.-based media or NGOs, certain family members of such employees, those with certain close U.S. citizen or lawful permanent resident relatives living in the United States with approved immigrant visa petitions, members of religious or minority communities with a close relative in the United States or other persecuted groups designated by the Secretary of State.¹⁴ In FY 2014, approximately 10,000 individuals arrived as refugees from Iraq through the in-country program.¹⁵

Common Characteristics and Dilemmas about In-Country Processing Programs

In general, in-country programs aim to improve access to humanitarian protection and regulate refugee and humanitarian admissions to the United States under conditions of extreme danger, loss of life and sizeable numbers. In my experience, in-country programs have come about largely when policymakers are under severe operational and public pressure to respond to unmanageably large, life-threatening flows or when refugee processing and admissions advance broader foreign policy commitments or goals. Several programs represent a blend of these circumstances.

Refugee-policy and human-rights professionals — including the UN High Commissioner for Refugees (UNHCR) and the responsible U.S. government agencies — are hesitant to establish and administer in-country programs because although

¹³ Statement by Peter Tarnoff, Acting Secretary, Department of State, and Phyllis Oakley, Assistant Secretary, Bureau of Population, Refugees and Migration, Department of State, prepared for the annual refugee consultation hearing before the Senate Committee on the Judiciary, Subcommittee on Immigration, August 1, 1995, <https://archive.org/stream/annualrefugeecon00unit#page/4/mode/2up/search/Haiti>.

¹⁴ U.S. Department of State, Department of Homeland Security and Department of Health and Human Services, *Proposed Refugee Admissions FY 2014*, Report to the Congress (Washington, DC: Department of State, Department of Homeland Security and Department of Health and Human Services, n.d.), www.state.gov/documents/organization/219137.pdf.

¹⁵ Figure represents refugee arrivals to the United States processed in Iraq; it can be assumed that nearly all of these individuals were Iraqis processed through the in-country program. See Refugee Processing Center, "Map Arrivals by Processing Country and Nationality," accessed April 21, 2015, www.wrapsnet.org/Reports/AdmissionsArrivals/tabid/211/Default.aspx.

statutorily authorized in U.S. law, the premise for in-country processing is at odds with international convention principles that a refugee is someone *outside* his/her country escaping persecution or the threat of persecution. In addition, it is difficult to reach and protect people within their countries who may be at serious risk. Thus, programs have been established only under extreme circumstances in an attempt to provide an alternative to dangerous outflows.

In-country programs aimed at responding to large outflows typically have been implemented in combination with tough enforcement programs intended to curtail sizeable, dangerous flows, as in Cuba, Haiti and Vietnam. Similarly, in the Central American case, the United States and Mexico initially responded to the spring and summer migrant surge by quickly stepping up anti-smuggling measures, migrant interdictions and deportations beginning in June of 2014, while the in-country program has taken longer to stand up, and did not become operational until December 2014.

For these reasons, some argue that stanching outflows and restoring orderly processes outweigh the goals of rescue and protection. Others see the programs as a partial response to discourage mass outflows that also provides protection through safer, more orderly processes, albeit for limited numbers.

The programs share several additional characteristics:

- Widely different numbers of admissions, depending on the nature of the flows and program criteria
- Both broad and narrowly drawn criteria, reflecting distinct program and policy goals that are tailored to the countries and humanitarian circumstances of concern to the United States
- Long duration due to the intractability of the underlying conditions causing protection needs
- Adjustments to program criteria over time, based on experience and changes in humanitarian circumstances
- Congressional authorization either through explicit direction or the annual refugee consultation process
- Supplementary use of parole to admit persons with compelling humanitarian claims who are not eligible for refugee status.

In-country programs have been controversial throughout their history. Experience with the programs has led to a number of general critiques, discussed below.

Admissions criteria in some programs have been seen as catering to limited subsets of people while excluding others who are equally, if not more, in need of protection. The

human-rights community argues this was particularly true in Haiti, when admission criteria singled out groups such as journalists, activists and former government officials, all of whom were part of the Haitian elite, whereas thousands of lower-class Haitians also suffered from persecution. On the other hand, the guidelines for the Vietnam and former Soviet Union programs were broad. They included eligibility for relatives of prior arrivals, a presumption of refugee status, and a reduced evidentiary standard for establishing a fear of persecution.

The application process may also be an important determinant of how effectively in-country processing provides an alternative to desperate departures. Absent safeguards to protect applicants, applying for refugee resettlement from within one's country can expose already vulnerable people to more danger. For example, centers where applicants are required to appear in person to submit documents and attend interviews have sometimes been located in busy areas of major cities. For likely refugees in dangerous countries, traveling long distances to application centers and appearing at known processing locations can pose major risks.

Lengthy processing times and case adjudication can also undermine the goal of refugee protection. For many reasons, refugee processing has become an increasingly drawn-out procedure that involves multiple interviews, medical and extensive security clearances, and DNA testing to validate family relationships. For in-country programs, six months to process a case would be considered fast. Close to a year to adjudicate the case is more likely. This may be particularly so with child applicants. Thus, the very people for whom the programs are intended — because they are in imminent danger — may be at serious risk when trying to access such programs.

Many have therefore argued that if an in-country refugee processing program does not ensure the safety and confidentiality of applicants and takes unduly long to complete, people in danger are unlikely to come forward and those facing extremely dire situations will bypass the refugee processing option and flee their country. For these reasons, in-country processing has been criticized as “orderly departure programs for immigration rather than protection for persons fleeing persecution.”¹⁶

The Central American Minors (CAM) Refugee/Parole Program

Against this backdrop, the newest in-country program — CAM — is for minors in El Salvador, Guatemala and Honduras. As with prior in-country programs, it was established in response to a humanitarian migration emergency: partly in response to endemic violence, thousands of children and families have fled Central America and

¹⁶ Norman L. Zucker and Naomi Flink Zucker, *Desperate Crossings: Seeking Refuge in America* (New York: Routledge, 1996), 139.

undertaken seeks to provide a legal, safe alternative to dangerous — sometimes deadly — unauthorized journeys to the United States in search of safety.¹⁷ The CAM program represents an element of the U.S. government's response to the 2014 surge in arrivals of unaccompanied minors that overwhelmed the capacities of immigration agencies to effectively respond.

CAM program criteria are specific and targeted — more similar to the Haitian and Iraqi programs than the expansive Vietnam and former Soviet Union programs. The criteria permit parents over the age of 21 who are lawfully present in the United States to request that their unmarried children under the age of 21 living in El Salvador, Honduras or Guatemala be admitted to the United States as refugees.

Qualifying children must meet the statutory definition of a refugee. If ineligible, they can be considered for humanitarian parole on a case-by-case basis.¹⁸ To be eligible, the Department of Homeland Security (DHS) must find that the minor is at risk of harm. Certain family members of qualifying minors may also be eligible, including a second parent who lives with the minor in Central America and is married to the U.S.-based parent, and any children of the qualifying minor.

As part of the CAM application process, U.S.-based parents are screened by a refugee resettlement agency, and children are screened by the International Organization for Migration (IOM). Those passing through this initial screening must then pay for and submit DNA testing results that prove their relationship. Once the biological relationship is confirmed, DHS interviews the child to determine whether he or she meets the definition of a refugee and is admissible to the United States.¹⁹ Applicants are required to undergo background checks and medical clearances. To be granted parole under the CAM program, the U.S.-based parent must also demonstrate that he or she can financially support their child.

¹⁷ A confluence of complex push and pull factors are responsible for the dramatic increases, including rising gang violence and crime in Central America, weak economic conditions in the region, U.S. policies toward child migrants, bi-national families' desires to reunify and sophisticated smuggling operations. For a fuller discussion, see Muzaffar Chishti and Faye Hipsman, "The Child and Family Migration Surge of Summer 2014: A Short-lived Crisis with a Lasting Impact," *Columbia Journal of International Affairs* 68 (2015), no. 2; and Marc R. Rosenblum, *Unaccompanied Child Migration to the United States: The Tension between Protection and Prevention* (Washington, DC: MPI, 2015), www.migrationpolicy.org/research/unaccompanied-child-migration-united-states-tension-between-protection-and-prevention.

¹⁸ In general, the Department of Homeland Security (DHS) has authority to parole otherwise inadmissible individuals into the United States for urgent humanitarian reasons; INA § 212(d)(5)(A).

¹⁹ A qualifying minor may also be a step or legally adopted child. Adopted children must have been in the legal custody of and resided with the adopting parent or parents for at least two years and be legally adopted before their 16th birthday. Parents must include adoption papers with the form DS 7699 and are given an opportunity to describe any non-traditional relationships that may require an explanation, including adoption, half- and step-relatives.

What Numbers May Be Eligible?

Refugees admitted through the CAM program count toward the U.S. Refugee Admissions Program's regional allocation for Latin America and the Caribbean, which is set at 4,000, out of a worldwide ceiling of 70,000 for FY 2015. These levels are set in annual presidential determinations and in consultation with Congress for the different world regions of Africa, East Asia, Europe and Central Asia, Latin America/Caribbean, Near East/South Asia and an unallocated reserve.

Regional allotments are not hard caps. There is flexibility for higher than anticipated numbers of refugees from Latin America this year.²⁰ Numbers from the unallocated reserve or other regions can be used to accommodate unforeseen refugee admissions needs. Admissions through parole are not subject to a cap.

Thus, estimating the numbers of Central American children who might be admitted depends on the number of eligible U.S.-based parents and qualifying minors in the region. Both are unknown. In total, an estimated 1.3 million Salvadoran, 902,000 Guatemalan and 534,000 Honduran immigrants reside in the United States.²¹ A majority of these populations are unauthorized and therefore could not meet the program's lawful presence requirement for parents.

Of those who might qualify, lawful permanent residents (LPRs) and Temporary Protected Status (TPS) holders constitute the two largest groups. About 330,000 Salvadorans, 190,000 Guatemalans and a smaller population of Hondurans have LPR status.²² An additional 204,000 Salvadorans and 61,000 Hondurans are residing in the United States under grants of TPS (Guatemala is not designated for TPS).²³ Estimates of potentially eligible parolees, holders of Deferred Enforced Departure (DED) status

²⁰ U.S. Department of State, "In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala and Honduras With Parents Lawfully Present in the United States" (fact sheet, November 2014), www.state.gov/i/prr/releases/factsheets/2014/234067.htm.

²¹ MPI tabulation of data from the U.S. Census Bureau's 2010 and 2013 American Community Surveys, and 2000 Decennial Census. MPI Data Hub, "U.S. Immigrant Population by Country of Birth, 1960-2013," www.migrationpolicy.org/programs/data-hub/us-immigration-trends#sources.

²² On average over the past decade, 22,000 El Salvadorans, 15,000 Guatemalans and 7,000 Hondurans become lawful permanent residents (LPRs) annually; DHS, *Yearbook of Immigration Statistics* FY 2012 and 2013 (Washington, DC: DHS, various years), www.dhs.gov/yearbook-immigration-statistics.

²³ Temporary Protected Status (TPS) is a form of temporary humanitarian relief granted to individuals from certain countries that have experienced armed conflict or natural disasters. TPS beneficiaries are protected from deportation and permitted to work in the United States but are not permanent residents or green card holders and cannot sponsor their relatives to immigrate to the United States. See USCIS, "Extension of the Designation of El Salvador for Temporary Protected Status," 80 *Federal Register* 893, March 10, 2015, <https://federalregister.gov/a/2015-00031>; USCIS, "Extension of the Designation of Honduras for Temporary Protected Status," 79 *Federal Register* 62170, October 16, 2014, <https://federalregister.gov/a/2014-24559>.

and withholding of removal grantees are not known, but these groups account for small numbers.

The share with qualifying children within each of these groups is also unknown. However, the largest group — permanent residents (see Table 2) — are already eligible to sponsor their children for immigrant visas under U.S. law. This visa category has a backlog of about two years at present but most permanent residents wishing to bring their children to the United States will most likely have already done so (or are in process) under immigration criteria that are less rigorous than those for refugee eligibility.

Table 2. Estimates of Qualifying Parents Potentially Eligible for CAM Program

	LPRs	TPS Holders	Unauthorized Immigrants
El Salvador	330,000	204,000	436,000
Guatemala	190,000	Not applicable	704,000
Honduras	Not available	61,000	317,000

Sources: For estimates of unauthorized immigrants, Migration Policy Institute; for estimates of lawful permanent residents (LPRs), Nancy Rytina, *Estimates of the Legal Permanent Resident Population in 2012* (Washington, DC: DHS, Office of Immigration Statistics, 2013); for Temporary Protected Status (TPS) estimates, U.S. Citizenship and Immigration Services (USCIS), “Extension of the Designation of El Salvador for Temporary Protected Status,” 80 *Federal Register* 893, March 10, 2015, and USCIS, “Extension of the Designation of Honduras for Temporary Protected Status,” 79 *Federal Register* 62170, October 16, 2014.

Those who are eligible to apply must then meet the statutory definition of a refugee by demonstrating a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.”²⁴ Although many Central American young people are threatened by gang violence and may have compelling humanitarian protection needs, experiencing gang recruitment or violence does not generally qualify as a basis for refugee status.²⁵ Thus, the availability of parole in especially serious cases may be an important element of the program. Its use will depend on the criteria DHS uses to determine when a minor is “in danger.”

²⁴ INA 101(a)(42).

²⁵ A UN High Commissioner for Refugees (UNHCR) survey found that 56 percent of unaccompanied children from Northern Triangle countries have potential international protection needs: 72 percent from El Salvador, 38 percent from Guatemala and 57 percent from Honduras. See UNHCR, *Children on the Run* (Washington, DC: 2014), www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf; also see Rosenblum, *Unaccompanied Child Migration to the United States*.

Will CAM Solve the Child Migrant Phenomenon?

Child migrant populations that have arrived at the border constitute a mixed flow. In addition to heightened gang violence and family separation, the classic drivers of migration — escaping poverty and seeking economic opportunity — continue to be primary causes of unauthorized migration from the region. In-country refugee processing has historically — and can in the future — be an important dimension of responses to compelling migration and humanitarian emergencies. The new CAM initiative is likely to write a further chapter in that story. However, its inherent limitations — modest numbers, strict eligibility criteria and lengthy processing times — make it but one element of the broad response required to significantly reduce child migrant flows from Central America at this time.

Improvements in economic and security conditions in Central America; timely, fair procedures for adjudicating humanitarian claims in the United States; effective cross-national cooperation on enforcement and anti-smuggling operations; and legal channels to better enable bi-national families to move across borders all are also critical to addressing the issue of unauthorized, dangerous flows within the region. Absent such reforms and structural changes in conditions that underlie migration dynamics, children and families will continue to arrive at the border seeking safety and secure futures.

Thank you for the opportunity to submit this statement. I am happy to answer any questions you may have.

Statement of

IGOR V. TIMOFEYEV

**Before the Subcommittee on Immigration and the National Interest of
the Committee on the Judiciary
United States Senate**

Hearing on

**Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program**

**Thursday, April 23, 2015
Dirksen Senate Office Building, Room 226
Washington, D.C.**

Chairman Sessions, Senator Schumer, Members of the Committee:

Thank you for the opportunity to appear before you today as you examine the Central American Minors Refugee/Parole Program ("CAM Program"), instituted by the Departments of State and Homeland Security as part of the U.S. refugee program. The United States, a nation founded by immigrants, has a proud history of welcoming individuals fleeing persecution in their own countries, and offering them an opportunity to live their lives with dignity and respect. Our Nation's enduring commitment to serving as a safe haven for refugees spans political and ideological divides, and I commend this Committee's determination to ensure that the refugee program continues to enjoy public trust and support.

I am proud that my own family is a part of this heritage. My great-grandfather and his family arrived in the United States around the turn of the twentieth century as Jewish immigrants from Russia, fleeing then-rampant anti-Semitism. My immediate family and I made a similar journey about a century later, leaving the then-Soviet Union to make the United States our new home.

From 2006 to 2008, I was privileged to serve as the Special Advisor for Refugee and Asylum Affairs at the Department of Homeland Security ("DHS"). I was the first holder of that position after its establishment as part of the reforms recommended by the United States Commission on International Religious Freedom. For most of that time, I served concurrently as a Director of Immigration Policy at DHS.

Prior to my work at DHS, I served as an associate legal officer to the President of the United Nations International Criminal Tribunal for the Former Yugoslavia. While there, I advised the president and judges of the Tribunal on appeals involving issues of international humanitarian and criminal law. I am currently an attorney in private practice, specializing in

appellate and international litigation. I wish to add that I am appearing before the Committee in my personal capacity, and that my testimony should not be attributed to my law firm.

As the Committee is aware, beginning in October 2011, the United States recorded a dramatic rise in the number of unaccompanied children attempting to enter the United States from three Central American countries — El Salvador, Guatemala, and Honduras. The number of such children more than doubled from Fiscal Year 2011 to Fiscal Year 2012, and then doubled again in Fiscal Year 2013. As the Administration announced when it inaugurated the CAM Program, it envisions this program as providing “a safe, legal, and orderly alternative to the dangerous journey that [these] children are currently undertaking to the United States.”¹ The Administration’s desire to reduce the migration of Central American children into the United States — migration that poses great risks to the children themselves — is commendable. I also wish to be clear that children who seek to escape persecution and who meet the refugee definition under U.S. law deserve the protection that our Nation has historically extended to refugees.

At the same time, there is a question as to whether the children for whom the CAM Program is designed would qualify as refugees under the definition of the Refugee Act of 1980 (“the Refugee Act”), which is the cornerstone of the U.S. refugee and asylum system. The law defines a refugee as one who “is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”² Given the prevailing case-law, there is considerable uncertainty whether the Central American children selected for access to the CAM Program would satisfy this requirement. This Committee is acting appropriately in seeking to ensure that the CAM Program is consistent with the requirements of the U.S. immigration law. Indeed, we owe it to the children who may be seeking access to the CAM Program, and to the parents applying on their children’s behalf, to make sure that the prospect of obtaining refuge in the United States offered by this program does not prove illusory.

The CAM Program also has as one of its objectives reuniting Central American children with their parents who are residing in the United States. The laudable goal of reuniting families is one of the fundamental tenets of the U.S. immigration law, and the U.S. refugee program already seeks to ensure that individuals admitted into the United States as refugees are able to bring their immediate family members into the country. The CAM Program, however, permits the anchor relatives authorized to be in the United States only on a temporary basis to seek admission of their minor children. Again, it is proper for the Committee to examine whether this feature of the CAM Program is consonant with the intent of the Refugee Act.

¹ U.S. Dep’t of State, *Launch of In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras With Parents Lawfully Present in the United States* (Nov. 14, 2014), <http://www.state.gov/r/pa/prs/ps/2014/12/234655.htm>.

² 8 U.S.C. § 1101(a)(42)(B).

Conformity with the “Refugee” Definition Under the Refugee Act

The modern U.S. refugee regime dates back to the post-World War II era. In 1948, Congress enacted the first refugee legislation — the Displaced Persons Act of 1948.³ This law included provisions for admission of certain refugees who qualified under the United Nations refugee standards, particularly those who had fled Nazi or Fascist persecution or were fleeing Soviet persecution. A few years later, Congress followed suit with the Refugee Relief Act of 1953, providing for admission of refugees from Communist-dominated parts of Europe and the Middle East.⁴ Congress extended the Refugee Relief Act in 1957, providing for admission of refugees defined as victims of racial, religious, or political persecution from Communist or Communist-dominated countries, or from countries in the Middle East.⁵

In 1965, Congress provided the first permanent statutory basis for the admission of refugees, defined as persons fleeing communist or communist-dominated nations or the Middle East where such flight was caused by persecution or fear of persecution on account of race, religion, or political opinion.⁶ Under this provision, the United States later admitted several thousand Czechoslovakian refugees after the Soviet Union and its allies crushed the Prague Spring in 1968, as well as thousands of Soviet Jews.

In 1980, Congress enacted the Refugee Act, which continues to form the basis for the current refugee regime.⁷ The Refugee Act defines a “refugee” as “any person” who “is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁸ In adopting this definition, Congress sought to implement the essential requirements of the international treaties on refugee protection, namely the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 United Nations Protocol Relating to the Status of Refugees.⁹ Under this definition, to qualify as a refugee, an individual must demonstrate that the persecution was on account of one of the protected grounds — race, religion, nationality, political, opinion, or membership in a particular social group.

This last statutory ground — “membership in a particular social group” — is the one most often invoked in cases of unaccompanied children seeking protection in the United States from gang-related violence.¹⁰ This phrase is not defined in the Refugee Act, and no

³ Pub. L. No. 80-774, 62 Stat. 1009 (1948).

⁴ Pub. L. No. 203, 67 Stat. 400 (1953).

⁵ Pub. L. No. 85-316, 71 Stat. 639 (1957).

⁶ Pub. L. No. 89-239, 79 Stat. 911 (1965).

⁷ Pub. L. No. 96-212, 94 Stat. 102 (1980).

⁸ 8 U.S.C. § 1101(a)(42)(B); *see also id.* § 1101(a)(42)(A) (same).

⁹ *See* 19 U.S.T. 6259; 19 U.S.T. 6224.

¹⁰ *See* Kate M. Manuel & Michael John Garcia, Cong. Research Serv., *Unaccompanied Alien Children — Legal Issues: Answers to Frequently Asked Questions* at 16 (July 18, 2014); Center for Gender & Refugee

contemporary legislative materials shed light upon its meaning. While the refugee definition derives from the 1951 UN Refugee Convention, by way of the 1967 UN Refugee Protocol, the term “particular social group” was added to the Convention at the last minute and, again, without any informative discussion. What is clear, however, is that the term was not meant to be a “catch-all” applicable to all persons fearing persecution.

The meaning of the phrase “particular social group” has been interpreted by the Board of Immigration Appeals (“the BIA”) — the U.S. agency with jurisdiction over asylum claims, which have the same statutory requirement of demonstrating persecution on the basis of a protected ground¹¹ — and by federal courts of appeals. The BIA first defined this term in 1985, in the case known as *Matter of Acosta*.¹² The BIA explained that persecution on account of a particular social group means “persecution that is directed toward an individual who is a member of a group of persons all of whom share a *common, immutable characteristic*,” and that this characteristic “must be one that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities of consciences.”¹³

Over the subsequent years, the BIA has refined the definition of what constitutes membership in a “particular social group” in a variety of cases, seeking — as the U.S. Court of Appeals for the Tenth Circuit observed — “to provide an interpretation that is understandable and workable.”¹⁴ In particular, the BIA explained that, to qualify for relief under this criterion, an individual must also demonstrate that the social group can be defined with “particularity” and that the group must be “socially distinct within the society in question.”¹⁵ Most of federal courts of appeals that have examined this question follow this definition of the particular social group.¹⁶ Under this definition,

In order to establish eligibility for asylum based on persecution for membership in a social group, [an refugee applicant] must show that he’s part of a group that’s well-defined by a characteristic *other* than the fact that its members have been subjected to harm; is recognized within the society as a distinct group; is described with sufficient particularity so that it’s possible to determine with reasonable certainty who’s included in the group; and whose members are targeted for persecution because of their membership

Studies & KIND, *A Treacherous Journey: Child Migrants Navigating the U.S. Immigration System* at 20 (Feb. 2014).

¹¹ See 8 U.S.C. § 1158(b)(1)(B)(i).

¹² 19 I. & N. Dec. 211 (BIA 1985) (emphasis added).

¹³ *Id.* at 233.

¹⁴ *Rivera-Barrientos v. Holder*, 666 F.3d 641, 648 (10th Cir. 2012).

¹⁵ *In re M-E-V-G-*, 26 I. & N. Dec. 227, 237 (BIA 2014); see also *In re W-G-R-*, 26 I. & N. Dec. 208, 212-18 (BIA 2014).

¹⁶ See *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1099 (9th Cir. 2013) (Kozinski, C.J., dissenting) (listing cases from the First, Second, Fourth, Fifth, Sixth, Eighth, Tenth, and Eleventh Circuits).

in the group, not on account of some other, perhaps closely associated, trait.¹⁷

Although the determination of what constitutes a particular social group is done on a case-by-case basis, it is unclear whether the intended beneficiaries of the CAM Program, viewed from a categorical perspective, would be able to meet this definition. As the Department of State and DHS stated, one of the factors they considered when designating minors in El Salvador, Honduras, and Guatemala for refugee processing under the CAM Program is “whether members of the group will likely be able to qualify for admission as refugees under U.S. law.”¹⁸ Yet, neither agency has explained how they expect the Central American minors considered for refugee status under the CAM Program to demonstrate the requisite nexus between the harm they experienced and one of the Refugee Act’s statutory grounds. To date, no federal court has approved a social group defined solely by childhood; indeed, at least one court of appeals — the Third Circuit — has rejected such an argument with respect to children from Honduras, one of the countries covered by the CAM Program.¹⁹

The main reason children from El Salvador, Guatemala, and Honduras seek to escape their countries is because of the violence by organized criminal gangs or drug cartels. As a study by the UN High Commissioner for Refugees found, 48% of the displaced children from the region indicated that organized violence in their community is what caused them to flee.²⁰ Yet, courts have made clear that generalized violence or lawlessness is not sufficient to demonstrate persecution on account of a statutorily protected ground.²¹ And federal courts have rejected social groups defined as comprised of young people resisting gang recruitment as failing the requirements of social distinction or particularity.²²

I wish to reiterate that efforts to address the humanitarian plight of Central American children who seek to escape pervasive violence in their societies deserve our complete support. The United States should be working proactively with the other governments in the region to

¹⁷ *Id.* at 1098.

¹⁸ Dep’t of State, Dep’t of Homeland Security & Dep’t of Health and Human Servs., *Proposed Refugee Admissions for Fiscal Year 2015: Report to Congress* at 8 (2014) (hereinafter, “*Proposed Refugee Admissions for Fiscal Year 2015*”).

¹⁹ *Escobar v. Gonzales*, 417 F.3d 363 (3d Cir. 2005).

²⁰ See U.N. High Comm’r for Refugees Regional Office for the U.S. and Canada, *Children on the Run* at 6 (Mar. 2014).

²¹ See, e.g., *Jutus v. Holder*, 723 F.3d 105, 111-12 (1st Cir. 2013).

²² See, e.g., *Rivera-Barrientos*, 666 F.3d at 647-54 (rejecting a social group composed of “women in El Salvador between the ages of 12 and 25 who resisted gang recruitment”) (footnotes omitted); *Orellana-Monson v. Holder*, 685 F.3d 511, 521-25 (5th Cir. 2012) (rejecting a social group of “Salvador[an] males between the ages of 8-15 who have been recruited by Mara 18 but refused to join the gang because of their principal opposition to the gang”) (internal quotation marks omitted) (alterations in original); *Barrios v. Holder*, 581 F.3d 849, 854-56 (9th Cir. 2009) (rejecting a social group of “young males in Guatemala who are targeted for gang recruitment but refuse because they disagree with the gang’s criminal activities”).

address the underlying causes that lead these children to flee their homes. And I wish to underline that Central American children who do qualify as refugees or asylees under the Refugee Act should be given protection and welcome in the United States. Children who seek to escape persecution are uniquely vulnerable. Our immigration system appropriately recognizes this fact, and our humanitarian (and simply human) instincts command us to do what we can to alleviate the plight of unaccompanied children. But, in creating a dedicated refugee program for these kids, we owe it to them to make sure that we can deliver on our commitment, and that they would, indeed, qualify as refugees.

Family Reunification Provisions

The CAM Program also has a laudable objective of reuniting Central American children with their parents who reside in the United States. Indeed, family reunification is one of the central principles of U.S. immigration law generally and the refugee program specifically. Again, efforts to enable refugee families to rebuild their lives together in a new country deserve our complete support.

To that extent, the U.S. refugee program contains a specific priority category — called “Priority 3 (P-3) — for “members of designated nationalities who have immediate family members in the United States who initially entered as refugees or were granted asylum.”²³ Under the P-3 category, the Department of State (in consultation with DHS) establishes a list of eligible nationalities; specific countries are included upon a determination that they are “of special humanitarian concern to the United States for the purpose of family-reunification refugee processing.”²⁴ After the list is designated, individuals from these countries who have been admitted into the United States as refugees or asylees (including individuals who have since become U.S. citizens or legal permanent residents) may file applications for their immediate relatives — spouses, unmarried children under 21, or parents — to join them in the United States.²⁵

The CAM Program, however, is different. This program is designated as a “Priority 2 (P-2)” category — a category designed for “specific groups (within certain nationalities, clans or ethnic groups, sometimes in specified locations)” identified “as being in need of resettlement.”²⁶ As such, the CAM Program is not limited to anchor relatives in the United States who are refugees or asylees (or have a permanent legal status). Instead, the CAM Program extends to individuals who are in the United States only temporarily — such as individuals granted temporary protected status, parole, deferred action, deferred enforced departure, or withholding of deportation. These forms of relief are strictly discretionary, and are subject to termination by the Executive at any time. It is appropriate for the Committee to examine whether the CAM

²³ *Proposed Refugee Admissions for Fiscal Year 2015* at 11.

²⁴ *Id.*

²⁵ See *id.* at 11-12. In addition, a refugee admitted into the United States may also, within two years of admission, file a so-called “following-to-join” petition requesting that his spouse or unmarried children under 21 be also admitted as refugees. *Id.* at 13-14; 8 C.F.R. § 207.7.

²⁶ *Proposed Refugee Admissions for Fiscal Year 2015* at 8-10.

Program's extension of the family reunification principle to individuals whose presence in the United States is only temporary is consonant with objectives of the refugee program.

Conclusion

Congress has been instrumental in setting up the current legal regime for admission of refugees into the United States, and in ensuring that refugees from across the globe continue to find safety in our country. This Committee specifically has oversight and consultation responsibilities with respect to the refugee program under the Refugee Act.²⁷ I therefore welcome the Committee's intention to ensure that the Administration's CAM Program reflects the aims of the Refugee Act and comports with its legal requirements.

²⁷ See 8 U.S.C. § 1157(d)-(e).



Testimony Of

Anastasia Brown, Interim Executive Director

U.S. Conference of Catholic Bishops' Migration and Refugee Services

Before the

Senate Judiciary Subcommittee on Immigration and the National Interest

On

The Central American Minors Program

**226 Dirksen Senate Office Building
2:30 p.m., Thursday, April 23, 2015**

I am Anastasia Brown, Interim Executive Director and Resettlement Services Director for Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB). Prior to my current service, I worked for the International Catholic Migration Commission as the Deputy Director of the Orderly Departure Program administering an in-country resettlement processing program for Vietnam, similar to the program that is the subject of this hearing.

I am testifying today to give our perspective about the Central American Minors Program (CAM), an in-country resettlement processing program in El Salvador, Honduras, and Guatemala that has been established by the Bureau of Population, Refugees, and Migration of the U.S. Department of State (PRM/DOS). We strongly support this program as one prong of a multi-pronged humanitarian response to the plight of unaccompanied children threatened by the violence in their countries in the northern triangle of Central America. CAM is a viable program consistent with standard U.S. refugee and humanitarian law and practice. Its purpose is to rescue at-risk children in these countries from serious physical harm or death and to provide safe processing, and a safe, regular, authorized pathway so that children do not have to risk flight in the hands of human smugglers and traffickers. This program is being judiciously implemented within the current budget and Presidential refugee determination of PRM/DOS that have been determined by Congress and the President for the U.S. refugee program.

I would like to thank Chairman Sessions (R-AL), and Ranking Member Schumer (D-NY), and all of the members of the Senate Judiciary Subcommittee on Immigration and the National Interest for the opportunity to comment on this crucial protection program for vulnerable children. I note that the protection of migrant children is an especially important issue for the Catholic Church, as one of Jesus' first experiences as an infant was to flee for his life from King Herod with his family to Egypt. Indeed, Jesus Himself was a child refugee fleeing violence just as many of the children from Central America are forced to flee today. I will share with you today our findings, reflections, and recommendations regarding this special population of vulnerable children who are very close to the heart of the church.

Make no mistake about it, Mr. Chairman. While some have portrayed the increased number of children from Central American who have sought to enter the United States as a migration event that is motivated purely by economic or family reunification forces, the fact is that many of these children are either refugees or have other compelling protection needs. Moreover, while some have erroneously tied the increased number of arrivals to the Administration's Deferred Action for Childhood Arrivals (DACA) program, there is, in fact no relationship between the two. The increased number of Central American arrivals began before the announcement of DACA. And other countries in the Latin American region that do not have a DACA-like programs have experienced dramatic increases in the number of Central American children fleeing to them to seek protection within their borders.

In November 2013, a USCCB delegation traveled to southern Mexico, El Salvador, Guatemala, and Honduras to examine and understand the flight of unaccompanied children and youth from the region and to stand in solidarity with these children and their families. In January 2014, we issued our findings from the trip in a report entitled, *USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States* (USCCB Central America

Report 2014).¹ Mr. Chairman, I ask that USCCB Central America Report 2014 be included in the hearing record.

During the mission to Central America, the delegation visited migrant children shelters, heard tearful stories from grandmothers waiting to pick up their recently repatriated grandchildren, and listened to children as young as six years old speak solemnly of trafficking and exploitation that was inflicted upon them along their migration journey. The corresponding report that came out of the mission acknowledged that a new paradigm regarding unaccompanied children is upon us—namely it is clear that unaccompanied children are facing new and increased dangers and insecurity in their home countries and are fleeing in response. As a result, this phenomenon requires a regional and holistic solution rooted in humanitarian and child welfare principles. Since our mission and report issuance, many of the humanitarian challenges facing this vulnerable population have persisted and increased. In my remarks, I will update some of our observations and recommendations from that report, focusing on updates most relevant to the Central American Minors Program (CAM), the focus of this hearing.

Mr. Chairman, my testimony today will recommend that Congress:

1. Address the issue of the recent increase in unaccompanied child migration from Central America as a humanitarian crisis involving forced migration the resolution of which requires cooperation from all branches of the U.S. government.

2. Assess root causes driving this forced migration situation, such as violence from non-state actors in countries of origin and a lack of citizen security and adequate child protection mechanisms; and seek and support innovative home country solutions that would enable children to remain and develop safely and with opportunity in their home country.

3. Seek and support innovative home and transit country solutions that would enable endangered children who cannot safely remain in their home countries, facilitating safe avenues of migration, including:

a. Support for the Central American Minors Program (CAM), the in-country processing program in El Salvador, Honduras, and Guatemala established by the Bureau of Population, Refugees, and Migration of the U.S. Department of State (PRM/USDOS) so that it can provide safe and efficient processing of unaccompanied children in Central America.

b. Support for other humanitarian protection efforts in the region, including strengthening the asylum systems and child-welfare systems in El Salvador, Honduras, Guatemala, and Mexico and providing best interest determinations and best interest assessments of unaccompanied children in the region, when appropriate.

¹See USCCB: Mission to Central America: Flight of the Unaccompanied Immigrant Children to the United States available at <http://www.usccb.org/about/migration-policy/upload/Mission-To-Central-America-FINAL-2.pdf>

c. Support for a PRM/DOS pilot in Mexico, pursuant to Section 104 of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 08), which allows for the expeditious processing of human trafficking victims to the United States.

d. Fund Central America and Mexico to incorporate access to international protection into their migration management systems whereby child and refugee protection measures are integrated such that the “best interest of the child” and full refugee protection is assured for Central American children transiting through their countries.

4. Appropriate the necessary funding to effectively respond to the crisis in a holistic and child-protection-focused manner.

I. Catholic Social Teaching on Migration

The Catholic Church is an immigrant, refugee church, with more than one-third of Catholics in the United States being of Hispanic origin. It is also made up of more than 58 ethnic groups from throughout the world, including Asia, Africa, the Near East, and Latin America.

The Catholic Church has a long history of involvement in child protection and refugee and asylum protection, both in the advocacy arena and in welcoming and assimilating waves of immigrants, refugees, and asylum seekers who have helped build our nation. Migration and Refugee Services of USCCB (MRS/USCCB) is the largest refugee resettlement agency in the United States, resettling one million of the three million refugees who have come to our country since 1975. MRS/USCCB is also a national leader in caring for unaccompanied migrant and refugee children. We work with over 80 Catholic Charities across the country to welcome refugees and with over 200 Catholic Charities and other local partners to welcome unaccompanied refugee and migrant children into our communities and provide for their care and general well-being. The Catholic Legal Immigration Network, Inc. (CLINIC), a sister agency of USCCB, supports a rapidly growing network of church and community-based immigration legal service programs. CLINIC’s network now consists of over 212 member organizations serving immigrants and their families, including asylum seekers and unaccompanied children, in over 300 offices. Catholic Relief Services (CRS) is the official international humanitarian agency of the Catholic Bishops in the United States. CRS does outreach to over 85 million people in 101 countries on five continents, including extensive outreach in Central America and Mexico.

The Catholic Church’s work in assisting unaccompanied migrant children stems from the belief that every person is created in God’s image. In the Old Testament, God calls upon his people to care for the alien because of their own alien experience: “So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt” (Deut. 10:17-19). In the New Testament, the image of the migrant is grounded in the life and teachings of Jesus Christ. In his own life and work, Jesus identified himself with newcomers and with other marginalized persons in a special way: “I was a stranger and you welcomed me.” (Mt. 25:35). Jesus himself was an itinerant preacher without a home of his own, and as noted above, he was a child migrant fleeing to Egypt to avoid violence, persecution, and death. (Mt. 2:15).

In modern times, popes over the last 100 years have developed the Church's teaching on migration. Pope Pius XII reaffirmed the Church's commitment to caring for pilgrims, aliens, exiles, and migrants of every kind, affirming that all peoples have the right to conditions worthy of human life and, if these conditions are not present, the right to migrate.²

Pope John Paul II stated that there is a need to balance the rights of nations to control their borders with basic human rights, including the right to work: "Interdependence must be transformed into solidarity based upon the principle that the goods of creation are meant for all."³ In his pastoral statement, *Ecclesia in America*, John Paul II reaffirmed the rights of migrants and their families and the need for respecting human dignity, "even in cases of non-legal immigration."⁴

Finally, Pope Francis defended the rights of migrants early in his papacy, traveling to Lampedusa, Italy, to call for their protection. Pope Francis decried the "globalization of indifference" and the "throwaway culture" that lead to the disregard of those fleeing persecution or seeking a better life. In *Evangelii Gaudium*, the Holy Father speaks particularly of the importance of work with migrants and notes that it is essential for Catholics "to draw near to new forms of poverty and vulnerability [including migrants and refugees] in which we are called to recognize the suffering of Christ. . ."⁵

In their joint pastoral letter, *Strangers No Longer: Together on the Journey of Hope, A Pastoral Letter Concerning Migration*, January 23, 2003 (*Strangers No Longer*), the U.S. and Mexican Catholic bishops further define Church teaching on migration, calling for nations to work toward a "globalization of solidarity." In *Strangers No Longer*, the bishops stressed that vulnerable immigrant populations, including unaccompanied minors and refugees, should be afforded protection. To this end, the bishops noted that unaccompanied minors, due to their heightened vulnerability, require special consideration and care.⁶ *Strangers No Longer* also addresses the importance of families and notes that humanitarian considerations for families should also be a priority when considering migration issues.⁷

Mr. Chairman, the Catholic Church's work in assisting unaccompanied migrant children stems from the belief that every person has a unique and sacred dignity. This dignity is not bestowed by governments or by laws or based upon their wealth or where they happen to be born. It is inherent within the human being. We seek to be consistent in acknowledging the implications of this, namely that from the time we come to be in our mother's womb until the moment our life comes to an end we are deserving of respect and care. This is true of the unborn child, the person with disabilities, the immigrant, the prisoner, and the sick. The more vulnerable and weak a

²Pope Pius XII, *Exsul Familia* (On the Spiritual Care of Migrants), September, 1952.

³Pope John Paul II, *Sollicitudo Rei Socialis*, (On Social Concerns), December 30, 1987, No. 39.

⁴Pope John Paul II, *Ecclesia in America* (The Church in America), January 22, 1999, no. 65.

⁵Pope Francis, *Evangelii Gaudium*, The Joy of the Gospel, Apostolic Exhortation, December 2013 at 105.

⁶*Strangers No Longer, Together on the Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, ¶82 January 2003.

⁷*Strangers No Longer Together on The Journey of Hope*, Pastoral Statement Concerning Migration from the US and Mexican Catholic Bishops, January 2003.

person is the more they are deserving of our love. This we understand to be the mark of the Christian and of a healthy society.

For these reasons, while the Catholic Church recognizes governments' sovereign right to control and protect the border, we hold a strong and pervasive pastoral interest in the welfare of migrants, including unaccompanied children, and welcome newcomers from all lands. The current forced migration continuum of unaccompanied children traveling through Mexico and Central America and towards the U.S.-Mexico border, often at the hands of ruthless human smugglers and traffickers, frequently leads to severe traumatization and exploitation of children, violence, family separation, maltreatment and even death and must be closely examined. While briefly describing the need to address the root causes propelling children to migrate alone, the need to implement prevention and alternative to migration programs in the home country and in transit countries, I will conclude by describing the Central American Minors Program (CAM), a U.S. Department of State, in-country resettlement screening program, and explaining the role it plays as part of a comprehensive response to this humanitarian crisis.

II. The Catholic Response and Care for Unaccompanied Children

As I mentioned, Mr. Chairman, USCCB has been a leader in the protection of and advocacy for this vulnerable population and the institutional Catholic Church in the United States has played a critical role in the resettlement of refugees and the care of unaccompanied refugee and at-risk children. By virtue of our mission, organizational structure, and geographical reach, the U.S. Catholic Church early on has assumed a strong leadership role in the treatment and service of refugees and unaccompanied children. In the last four years, we have continued to urge a holistic, child-welfare approach to this regional, humanitarian crisis not only by the United States but also by El Salvador, Honduras, Guatemala, and Mexico.

Since 1994, USCCB has operated the Unaccompanied Alien Children or "Safe Passages" Family Reunification program to serve the needs of unaccompanied children coming to the United States. The Safe Passages Family Reunification program serves undocumented children detained by Department of Homeland Security (DHS) and placed in the custody of the Office of Refugee Resettlement (ORR), which is an office within the Department of Health and Human Services (HHS). The program provides for the family reunification assistance or long-term foster care of unaccompanied children who are in the custody of HHS. Through the program, some post-release services are available that help assure the ongoing safety of the children and also provide their sponsors with guidance and support to help assure children's appearance at hearings. From the beginning of fiscal year 2011 (October 1st, 2010) through June 9, 2014, the USCCB/MRS Safe Passages program has served 3,457 youth who arrived as unaccompanied alien children—2,266 through its Family Reunification Program and 1,191 through its foster care programs. (For committee members interested in further details about the humanitarian response inside the United States to these unaccompanied children, I have included with the submission of today's testimony, the December 10, 2014, testimony to the House Judiciary Subcommittee on Immigration and Border Security by my colleague Kristyn Peck, Associate Director of Children's Programs, MRS/USCCB. I respectfully request that it might be included as part of the record of today's hearing.)

Catholic Legal Immigration Network (CLINIC) member organizations across the United States provide legal services and representation to many of these at-risk children after their arrival. Some of the children qualify for asylum protection, some for visas as abused, abandoned, and neglected children, and others as victims of trafficking or of serious crimes.

The Catholic Church in the United States has also worked extensively on prevention programs in the countries of origin, most notably El Salvador, through our partner, Catholic Relief Services (CRS). Through its Youth Builders project, CRS (El Salvador) and its partners provide at-risk youth with peer support, vocational and entrepreneurial training, job-placement, life skills and leadership development, and community service opportunities. This project targets youth who are at risk of unemployment, of violence—as victims and as perpetrators—and of forced migration. CRS, in partnership with Caritas International, strengthens diocesan programs to work with at-risk youth through a network of community and government agencies. Through these projects, CRS has served more than 2,500 young people.⁸

Most recently, USCCB and the other eight refugee resettlement agencies in the United States have begun to work with the U.S. Department of State to help make CAM, an in-country U.S. Department of State resettlement processing program in El Salvador, Honduras, and Guatemala a successful refugee and child-protection program. USCCB's work on this is being done in collaboration with Catholic Charities affiliates and CLINIC partners across the country.

III. Factors Pushing Unaccompanied Central American Children to Flee their Homes and Countries

Beginning in fiscal year 2012 (October 1, 2011-September 30, 2012), the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving at the US/Mexico border.⁹ These children come from all over the world but predominately from Guatemala, El Salvador, Honduras and Mexico. Whereas in fiscal years (FY) 2004-2011, the number of unaccompanied children apprehended and referred to the Office of Refugee Resettlement (ORR) by the US government averaged around 7,000-8,000 year, the total jumped to 13,625 in FY 2012, to 24,668 in FY 2013, and to 57,496 in FY2014.¹⁰ Up to 39,000 are expected to be referred to ORR in FY2015.¹¹

During the delegation's trip to Central America in November 2013, USCCB focused upon learning more about the push factors driving this migration and possible humane solutions to the

⁸ CRS El Salvador, Civil Society and Governance Programs, CRS El Salvador webpage, available at <http://crs.org/countries/el-salvador>

⁹ Unaccompanied alien children or ("UACs") are undocumented migrant children under the age of 18 who come to the United States without their parent or guardian. Homeland Security Act of 2002, Pub. L. 107-296 §462(g), 116 Stat. 2135, 2205 (2002). "A UAC "(A) has no lawful status in the US, (B) has not attained 18 years of age, (C) with respect to whom- (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody."

¹⁰ Unaccompanied Alien Children Program Fact Sheet, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Updated November 2014, https://www.acf.hhs.gov/sites/default/files/orr/fact_sheet.pdf (accessed April 20, 2015).

¹¹ Marc R. Rosenblum, Unaccompanied Child Migration to the United States: The Tension between Protection and Prevention, Migration Policy Institute, April 2015, <http://www.migrationpolicy.org/about/authors/marc-r-rosenblum> (accessed April 20, 2015).

problem. While poverty and the desire to reunify with family to attain security are ongoing motivations to migrate, USCCB found that that an overriding symbiotic trend has played a decisive and forceful role in recent years: violence in the home and at the community and state level. Coupled with a corresponding breakdown of the rule of law, the violence has threatened citizen security and created a culture of fear and hopelessness that has pushed children out of their communities and into forced transit situations.

Mr. Chairman, the ongoing violence, leading to coercion and threats to the lives of citizens—particularly children—of these countries, is the overwhelming factor facing these children and propelling their migration. Extortion, family abuse and instability, kidnapping, threats, and coercive and forcible recruitment of children into criminal activity perpetrated by transnational criminal organizations and gangs have become part of everyday life in all of these countries. In addition to the violence and abuse at the community and national level, transnational criminal organizations, such as the Mexican-based Zeta cartel, which deals in the smuggling and trafficking of humans, drugs, and weapons, operate in these countries and along the migration journey with impunity, and have expanded their influence throughout Central America.

I note that the increase in violence in Guatemala, Honduras and El Salvador forcing children and adults out of their homes is affecting the entire region, not just the United States. For example, since 2008 Mexico, Panama, Nicaragua, Costa Rica, and Belize—the countries surrounding the Northern Triangle countries—have documented a 712% combined increase in the number of asylum applications lodged by people from El Salvador, Honduras, and Guatemala.¹²

Mr. Chairman, in our 2014 trip report we detail the increased violence against children and families in Central America. Given the difficult conditions minors must confront in their home countries, USCCB believes that a robust protection regime for children must be implemented in Central America, Mexico, and the United States. This includes the dire need for an in-country resettlement processing program as part of this multi-pronged, comprehensive approach. Based on information from Catholic partners in sending countries, we see the following as reasons for the increased number of children forced to flee their homes and country to the United States and elsewhere:

- a. **Violence perpetrated by organized transnational gangs, loosely-affiliated criminal imitators of gangs, and drug cartels, has permeated all aspects of life in Central America and is one of the primary factors driving the migration of children from the region.** USCCB found that in each country—particularly Honduras and El Salvador—organized gangs have established themselves as an alternative, if not primary, authority in parts of the countries, particularly in rural areas and towns and cities outside the capitals. Gangs and local criminal actors operating in Honduras, El Salvador, and Guatemala have consolidated their bases of power, expanded and upgraded their criminal enterprises and honed their recruitment and terror tactics. In many cases, the governments are unable to prevent gang violence and intimidation of the general public, especially youth. USCCB heard accounts of gang members taking over public bus lines, infiltrating schools and forcing children to either join their ranks or risk violent retribution to them or

¹² UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, March 2014

their families. Even in prisons, incarcerated gang members are able to order violence against members of the community. There also were reports that law enforcement have collaborated with the gangs or at least have been lax in enforcing laws and prosecuting crimes. For example, according to Casa Alianza, an NGO that works in Honduras, 93 percent of crimes perpetrated against youth in Honduras go unpunished.¹³

The mothers of these children are often faced with an unspeakable choice—either send their child away to find safety in another country, usually with a smuggler on a dangerous journey, or risk having their child and family killed. As one mother in El Salvador told one of our bishops, “I would rather my child die on the journey north than on my front doorsteps.”

b. Localized violence has severely exacerbated the lack of economic and educational opportunities for youth and has led to stress on the family unit, family breakdown, and even domestic abuse, which leaves children unprotected and extremely vulnerable. The escalation in violence, combined with the lack of jobs and quality education, has led to a breakdown in the family unit, as male heads of households—or sometimes both parents—have left the country, leaving children behind with relatives, often grandparents. Children who have parents working abroad are especially vulnerable to community violence and forced migration as they can become targets for gang extortion—the so-called “renta”—due to the perceived or actual remittances they may receive. Additionally, as children enter teenage years and are increasingly at risk for victimization or recruitment by gangs, it becomes increasingly difficult for their relatives, especially elderly grandparents, to protect them. To this end, the United Nations Development Program reports that 26.7% of all inmates in El Salvador they interviewed in 2013 never knew their mother or father growing up.¹⁴ Schools no longer function as social institutions that offer a respite from the violence and instead have become de facto gang recruitment grounds. As a result of being targeted because of their family situation or perceived wealth, children flee, as a strategy to escape the gangs, to help support the family, and to reunify with their parents or other loved ones, many of whom have been separated for years.

c. Abuse in the home also has created stress, fear and motivation to leave the family home as well as the community. The pressure on families from local violence, economic uncertainty, and family-member absence has a deleterious effect on the family unit, as instances of domestic abuse towards women and children have grown. It has been documented that more unaccompanied children are reporting instances of child abuse and neglect undertaken by non-parental caretakers.¹⁵ Children, especially girls, are particularly exposed to domestic violence. A survey carried out by UNICEF revealed that 7 out of 10 unaccompanied children reported having been abused in their homes.¹⁶ In El

¹³ Interview with Casa Alianza (Covenant House) Honduras, Tegucigalpa, Honduras, November 20, 2013.

¹⁴ Citizen Security with a Human Face: Evidence and Proposals for Latin America, Summary Regional Human Development Report 2013-2014, UNDP, November 2013, at 8.

¹⁵ UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, at 46, March 2014. In their report, UNHCR states that 21% of children interviewed revealed that they had experienced some form of abuse by a family member, another adult responsible for their care or a domestic partner.

¹⁶ Rashida Manjoo, Report of the Special Rapporteur on violence against women,

Salvador it was reported that the domestic violence and sexual abuse of women and girls in the private sphere remain largely invisible and are consequently underreported.¹⁷

d. Migrating children do not find the protection they need once they arrive in Mexico, even those who are eligible for asylum. The United Nations High Commissioner for Refugees (UNHCR) has consistently reported that an increasing number of unaccompanied children from Central America in particular are vulnerable to exploitation and cannot access protection in Mexico. To this end, UNHCR and USCCB are working with government authorities to provide training to law enforcement and protection officers on identifying and screening vulnerable children.

As an example of this lack of protection, USCCB found one children's shelter dedicated to caring for migrant children who may attempt an asylum claim in the Southern Mexico region, in Tapachula. Another shelter in Mexico City, run by the Mexican government's division of child welfare [Desarrollo Integral de la Familia (DIF)] houses children who have won asylum but cannot be released until they are 18 years of age.¹⁸

Children who request asylum usually remain in detention for months, with little help to navigate the legal system. Once a child wins asylum, the only placement option available is the DIF child shelter in Mexico City until age 18, as there is no foster care system in place for these children. Shelter care is not intended to be a long-term placement for children, and often leaves children vulnerable to exploitation. Because of the challenges in gaining asylum in Mexico and the absence of an effective child welfare system, children often choose deportation back home so they can try to migrate again.

e. Countries of origin lack the capacity to protect children adequately. USCCB found that Guatemala, Honduras, and El Salvador lack the capacity to protect children in their law enforcement, child and social welfare, and educational systems. As mentioned, organized criminal networks and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements. Child welfare services are virtually non-existent, as are foster-care and family reunification and reintegration services.

f. A significant number of migrants, particularly youth, have valid child protection claims. While the popular perception of many in the United States is that migrants come here for economic reasons, USCCB found that a growing number are fleeing violence in their homelands. UNHCR recently found 58% of the unaccompanied children it interviewed from Central America and Mexico had some sort of an international

its causes and consequences, Addendum Follow-up mission to El Salvador, at p.7 ¶¶19-20, Human Rights Council, 17th Session, A/HRC/17/26/Add.2, 14 February 2011, available at <http://daccess-ods.un.org/TMP/6227008.70037079.html>

¹⁷ Ibid.

¹⁸ UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection, at 46, March 2014. In their report, UNHCR states that 21% of children interviewed revealed that they had experienced some form of abuse by a family member, another adult responsible for their care or a domestic partner.

protection claim.¹⁹ A similar study in 2006 found only 13% of these children had a protection claim. Children who exhibit international protection concerns may be eligible to remain in the United States legally in some form of recognized legal status, such as Special Immigrant Juvenile Status, as an asylee, or with T or U visas.

As noted above, the international protection needs of the children and the lack of capacity in the child protection systems in the children's home countries and the lack of child and refugee protection capacity in neighboring Central America countries and in Mexico underscores the need for an effective in-country resettlement processing program as part of a comprehensive approach to protecting these children.

IV. The Central American Minors Program as an Integral Component of a Comprehensive U.S. Regional Approach to Addressing the Humanitarian Crisis

Mr. Chairman, we commend the President and Congress for exhibiting bipartisan support for this vulnerable population by increasing funding for reception and placement services for unaccompanied children from Central America, as the number of children arriving to the United States has risen and remained high from FY2012 to FY2015. The long-term solution to the crisis is to address the push factors in Central America that drive minors north. These would include improvements in education, employment, and citizen protection, for sure, but also improvements in the social service and child protection systems. Meanwhile, we need to meet the protection and humanitarian needs of these vulnerable, unaccompanied children.

A. Central American Minors Program (CAM): One Prong of the Multi-Pronged Approach to Protection

As one prong of a multi-pronged humanitarian strategy, the Central American Minors Program (CAM), the subject of this hearing, has the potential to play an integral role in meeting the protection needs of these children. It is an in-country processing program, a protection mechanism nearly as old as the Refugee Act of 1980. In-country processing is not used in all refugee situations but is a standard, accepted practice within refugee and humanitarian law, especially when there is a need to establish more orderly refugee departures from a country and when the journey to a refugee host country is perilous. Humanitarian parole is often utilized as part of refugee processing to assure protection of the most vulnerable and to promote family unity.

The United States has conducted successful in-country processing programs in such nations as Vietnam, the former Soviet Union, and Cuba. As I mentioned in the introduction, I was involved in the administration of the Vietnamese program. That in-country processing program was aptly named the Orderly Departure Program. After the fall of Saigon, the refugee flight from Vietnam was chaotic and life-threatening. Many of the so-called "boat people" of Vietnam were losing their lives fleeing in flimsy vessels from Vietnam as they desperately sought refuge from the new

¹⁹ Ibid.

communist regime. Our program provided them the durable solution of third country resettlement to the United States, enabled them to have a viable alternative to a dangerous voyage, and put order into the flight of people from Vietnam.

On December 1, 2014, PRM/DOS established the Central American Minors Program (CAM), an in-country resettlement processing program in Guatemala, El Salvador, and Honduras, to facilitate an orderly migration process from these Central American countries. As with past, in-country processing programs, CAM's features are consistent with standard refugee law and practice. It is being conducted within the Presidential refugee determination and Congressionally-approved budget of the refugee program.

As one prong of a multi-pronged approach to protection of these children, CAM, when fully implemented, has several goals consistent with our national interests. First, it provides an alternate avenue for children in peril to reach safety in the United States, instead of taking the dangerous journey north, giving mothers like the one I mentioned above another option for protecting her child. This helps honor our humanitarian obligations, consistent with domestic and international law, and reduces the number of children fleeing and arriving at our southern border. Second, it weakens the smuggling networks that prey upon these children and families, taking away their market for these children, and reduces the chances that these children become victims of human trafficking. Third, it helps manage the flow of these minors as one part of a broader strategy to address this challenging issue.

The program is still in very early stages of implementation with only 461 people so far applying for the program. At this early stage, it can be helpful to share important principles for in-country processing programs and also for programs serving unaccompanied children. At the core of CAM's challenge will be implementing these principles in a program for children who often have limited capacity (depending on age), little education, and limited means, and who often live in remote locations.

1. Thoughtful attention to the special needs of these children and judicious use of necessary resources while implementing these principles will help to achieve the important goals of the program:

a. Assure access to in-country processing. This requires that eligible children and their family members involved in the process need to be aware of the program through outreach and public education, the application process needs to be understandable and doable for family members in the United States, and children in Central America need to have safe, physical access to the process. Since this process includes participation both by family members in the United States and by the children in Central America, access issues must be addressed in both locations. Particular care must be paid to facilitate access for Mayan children from Guatemala.

b. Assure safety during the application and interview process. This requires that the applicants need to be protected as children but also as children targeted by persecutors, and that their vulnerabilities may be heightened if the persecutors become aware of the children's applications. It means that the process needs to be confidential from those who

mean the children harm. It needs to be as streamlined as possible both for the sake of program accessibility but also so that children are in danger for as short a time as possible during the pendency of the process. As necessary for their safety, staff needs to have the capability of evacuating children from imminent danger.

c. Prevent and address predatory activities related to the process. Sometimes for immigration and refugee programs notaries in the United States and in people's home countries try to take unfair advantage of the applicants or of the system. Children need to be protected from such predators.

B. The Full, Multi-Pronged Approach to Addressing the Child Migration Crisis

We offer the following recommendations that detail a multi-pronged protection approach to addressing the humanitarian crisis, illustrating how the in-country processing prong of the CAM program fits in:

1. Address the issue of unaccompanied child migration as a humanitarian crisis requiring cooperation from all branches of the U.S. government.

a. Continue to involve all relevant U.S. agencies to address this regional, humanitarian challenge. From the Department of Health and Human Services involve ORR and its parent entity, the Administration for Children and Families domestic child welfare division; from DOS involve PRM, Western Hemispheric Affairs, and Agency for International Development; from Department of Justice involve the Executive Office for Immigration Review; and from Department of Homeland Security involve Citizenship and Immigration Services, Immigration and Customs Enforcement, and Customs and Border Protection. The inter-agency work on the issue should incorporate clear leadership responsibilities and effective collaboration mechanisms to ensure the optimum results both in the United States and throughout the region.

b. Faithfully adhere to the "best interest of the child" standard in all decision-making. This is the internationally recognized child-welfare standard used in the U.S. child welfare system that refers to a process of determining services, care arrangements, caregivers, and placements best suited to meet a child's short-term and long-term needs and ensure safety permanency, and well-being. When applied in the United States or to U.S. funded programs, special importance is given to family reunification and family integrity, health, safety, protection of the child, and timely placement.

1) This requires that all procedures, protocols, and mechanisms developed are child-friendly and consistent with due process for children. It requires that they be trauma-informed, and administered by child welfare professionals; that children are screened and assessed for their immediate humanitarian protection needs and their long-term international protection needs; that during the pursuit of long-term solutions for the children they are placed in the least-restrictive settings (i.e. community-based); that all children are connected with social and legal services to address their immediate needs.

2) This requires that long-term and durable solutions are pursued that are in the children's best interests. It requires that enforcement will afford protections, such as provided by the TVPRA, asylum proceedings will have child appropriate services, child oriented dockets, and access to legal services consistent with due process; that when resettlement is the best alternative the processing may be conducted in a child-friendly manner and that the safety and well-being of the child will be assured during the processing and placement of the children; and that where repatriation is the best alternative available that safe repatriation and reintegration be conducted in collaboration and coordination with the children's home governments, NGOs, and other implementing partners.

2. Assess root causes driving this forced migration situation, such as violence from non-state actors in countries of origin and a lack of citizen security and adequate child protection mechanisms; and seek and support innovative home country solutions that would enable children to remain and develop safely and with opportunity in their home country.

a. The United States should invest in repatriation and re-integration in sending countries. We recommend the following: USCCB found that source countries did not employ comprehensive re-integration programs for children returning from the United States and Mexico, programs which would provide follow-up services to children to help them readjust to life in their home country. A program operated by Kids in Need of Defense (KIND) in Guatemala is showing promising results and should be expanded and duplicated.

b. The United States should invest in prevention programs in sending countries. Other than programs provided by Catholic Relief Services and other NGOs, source countries do not employ programs to encourage youth to remain and not take the journey north. Such a program would include skill-based training and employment services. Catholic Relief Services operates Youth Builders, a program previously mentioned in my testimony which has helped youth remain at home and live productive lives. Youth Builders offers promise for the benefits of such prevention programs: of the 53 children served by the Youth Builders program to date, 52 have not migrated north.

c. Anti-violence efforts should include stakeholders from government, civil society, private sector, churches and international donors in order to effectively leverage limited resources and should include job and educational opportunities and training programs. Anti-violence prevention measures should be tackled at regional and local community levels in addition to national levels. Including key local stakeholders and engaging regional governmental bodies and actors is a vital part of prevention efforts. Additionally, prevention efforts must include systematic training and educational programs in order to fully offer meaningful opportunities for gang members in society once they leave the gang.

d. Over the long-term, all governments of the region, including the United States, must invest resources into examining and effectively addressing root causes of migration in

Central America and Mexico. This would address the lack of citizen security which is propelling individuals, especially children, to flee. The United States and its regional partners must avoid simplistic enforcement-only approaches.

3. Seek and support innovative home and transit country solutions that would enable endangered children who cannot safely remain in their home countries, facilitating safe avenues of migration;

a. Support the Central American Minors Program (CAM). This in-country processing program in El Salvador, Honduras, and Guatemala established by the Bureau of Population, Refugees, and Migration of the U.S. Department of State (PRM/USDOS) must be supported so that it can provide safe, efficient processing of unaccompanied children in Central America;

b. Support other humanitarian protection efforts in the region. These include strengthening the asylum systems and child-welfare systems in El Salvador, Honduras, Guatemala, and Mexico; building the capacity in Mexico to process refugees for third country resettlement; and providing best interest determinations and best interest assessments of unaccompanied children in the region, when appropriate;

c. Support a PRM/DOS pilot in Mexico pursuant to Section 104 of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 08). Sec. 104 of the TVPRA 08 amends Sec. 107 (a) of the TVPA 2000 to require the “Secretary of State and the Administrator of the United States Agency for international development” to “establish and carry out initiatives in foreign countries”²⁰ “in cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations...for--”(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and “(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement.”²¹ Currently, there is no systemic way to identify children who have been trafficked or are at risk of being trafficked, and without a BID, the fate of children who were trafficked or at risk of being trafficked consists of repatriation to their country of origin, often sending them back into the hands of the traffickers. If they receive refugee status in Mexico, remaining in a shelter until they turn 18 years old leaves them vulnerable to exploitation within the shelter and lacking appropriate services to address their trauma and developmental needs.

d. Fund Central America and Mexico to incorporate access to international protection into their migration management systems. Such integration requires that the “best

²⁰ ²³ <http://www.state.gov/documents/organization/10492.pdf>

²¹ ²⁴ <http://www.state.gov/j/tip/laws/113178.htm>

interest of the child” and full refugee protection becomes a reality for Central American children transiting through these countries.

4. Appropriate the necessary funding to continue to respond to the crisis in a holistic and child protection-focused manner.

a. Support the Administration’s Proposed Appropriation for Labor, Health, and Human Services and Related Programs for unaccompanied children. This includes safe placement, family unification, legal orientation, and post-release services, and also assure flexibility to fund unexpected child arrivals beyond that number, if necessary.

b. Support the Administration’s Proposed Appropriation for Commerce, Justice, State, and Related Programs for more immigration judges for EOIR and for more legal services through Justice AmeriCorp program to help unaccompanied children. We also support \$25 million for Legal Orientation Programs (LOP), including Legal Orientation Programs for Custodians of the unaccompanied children. Our request for LOP is higher than the Administration’s.

V. Conclusion

The situation of child migration from Central America is a complex one, with no easy answers. It is clear, however, that more must be done to address the root causes of this flight and to protect children and youth in the process. Clearly this problem is not going away; in fact, it is getting more urgent in terms of the dire humanitarian consequences.

Too often, and especially recently in the media, these children are being looked at with distrust and as capable adult actors, instead of as vulnerable and frightened children who have been introduced to the injustice and horror of the world at an early age. Anyone who hears the heart-breaking stories of these children would be moved, since they are victims fleeing violence and terror, not perpetrators. USCCB found that these children long not only for security, but also for a sense of belonging—to a family, a community, and a country. They are often unable to find this belonging in their home country and leave their homes as a last resort.

In conclusion, I ask you to consider the vulnerability of these child migrants and open your minds and hearts to their plight while seeking meaningful and long-term regional solutions. I ask you to respond to the needs of these children, not to turn them away or ostracize them, since Americans at our best are a compassionate people. Mr. Chairman, I again thank you for this opportunity to speak with you about these children of God and ask that you let me, our U.S. conference of bishops, and the entire Catholic Church charitable network work with you to pursue just and humane solutions to the challenge of child migration.

Eroding the Law and Diverting Taxpayer Resources:
 An Examination of the Administration's Central American Minors Refugee/Parole Program
 U.S. Senate Committee on the Judiciary
 Subcommittee on Immigration and the National Interest
 April 23, 2015

Statement of Jessica M. Vaughan
 Center for Immigration Studies

Thank you, Chairman Sessions and Ranking Member Schumer, for the opportunity to testify on the new Central American Minors (CAM) Refugee/Parole Program, and the impact this controversial program will have on American communities. Both the CAM Program and the Haitian Family Reunification Program (HFRP), a similarly problematic endeavor, are dramatic departures from existing law and policy on the admission of refugees, grants of parole, and the family reunification process established by Congress. The criteria for participating in the program differ significantly from what the law stipulates for refugees and parolees. The programs have been presented to the public in a deceptive way, perhaps in an effort to avoid public criticism for what are plainly unlawful, unprecedented, and costly schemes. These programs are an egregious abuse of executive authority; perhaps with good intentions, but that is no substitute for the law. Worst of all, there is no indication that either program can succeed in achieving the stated goal of deterring people from contracting with criminal smuggling organizations to bring their family members to the United States. The result will be a continued erosion of the integrity of immigration law, exploding costs for taxpayers, needless public safety problems, and continued illegal immigration from this part of the world.

Background on Refugee Programs. U.S. refugee policy traditionally has been based on principles consistent with those of the international community and the office of the U.N. High Commissioner on Refugees. Historically the top priority has been policy responses that lead to the "safe, voluntary return of refugees to their homeland."¹ If repatriation is impossible and resettlement is needed, the priority is to resettle refugees within the same geographic region as their homeland. Resettlement in the United States is to be reserved for refugees "in urgent need of protection and refugees for whom other durable solutions are inappropriate or unavailable."

These internationally accepted principles were codified in U.S. immigration law by the Refugee Act of 1980. This bill adopted the language of the 1951 U.N. Convention Relative to the Status of Refugees and its 1967 Protocol.

The definition of refugee is as follows:

(A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social

¹ See, for example, State Department, "U.S. Overview of Refugee Policy," <http://www.state.gov/j/drl/rls/irf/2001/5562.htm>.

group, or political opinion, or (B) in such special circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.²

CAM Is Not a Refugee Program. The CAM clearly is not a true refugee program, as the administration has claimed, but an end run around the law to create a new admissions program for the families of citizens of three Central American countries, most of whom entered the country illegally and now have been awarded some kind of quasi-lawful status by the administration. Most of these individuals are not eligible to sponsor family members for admission because they are not legal residents. In addition, the program will allow the entry of family members who are not qualified for legal admission because of prior deportations or criminal convictions.

The program was announced by the State Department on November 14, 2014:³

*The United States is establishing an in-country refugee/parole program in El Salvador, Guatemala, and Honduras to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States. This program will allow certain parents who are lawfully present in the United States to request access to the U.S. Refugee Admissions Program for their children still in one of these three countries. Children who are found ineligible for refugee admission but still at risk of harm may be considered for parole on a case-by-case basis. **The refugee/parole program will not be a pathway for undocumented parents to bring their children to the United States, but instead, the program will provide certain vulnerable, at-risk children an opportunity to be reunited with parents lawfully resident in the United States.** [emphasis mine]*

The clear focus of the program is on family reunification, not escaping persecution, which is the legal basis for U.S. and international refugee programs. The stated goal is to provide an alternative to traditional – and dangerous – pathways of illegal migration to the United States to join family members who migrated earlier. The existence of persecution is not mentioned in the statement, nor in other official explanations about the CAM program. For example, in his recent testimony before a Senate committee hearing on “Understanding and Addressing the Root Causes of Central American Migration to the United States,” a top State Department official discussed violence and poverty, but never mentioned persecution as a significant problem in the three countries that are the source of the surge of illegal arrivals of juveniles and families.⁴

² Section 101(a)(42) of the Immigration and Nationality Act.

³ U.S. Department of State, Fact Sheet: In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras With Parents Lawfully Present in the United States, November 14, 2014, <http://www.state.gov/i/prm/releases/factsheets/2014/234067.htm>.

⁴ Testimony of Francisco Palmieri, Deputy Assistant Secretary for Central American and the Caribbean, before the Senate Committee on Homeland Security and Government Affairs, March 25, 2015, <http://www.hsac.senate.gov/hearings/securing-the-border-understanding-and-addressing-the-root-causes-of-central-american-migration-to-the-united-states>.

Indeed, government and news media reports all indicate that the main reason for the influx of juveniles from Central America is not rampant or particularized persecution, but to join family members who are already living here, to escape difficult living conditions, and because Obama administration policies allow it. For example, a June 2014 DHS intelligence report stated:

There is no single reason for the increase in [non-Mexican Unaccompanied Children] migration to the United States. Migration push factors include poor economies, lack of opportunity, and violence in [the Unaccompanied Child's] home countries. Migration pull factors include reunification with family members already in the United States and successful migration attempts....⁵

While the problems of violence, poverty and lack of opportunity in Central America are real and pervasive, and we cannot be oblivious to them, Congress wisely has not recognized these conditions as appropriate grounds for refugee status. If it had, then much of the world could demand resettlement, including many in the United States.

Furthermore, the statutory definition of a refugee states that before admitting refugees who are still living within their country of nationality (and thus presumably not displaced and/or less at risk), the president must first consult with Congress. Section 207(e) of the law specifies that the consultation to explain the urgent humanitarian reasons for taking the presumably unusual step of resettling refugees who are still living in their home countries is to take the form of in-person Cabinet-level discussions with members of the House and Senate Judiciary committees. My understanding is that such consultation has not taken place.

A State Department Fact Sheet describes the CAM application process, which must be completed with the assistance of a U.S.-based designated refugee resettlement contractor. Then, the International Organization for Migration, a multinational resettlement contractor, will assist the children in going through the motions of applying for refugee status.⁶ The State Department expects that “a relatively small number” of children ultimately will be approved for refugee status. Those who do not qualify will be considered automatically for parole.

Background on Parole. Parole is a mechanism by which the government (in the form of DHS) may grant entry to an alien who is otherwise inadmissible. The Secretary may:

in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall . . . have been served the alien shall forthwith return or be returned to the custody from which he

⁵ U.S. Immigration and Customs Enforcement, Homeland Security Intelligence Report, “Increase in Number of Unaccompanied Children from Central America Arriving in the United States,” June 3, 2014.

⁶ Interestingly, the IOM website does not mention persecution as a factor in the recent surge of migrants from this region: “Unaccompanied children migrating from Mesoamerica to the United States is a growing trend. The most important drivers of this trend are family reunification, labour opportunities, and insecurity and violence in countries of origin.” See <http://www.iom.int/cms/en/sites/iom/home/where-we-work/americas/central-and-north-america-and-th.html>.

*was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.*⁷

Humanitarian parole⁸ is in most cases meant to be a temporary benefit (usually no more than one year) that enables ineligible or unqualified aliens to enter the United States for a specific purpose, after which the alien departs. It is to be granted only in exceptional circumstances for urgent and compelling humanitarian reasons, such as to obtain emergency medical treatment that is not available in the applicant's home country. [According to USCIS, a grant of humanitarian parole is to be good for "a period of time that corresponds with the length of the emergency or humanitarian situation."⁹] Applicants are expected to first attempt to apply for a visa, and generally are not eligible to be considered for parole until standard legal avenues are exhausted. USCIS guidelines state that parole is not to be used to "circumvent normal visa issuance procedures and is not a means to bypass delays in visa issuance." Those convicted of immigration violations or other crimes are generally ineligible for humanitarian parole.¹⁰ The filing fee is currently \$360, unless it is waived due to financial hardship.

In addition, the government has allowed for grants of humanitarian parole in certain cases "to facilitate the family reunification of minors in circumstances of compelling humanitarian need," according to a GAO description of the USCIS protocols.

While statistics on grants of parole are rarely disclosed, we know from the 2008 GAO report that the grants have been infrequent and have faced a relatively high standard of review. Over a period of more than five and one-half years (October 1, 2001 to June 30, 2007), the government adjudicated 8,748 applications for humanitarian parole, for an average of about 1,500 per year. Of these, only 2,133 were approved (24%), or an average of about 370 total approvals per year.

Of the total number of applications, about half were for the purpose of family reunification, and 27 percent on behalf of minors. The applications of minors were slightly more likely to be approved (35% vs 24% overall), although the GAO did not note whether the approvals for minors were family, medical, or other types of applications. That means roughly 2,360 minors were approved over the period, for an annual average of about 410 per year.

CAM Program is an Abuse of Executive Parole Authority. The CAM program clearly goes well beyond the statutory basis for grants of humanitarian parole. First of all, there is no requirement that the applicants demonstrate a compelling or exceptional humanitarian justification for the grant of parole – no persecution, no connection to violence, no hardship, just an undefined "risk of harm." Applicants simply must have a qualifying family relationship; i.e. be the child of the sponsor in the United States. In addition, spouses of the "anchor parent" and children of the qualifying child can also receive parole.

⁷ Section 212(d)(5)(A) of the INA.

⁸ For the purposes of this discussion, I am referring to humanitarian parole, as distinct from Significant Public Benefit Parole, which generally is used for law enforcement purposes and Advance Parole, which is granted to illegal aliens seeking to return to the United States, such as DACA recipients, or Parole in Place, which is to legalize the status of illegal alien family members of the military.

⁹ USCIS, Humanitarian Parole Home Page, <http://www.uscis.gov/humanitarian/humanitarian-parole>.

¹⁰ See Government Accountability Office report, *Internal Controls for Adjudicating Humanitarian Parole Cases Are Generally Effective, but Some Can Be Strengthened*, February, 2008, p. 7.

Further, there is no indication that the Obama administration intends for the grants of parole to be temporary. On the contrary, the expectation seems to be for a long stay; the Office of Refugee Resettlement description of the program states that CAM parolees may become eligible for federal benefits after a five years in the United States.¹¹ While the GAO report states that juvenile parolees routinely have been allowed to stay longer than the one-year limit when they are joining families and appear eligible for legal permanent residency (a green card), there appears to be no statutory basis for this policy.

CAM is a Rogue Family Reunification Program. In contrast, the most of the parents of the minors who will apply for parole under the CAM program have no legal status in the United States; they merely have a "lawful presence," which is a term of art (not law) that means the government is not currently seeking to deport them. Thus the program will be allowing the entry of children for whom no legal status is available or likely to be available in the foreseeable future. They could be in parole status forever.

Most of the parents of the likely applicants will be in the following categories:

- Temporary Protected Status (TPS) - There are approximately 276,000 aliens from El Salvador and Honduras with TPS.
- Arriving Alien Credible Fear Parole - Since January, 2010, aliens who claimed a fear of return upon arrival at ports of entry or after apprehension by the Border Patrol have been allowed to enter with a grant of parole.¹² Today, more than 90 percent of those who make "credible fear" claims, which are the first step in applying for asylum, are approved for it. Not surprisingly, the number of applicants has increased dramatically since the policy change in 2010. In 2013 alone, there were nearly 20,000 "credible fear" requests approved for citizens of El Salvador, Guatemala and Honduras.¹³
- Other Parole - Many of the aliens who were apprehended as a family unit in the recent border surge received a grant of parole to stay in the country. A total of about 88,000 aliens who were apprehended as part of a family unit, including parents and children.
- Lawful Permanent Residents whose children are inadmissible because of prior deportations, criminal convictions, fraud, or other grounds of ineligibility. Qualified children of Central American green card holders would not need a grant of parole, because they can acquire a green card at the same time as the parent.

The total number of parents who could seek to bring in their children through the CAM program potentially could be as high as 150,000. If so, this parole program would be the largest in recent history.

¹¹ Office of Refugee Resettlement, State Letter 15-01, "In-Country Refugee/Parole Program for Children in El Salvador, Guatemala, and Honduras with Parents Lawfully Present in the United States - Eligibility for ORR Benefits and Services," January 7, 2015.

¹² See John Morton, Immigration and Customs Enforcement Memo, "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," issued December 8, 2009, http://www.ice.gov/doclib/dro/pdf/11002.1-hd-parole_of_arriving_alien_found_credible_fear.pdf.

¹³ Testimony of Ruth Ellen Wasem, "Asylum Abuse: Is It Overwhelming Our Borders?," before the House Judiciary Committee, December 12, 2013, <http://judiciary.house.gov/cache/files/5d634f9d-d515-4545-a3f7-f8e6c83da86d/wasem-testimony.pdf>.

by far, possibly exceeding the scale of the Mariel boatlift of 1980, in which about 125,000 Cubans were granted parole.¹⁴

It is reasonable to assume that President Obama originally intended for the CAM program to be even larger than what is currently contemplated. The program was announced just one week before the president released the details of a new set of broad executive actions, including the Deferred Action for Parental Accountability (DAPA) program. That program would have granted work permits and quasi-lawful status to several million illegal aliens, including many citizens of the three Central American countries covered by CAM, but its implementation has been blocked by a lawsuit filed by 26 states. If the administration is ever allowed to launch DAPA, then several hundred thousand more Central American parents now in the United States illegally would be able to apply for their children to enter under the CAM program.

Meanwhile, there are 77,000 people in El Salvador alone, plus thousands more in Honduras and Guatemala, who have been sponsored by a legally present family member or employer through the legal immigration process who are waiting for their turn to file their paperwork for an immigrant visa or green card. Not only do these legal applicants have to wait years for their turn, they also have to pay the full application fees and meet higher eligibility standards.

I am especially troubled by a USCIS statement that CAM parole applicants who have been deported before or who have criminal convictions, both of which would disqualify them under current USCIS policy, will be considered for a waiver of these ineligibilities.¹⁵ This waiver is currently available only to refugees, and should be used with great caution. There are a large number of juveniles who have been deported to the three Central American countries covered in this program, and a significant share of the juvenile aliens were targeted for removal because of criminal convictions and/or criminal gang involvement. According to ICE records, in 2012 and 2013 alone, there were more than 2,400 juveniles deported to El Salvador, Guatemala and Honduras who had criminal convictions and who are still under age 21, and theoretically eligible for the program if their parents are still in the United States. None of these individuals should be allowed back into the United States without an extremely compelling reason that outweighs the public safety risks that they represent.

Finally, I was very surprised to see that CAM applicants will not be expected to pay the standard fee for this extraordinary grant of immigration largesse, or for any expenses other than airfare. If any arrive as refugees, they will receive complimentary airfare.

Haitian Family Reunification Program (HFRP). The Obama administration has implemented another unauthorized family reunification parole program for certain Haitians. While somewhat less expansive in scale and slightly less egregiously deviant from Congressional intent for immigration, the HFRP still clearly violates the statutory parameters of humanitarian parole and flouts the legal immigration process. The administration's official rationale for this program is that it will support Haiti's "reconstruction and development by providing the opportunity for certain eligible Haitians to

¹⁴ See American Immigration Council, "Executive Grants of Temporary Immigration Relief, 1956-Present," October, 2014.

¹⁵ Ryan Lovelace, "Previously Deported Immigrants Can Now Enter U.S. On Taxpayer's Dime," *National Review*, April 7, 2015, <http://www.nationalreview.com/article/416545/previously-deported-immigrants-can-now-enter-us-taxpayers-dime-ryan-lovelace?target=topic&tid=3267>.

safely and legally immigrate sooner to the United States.”¹⁶ This is described as a “significant public benefit” and the administration argues that this meets the requirements of the statutory parole authority.

The parolees will be Haitians who have been sponsored for a green card by a U.S. citizen or permanent resident, and who are within two years of being able to apply to come to the United States as a legal immigrant. While they will not receive their green cards early, they will be allowed to get work permits upon arrival. Essentially, these individuals are being allowed to wait two years less than everyone else in the world that is equally eligible for immigrant visas. USCIS states that 5,000 applicants are expected to be processed each year.

Like the CAM, the HFRP is a new family reunification program set up to bypass the regular immigrant visa process. There is no indication of requirements that the applicants demonstrate unique and compelling humanitarian reasons for the government to make an exception to the standard immigrant visa issuance procedures. Again, these are not temporary grants of humanitarian parole; they clearly are meant to circumvent normal visa issuance procedures, and thus are contrary to the law and to Congressional intentions for how our immigration system operates.

Furthermore, unlike most legal immigrants, upon arrival Haitian (and Cuban) entrants are eligible to receive special resettlement benefits and other services that are typically provided to refugees. These include: cash assistance, health assessment and screening, food, housing, clothing, job counseling and training services, follow-up medical care, English language classes, and more. Additional services provided by ORR include: day care; transportation assistance; translation and interpretation services; assistance in applying for Social Security cards; registering children for school; assistance with immigration-related matters; community orientation concerning public services and facilities, personal and public safety, public transportation, standards of personal and public hygiene; briefings on their entitlement to publicly supported refugee services, procedures for renewing immigration documents, health care services, and accessing free legal services. Some of these benefits can be received for years after entry.¹⁷

In addition, unlike other regular legal immigrants, who must wait five years to be eligible for federal welfare benefits, the Haitians who receive parole can immediately apply for federal cash assistance payments and medical care, to include Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Full Medicaid, Children’s Health Insurance Program (CHIP) and Section 8 Public Housing.

The provision of these benefits and services to Haitians being sponsored as family preference immigrants immediately upon their arrival is in direct conflict with Congressional intent that family-based immigrants should not be admitted if they will be dependent on government assistance, or a “public charge.”¹⁸ Refugees, of course, are exempt from the self-sufficiency requirement, but the HFRP entrants are not refugees; they are regular family-based immigrants who have been allowed to skip the visa line.

¹⁶ Statement of DHS Deputy Secretary Alejandro Mayorkas, in USCIS press release, “DHS To Implement Haitian Family Reunification Parole Program,” October 17, 2014.

¹⁷ Office of Refugee Resettlement, “Fact Sheet: ORR Benefits At A Glance,”

https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_benefits_at_a_glance.pdf.

¹⁸ See INA Section 212 (a)(4).

Ironically, one of the officially-stated purposes of the HFRP is to allow these entrants to work in the United States so that they can “contribute to Haiti’s post- earthquake reconstruction and development” by sending money home. Yet the expectation of the resettlement agencies and contractors seems to be that these entrants will be so destitute that they will need intensive government services. It is unclear how many of the new arrivals will actually be in a position to, or inclined to, send money back to Haiti, and that is certainly not a condition for participation in the program.

Impact on Communities. The CAM and HFRP programs will be tremendously costly for U.S. taxpayers and impose huge new burdens on the communities that will have to accommodate the new arrivals.

First, the HFRP programs will artificially expand the population that receives both federally-funded refugee resettlement services and state-funded social services. Refugee expenses are already a billion dollar line item in the federal appropriations, and these programs will have to expand further to accommodate the HFRP entrants.

Haitian immigrants already are heavy users of welfare program. The share of Haitian immigrants and their young children (under 18) living in poverty is 20 percent (for native-born Americans and their young children it is 12%). Of households headed by Haitian immigrants, 46 percent use at least one major welfare program (compared to 20% of native households).¹⁹

The federal costs are spread across the entire population of U.S. taxpayers, but Haitian immigrants, like all immigrants, tend to be more concentrated in certain parts of the country. This means that certain states, cities and towns will bear a disproportionate burden in providing the state-funded services that the new entrants will receive. These include not only the state share of welfare programs like Medicaid, SSI, SNAP and other federally-run programs, but also the educational, health care, and public safety expenses that are primarily a state or local responsibility.

The CAM Program promises to be even more costly than the HFRP, because of the size of the program and the fact that a large share of the entrants will all be children in need of educational and health services, and who presumably will not be working. Any CAM entrants who are awarded refugee status of course will receive the entire panoply of refugee services and federal and state benefits. Government statements on the question of services for CAM entrants who are granted parole has been contradictory. On the one hand, an ORR document states that CAM parolees “will not receive ORR benefits and services.”²⁰ On the other hand, a State Department spokesman stated told one news outlet that “Each [CAM entrant] is provided initial services and support by the U.S. Department of State equivalent to \$1,975.”²¹

Regardless of the amount of federal agency support services, many states and localities consider those who enter on a grant of parole to be lawfully present, and thus they can receive a variety of

¹⁹ Steven Camarota, “Fact Sheet on Haitian Immigrants in the United States,” Center for Immigration Studies, January, 2010, <http://cis.org/HaitianImmigrantFactSheet>.

²⁰ January 7 ORR letter, cited above.

²¹ Dan Langenkamp, quoted in Ryan Lovelace, op.cit.

welfare benefits (and some states allow all residents to receive benefits regardless of immigration status).

Already, the population of Central Americans in the United States is making heavy use of welfare programs. For example, 57 percent of households headed by immigrants from El Salvador use at least one major welfare program, as do 54 percent of Honduran households, and 49 percent of Guatemalan immigrant households (among native households it is 24%).²²

We also know from recent experience in dealing with the surge of unaccompanied alien children (UACs), who are essentially the same population as the CAM entrants, that there are extraordinary costs associated in accommodating an influx of entrants who are juveniles.

Education is the Most Significant Cost. Like the Haitians and UACs, the CAM entrants will be concentrated in certain communities, and these are places that are already struggling to manage the costs and issues associated with the UACs. The problem is not just the numbers, but also that typically many of the new arrivals had only a few years of schooling in their home country, had not learned to read nor acquired other basic skills fundamental to education beyond elementary school, spoke indigenous languages, and were more likely to require individualized educational plans and tutoring support due to emotional trauma, learning disabilities, or other special needs.

One Massachusetts school committee chair told me that the UAC arrivals were a “shock to the system” because there were so many who came at once, and because most were older than the typical new immigrant children, who are more likely to enter elementary or middle school, not high school. According to ICE records, nearly half of the UAC arrivals in FY2014 were males aged 15 to 17 (or claimed to be).

Everyone agrees that these students need support to succeed; the problem is how to pay for it, and how to anticipate the flows so that plans can be made. Says the mayor of Lynn, Mass., which has received a disproportionate share of refugee and UAC arrivals: “We have gotten enough new students to build a school, but unfortunately we don’t have the money to build a school.” Last year, as a result of the influx, the city of Lynn’s required contribution to the education budget went up by nine percent, meaning the city had to find an additional \$8 million (with no corresponding increase in tax revenue to cover it). As a result, the city had to cut other agency budgets by two percent across the board. City staff salaries were frozen; the community policing program was ended; an order for a new hook-and-ladder fire truck was cancelled, among other belt-tightening measures.

This story has been repeated all over the country. Louisiana’s Jefferson Parish, which received 533 UACs, said it needed to hire 27 new ESL teachers, 20 new ESL para-educators, 19 regular teachers, and three special education teachers to accommodate the influx. The total cost was estimated to be \$4.6 million, split between the state and the parish. The state was not expecting any additional support from the federal government for the Limited English Proficiency students, because most of them arrived at the last minute.²³

²² Steven Camarota, “Central American Immigrants in the U.S.,” Center for Immigration Studies, July, 2014, <http://cis.org/central-american-immigrants-us>.

²³ Letter from John White, Louisiana Superintendent of Education to Sen. David Vitter, September 12, 2014, <http://freebeacon.com/wp-content/uploads/2014/09/Sen.-David-Vitter-Response-ltr-9-12-14.pdf>.

Other states report the following outlays per UAC student:

- Texas -- \$9,500 (source: Texas Legislative Budget Board)
- Florida -- \$8,900 per child + \$1,900 per UAC for special needs (source: Florida Department of Education) for a total cost of \$30-40 million per year.
- Fairfax County, Virginia -- \$14,755 per English Language Learner, for a total estimated cost per year for UACs of \$14 million. (source: Fairfax County Supervisor).
- National Average: \$11,153 to 12,608 (source: National Center on Educational Statistics).
- Total Cost Nationwide: \$580 million to \$670 million for the FY2014 UAC cohort per year (not counting children who arrived as part of family units).

Health Care Costs. Health care costs for the CAM entrants also will present a major burden for state and local governments. "I think the biggest issue for us is the big handoff to local governments in terms of service costs and wraparound for these families and children. There's no getting around that," said Uma Ahluwalia, director of the Montgomery County, Maryland, Department of Health and Human Services. "In the meantime, the children are going to be attending local schools, they're going to have health and mental health needs . . . I think it will definitely strain our capacities."²⁴

According to the Census Bureau, 47 percent of Guatemalan immigrants and their young children (under 18) do not have health insurance. The figure for both Salvadoran and Honduran immigrants and their young children is 41 percent (compared to 13% for natives and their children).²⁵

Conclusion. The Obama administration's establishment of the CAM and HFRP programs is an egregious violation of the boundaries of immigration law set by Congress. These programs do not comport with the statutory definition for awards of humanitarian parole. They are not temporary, the circumstances of the applicants to not appear to be particularly urgent or even new, the applicants are not expected to first exhaust legal pathways, and the awards of parole will be awarded merely to circumvent the normal legal immigration process. The bottom line is that these are rogue family reunification programs.

Further, based on this administration's record of administering immigration benefits, in which the expectation is that adjudicators will "get to yes" at all costs, the public can have no confidence whatsoever that these awards will be made on a case by case basis as required by the law, with proper vetting.²⁶

Members of this committee should be troubled that the administration has greatly mischaracterized the nature of these programs to give the impression that they are for refugees, with the

²⁴ Quoted in the International City/County Management Association newsletter, August 15, 2014:

http://icma.org/en/Article/104850/Preparing_for_Costs_of_Unaccompanied_Children_Influx?pub=108&issue=8.19.2014.

²⁵ Camarota Fact Sheet on Central American Immigrants, op. cit.

²⁶ For the most recent example of this chronic problem, see Sen. Chuck Grassley, "Man Charged with Murders was Erroneously Shielded from Deportation Despite Gang Ties," April 21, 2015, <http://www.grassley.senate.gov/news/news-releases/man-charged-murders-was-erroneously-shielded-deportation-despite-gang-ties>.

implication that there is an internationally-recognized urgent humanitarian need for resettlement of these individuals. On the contrary – in the case of the Central Americans, there is little likelihood that the applicants will meet the statutory definition of a victim of persecution; in the case of the Haitians, they are not described as refugees, but simply shoehorned into eligibility for refugee services by way of the executive grants of parole. In addition, has taken pains to declare that only “lawfully present” Central Americans in the United States will be able to bring in their families, without explaining that “lawfully present” does not refer to an alien with legal status, but that most of the aliens bringing in their children are illegal aliens who have no right or entitlement to sponsor family members, or even to receive legal status themselves.

The direct cost of these programs together is likely to be over one billion dollars per year, for education, health care and refugee services, although no one knows for sure how many will ultimately be able to take advantage of it. Beyond the financial costs, there will be less tangible costs of depressed wages and job opportunities for natives, not to mention the strong potential for additional criminal activity and violence from some number of parolees who are a threat to public safety but are not screened out.

The Obama administration claims that these programs are a necessary alternative to the problem of illegal migration across dangerous waters and territories in the hands of criminal smuggling organizations. Perhaps one could argue that it would be worth the cost of these initiatives if they actually could succeed in stopping the surge of illegal arrivals from these countries – but they won’t. Instead the president’s abuse of authority on such a scale will only encourage even more people to attempt to come illegally with the understanding that they will be allowed to stay, work, receive benefits, and eventually send for their families. The CAM program, in particular, is a huge incentive for any Central American to migrate illegally to establish a foothold for the family. The continuation of policies that resettle illegal Central American arrivals is no doubt the main reason that the surge continues. In fact, the number of new illegal arrivals in March, 2015 was the highest it has been since last July, at the height of the surge²⁷ – and this is two months *after* the administration began publicizing the CAM program.

Certainly America should not entirely turn its back on the refugees of the world just because it can be disruptive or costly to resettle them; nor should we ignore poverty and violence that exists in our own hemisphere, and how it suppresses the quality of life and human potential in certain other countries. But these problems cannot be solved by resettling an open-ended number of people who live in difficult conditions. Instead, our government should return to the traditional principles of seeking durable solutions nearby the home countries of displaced persons, and work on the goal of eventual repatriation whenever possible. As many respected leaders in U.S. refugee policy have noted over the year, we can help more people by directing aid overseas than attempting to bring a fraction of them to the United States.

Numerous alternatives exist. Other prosperous countries in the hemisphere, such as Mexico and some South American and Caribbean countries, can absorb Central American and Haitian migrants who are looking to flee poverty and violence.

²⁷ Jessica Vaughan, “Influx of Central American Teen and Family Arrivals Continues,” Center for Immigration Studies, March 31, 2015, <http://cis.org/vaughan/influx-central-american-teen-and-family-arrivals-continues>.

Furthermore, our constitution gives Congress the authority to make the difficult choices and compromises about how many immigrants will be admitted, and under what rules and circumstances. The Obama administration's move to create new immigration programs out of whole cloth, and then mischaracterize them as refugee programs in order to deflect public skepticism, will only anger the public and erode the integrity of our legal immigration system. In addition, it prompts political pressure for "me too" treatment from advocates for immigrants from other countries.

In response to this abuse of executive authority, at a minimum, Congress should take steps to ensure that no agency funds or fee revenues can be used to provide services or benefits to aliens who are not inspected and admitted as legal immigrants or refugees in Congressional authorized programs of admission. In addition, Congress should press the agencies involved to disclose details about the aliens who enter, how they are processed, the services they receive, and the total cost to the government.

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Senator Cruz Questions for the Record for
Simon Henshaw, U.S. Department of State
Subcommittee on Immigration and the National Interest
Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program
Thursday, April 23, 2015

I. Statutory Basis for CAM Program

1. Please cite the statutory basis for the creation and implementation of the Central American Minors Refugee/Parole Program (CAM Program).

II. Scope and Limitations of Refugee Status

- During the hearing, Chairman Sessions asked you questions regarding the in-country circumstances that would permit a foreign national to claim refugee status. Different scenarios were discussed, based on documentation addressing the CAM Program, that raised questions about exactly what conditions would allow the extension of refugee status to a foreign national, and whether current Administration interpretations are in accord with statutory language.
2. Is it the State Department's official position that the following conditions justify extension of refugee status to a foreign national:
 - a. Poor economic conditions within that foreign national's country?
 - b. That foreign national's individual impoverished condition or status?
 - c. That foreign national's gender, by itself?
 - d. That foreign national's status as a female head of household?
 - e. That foreign national's involvement as a victim in any crime?

If the answer is yes to any of the above, please provide additional information about the justification for each policy position, including internal agency documentation demonstrating the development or evolution of this position, and the statutory basis for each policy position.

3. In the event a foreign national is seeking entry to the United States pursuant to the CAM Program but is unable to provide sufficient documentation demonstrating identity or background, is that foreign national:
 - a. Automatically rejected from the CAM Program?
 - b. Ineligible to reapply?

Senator Cruz Questions for the Record for
Simon Henshaw, U.S. Department of State
Subcommittee on Immigration and the National Interest
Eroding the Law and Diverting Taxpayer Resources: An Examination of the
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Thursday, April 23, 2015

III. El Salvador, Guatemala, and Honduras

- You stated during your testimony that the CAM Program is available to foreign nationals originating from El Salvador, Guatemala, and Honduras.
- 4. Please provide additional detail about the degree to which the United States government coordinated with the governments of El Salvador, Guatemala, and/or Honduras to develop and implement the CAM Program.
- 5. Did the governments of El Salvador, Guatemala, and/or Honduras in any way request that the United States government extend this capacity to their respective populations? If the answer is yes, please indicate the names of the foreign officials from these respective countries who were involved in these requests or related conversations.
- 6. Is access to the CAM Program limited to citizens of El Salvador, Guatemala, and Honduras, or are citizens of other countries who reside in these three countries also eligible for the CAM Program?

Senator Cruz Questions for the Record for
Jessica Vaughan, Director of Policy Studies, Center for Immigration Studies
Subcommittee on Immigration and the National Interest
Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program
Thursday, April 23, 2015

I. Miscellaneous

1. Please provide any additional information you believe would be helpful to the Committee in its formulation of immigration policy and/or addressing the Central American Minors Refugee/Parole Program.

Senate Committee on the Judiciary
"Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program"

Questions for the Record: Senator Amy Klobuchar

Question for Ms. Brown:

Your organization has been on the front-line of protecting unaccompanied minors: studying the problem, finding placements for over 3,000 children either through family reunification or long-term foster care, and working extensively to address the underlying causes of refugee migration.

- In your experience, what benefits has the Central American Minors Refugee Program provided to children who may interact with the Department of Homeland Security, as well as for the criminal justice system?
- Based on your expertise, what caused the dramatic increase in unaccompanied minors trying to cross the border?

Senate Committee on the Judiciary
"Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program"

Questions for the Record: Senator Amy Klobuchar

Questions for Mr. Henshaw and Mr. Langlois:

The influx of unaccompanied minors in recent years isn't just an immigration issue. It's a humanitarian crisis that we must address.

- What role does the Central American Minors Refugee Program play in addressing this crisis?
- What other actions are the Department of Homeland Security and State Department taking to address this crisis?

**Chairman Jeff Sessions
Questions for the Record**

**Simon Henshaw, Principal Deputy Assistant Secretary,
Bureau of Population, Refugees and Migration, U.S. Department of State**

1. Can you cite to any precedential case law that stands for the proposition that any of the intended beneficiaries of the Central American Minors Refugee/Parole Program would qualify as refugees, as that term is defined under the law?
2. Please explain in detail what security and background checks would be performed on program beneficiaries, including whether and to what extent the Federal Bureau of Investigation (FBI) is involved in this process.
3. Please explain in detail how the Department of State plans to pay for the costs associated with the Central American Minors Refugee/Parole Program.
4. The State Department website says that the program “will not be a pathway for undocumented parents to bring their children to the United States.” In light of the fact that the program clearly allows parents without lawful status to bring their children into the United States, please explain whether that is an accurate statement.
5. Please explain why the administration’s justification for this program – that is, preventing the illegal entry of individuals who leave countries experiencing generally high rates of crime and poverty by providing them with a purportedly safe, legal, and orderly alternative to the dangerous journey associated with illegal immigration, in a manner not authorized by Congress – could not be used to establish a similar program in another country.
6. The underlying premise for the existence of this program appears to hinge on the existence of poor conditions in El Salvador, Guatemala, and Honduras, which this Administration attributes as one of the primary reasons why these individuals attempt to illegally enter the United States. As Mr. Langlois testified, in evaluating applications for this program, the government “will be taking the country conditions into account.”
 - a. Does the Department of State contemplate termination of this program if the government determines that there is a change in the “country conditions”?
 - b. If so, how will Department of State measure such changes?
 - c. For how long does the administration intend on operating this program?
7. Please explain why the administration’s justification for the Haitian Family Reunification Parole Program – that is, supporting “broader U.S. goals for Haiti’s long-term reconstruction and development by allowing the beneficiaries of the HFRP Program to work in the United States and contribute to Haiti through their remittances, if they wish to do so” – could not be used to establish a similar program to circumvent normal visa processes and timelines for individuals from other parts of the world.

8. On December 9, 2014, Anne C. Richard, Assistant Secretary for the Bureau of Population, Refugees, and Migration said that the State Department is “reviewing some 9,000 recent [United Nations High Commissioner for Refugees] referrals from Syria. We are receiving roughly a thousand new ones each month, and we expect admissions from Syria to surge in 2015 and beyond.” How many total refugees does the Department of State anticipate admitting from Syria?
9. At a February 11, 2015, hearing before the House Committee on Homeland Security, FBI Assistant Director Michael Steinbach expressed significant concerns with admitting Syrian refugees to the United States, stating: “I’m concerned. We’ll have to take a look at those lists and go through all of the intelligence holdings and be very careful to try and identify connections to foreign terrorist groups.” He also said that the FBI’s databases do not have “information on those individuals, and that’s the concern.”
 - a. Please explain in detail what security and background checks will be performed on potential Syrian refugees.
 - b. Please explain how the government intends to address the concerns identified in Mr. Steinbach’s testimony regarding the limitations of FBI databases.
10. At an April 20, 2015, press conference regarding the arrest of six Somali men from Minnesota who planned to conspire to provide support to the Islamic State, Andrew Luger, U.S. Attorney for the District of Minnesota, stated, “[t]o be clear, we have a terror recruitment problem in Minnesota.” As you know, a large population of Somali refugees was resettled in Minnesota. Can the State Department guarantee that other communities will not experience similar problems in the future with Syrian refugees?
11. Can the State Department state with absolute certainty that the United States government will not admit as refugees any aliens from Syria affiliated with ISIS or any other terror organizations?

Chairman Jeff Sessions
Questions for the Record
Joseph Langlois, Associate Director,
Refugee, Asylum and International Operations Directorate,
U.S. Citizenship and Immigration Services

1. As discussed at the hearing, a recent training manual for U.S. Citizenship and Immigration Services (USCIS) asylum officers (attached) proffers two “new and novel” “particular social groups”: (1) persons who reported a serious gang-related (or cartel-related) crime to law enforcement; and, (2) “female heads of household.” These new and novel particular social groups are radical departures from existing statutory or case law.
 - a. In how many cases has USCIS granted asylum based on either of these two particular social groups, or based on similarly constructed particular social groups?
 - b. In how many cases has USCIS made a positive credible fear or reasonable fear finding based on either of these two particular social groups, or based on similarly constructed particular social groups?
2. Does USCIS grant asylum to aliens based on an expressed fear of gang violence, poverty, generalized threats, or civil unrest?
 - a. If so, how many applications for asylum has USCIS granted based on these types of claims?
 - b. Does USCIS make credible fear findings involving factual scenarios similar to these types of claims, and if so, in how many cases has USCIS made such a finding?
3. The law defines an “unaccompanied alien child” as a person who “has no lawful immigration status in the United States,” who “has not attained 18 years of age,” and with respect to whom “*there is no parent or legal guardian in the United States,*” or “*no parent or legal guardian in the United States is available to provide care and physical custody.*” 6 U.S.C. § 279(g)(2). The plain language of the law is phrased in the present tense, as clearly represented by the words “has,” “has not,” “there is,” and “is available.” In 2013, Ted Kim, then Acting Chief of the Asylum Division at USCIS, issued a memorandum titled “Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children” (“Kim Memo”). Contrary to the law, the memorandum provides that if an alien child is determined to be unaccompanied at the border, the child is still considered to be “unaccompanied,” even if released to the custody of a parent or legal guardian. That means that, pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, such individuals are able to file for asylum directly with USCIS rather than having to appear before an immigration judge. Having an asylum application adjudicated by USCIS rather

than before an immigration judge is a tremendously more lenient process, as the applicant is not subject to cross-examination by an opposing party, or from a neutral judge.

- a. Is the Kim Memo current USCIS policy?
- b. Will USCIS issue guidance clarifying the Kim Memo, and insist that the determination of when an individual is an “unaccompanied alien child” be made at the time of the filing and adjudication of the asylum application, as required by law?
- c. How many asylum applications has USCIS received from unaccompanied alien children for each of the last three fiscal years?
 - i. Of those applications, how many were approved by USCIS?
 1. Of those approvals, please break down the data by the claimed underlying protected ground (race, religion, nationality, membership in a particular social group, or political opinion).
 2. Of those approvals based on persecution on account of membership in a particular social group, please list every definition of a particular social group that served as the basis for an approval.
 - ii. Of those applications, how many were submitted by individuals who were in the custody of a parent or legal guardian, either at the time of the application or subsequent to the application?
4. Can you cite to any precedential case law that stands for the proposition that any of the intended beneficiaries of the Central American Minors Refugee/Parole Program would qualify as refugees, as that term is defined under the law?
5. With respect to the Central American Minors Refugee/Parole Program, please explain in detail what security and background checks would be performed on program beneficiaries, including whether and to what extent the Federal Bureau of Investigation (FBI) is involved in this process.
6. Please explain in detail how USCIS plans to pay for the costs associated with the Central American Minors Refugee/Parole Program.
7. The underlying premise for the existence of this program appears to hinge on the existence of poor conditions in El Salvador, Guatemala, and Honduras, which this Administration attributes as one of the primary reasons why these individuals attempt to illegally enter the United States. As Mr. Langlois testified, in evaluating applications for this program, the government “will be taking the country conditions into account.”
 - a. Does USCIS contemplate termination of this program if the government determines that there is a change in the “country conditions”?
 - b. If so, how will USCIS measure such changes?
 - c. For how long does the administration intend on operating this program?

8. Please explain why the administration's justification for the Central American Minors Refugee/Parole Program – that is, preventing the illegal entry of individuals who leave countries experiencing generally high rates of crime and poverty by providing them with a purportedly safe, legal, and orderly alternative to the dangerous journey associated with illegal immigration, in a manner not authorized by Congress – could not be used to establish a similar program in another country.
9. On December 9, 2014, Anne C. Richard, Assistant Secretary for the Bureau of Population, Refugees, and Migration, said that the State Department is “reviewing some 9,000 recent [United Nations High Commissioner for Refugees] referrals from Syria. We are receiving roughly a thousand new ones each month, and we expect admissions from Syria to surge in 2015 and beyond.” How many total refugees does USCIS anticipate admitting from Syria?
10. At a February 11, 2015, hearing before the House Committee on Homeland Security, FBI Assistant Director Michael Steinbach expressed significant concerns with admitting Syrian refugees to the United States, stating: “I’m concerned. We’ll have to take a look at those lists and go through all of the intelligence holdings and be very careful to try and identify connections to foreign terrorist groups.” He also said that the FBI’s databases do not have “information on those individuals, and that’s the concern.”
 - a. Please explain in detail what security and background checks will be performed on potential Syrian refugees.
 - b. Please explain how the government intends to address the concerns identified in Mr. Steinbach’s testimony regarding the limitations of FBI databases.
11. At an April 20, 2015, press conference regarding the arrest of six Somali men from Minnesota who planned to conspire to provide support to the Islamic State, Andrew Luger, U.S. Attorney for the District of Minnesota, stated, “[t]o be clear, we have a terror recruitment problem in Minnesota.” As you know, a large population of Somali refugees was resettled in Minnesota. Can USCIS guarantee that other communities will not experience similar problems in the future with Syrian refugees?
12. Can USCIS state with absolute certainty that the United States government will not admit as refugees any aliens from Syria affiliated with ISIS or any other terror organizations?
13. Has USCIS at any time considered, or is it currently considering, a parole program for Syrians with approved immigrant petitions similar to the Haitian Family Reunification Parole Program?
14. At the hearing, you confirmed that parole under section 212(d)(5)(A) of the Immigration and Nationality Act may only be exercised on a case-by-case basis, and only for urgent humanitarian reasons or a significant public benefit. You also testified that with regard to

the Central American Minors Refugee/Parole Program, USCIS intends to grant parole if it finds “that the individual is at risk of harm in his or her country and that applicant merits a favorable exercise of discretion.” You testified that this was not a more liberal standard, and that “a significant public benefit is being achieved by basically attempting to deter the mass migration that we saw at the border last year, and so the significant public benefit element of the authorization of parole is being achieved in that fashion.” This reasoning – justifying the paroling in of individuals to prevent their illegal entry into the United States – is contrary to both the letter and spirit of the law.

- a. In September 2008, USCIS, U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) executed a Memorandum of Agreement (MOA) pertaining to the use of parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act. In this document, the three DHS components agreed that parole is “an *extraordinary measure, sparingly used only in urgent or emergency circumstances*, by which the Secretary may permit an inadmissible alien temporarily to enter or remain in the United States.” Does the Central American Minors Refugee/Parole Program violate the terms of the MOA? Please explain your answer.
 - b. The House Report accompanying the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 indicates that the “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit” language in section 212(d)(5)(A) was added with the intent to “end the use of parole authority to create an ad hoc immigration policy or to supplement current immigration categories without Congressional approval.” Is it the administration’s position that the Central American Minors Refugee Parole/Program – which allows for parents without lawful status to bring their children from Central America to the United States – does not create an ad hoc immigration policy or supplement current immigration categories without Congressional approval? Please explain your answer.
15. Under the terms of the Haitian Family Reunification Parole Program, individuals from Haiti are permitted to come to the United States before a visa available for them to claim.
- a. The aforementioned MOA also states that “[p]arole is not to be used to circumvent normal visa processes and timelines.” Please explain how the Haitian Family Reunification Parole Program does not violate the terms of the MOA.
 - b. Please explain why the administration’s justification for the Haitian Family Reunification Parole Program – that is, supporting “broader U.S. goals for Haiti’s long-term reconstruction and development by allowing the beneficiaries of the HFRP Program to work in the United States and contribute to Haiti through their remittances, if they wish to do so” – could not be used to establish a similar program to circumvent normal visa processes and timelines for individuals from other parts of the world.

- You claimed in your testimony that this program would reduce smuggling networks. Is there any evidence that you can point to that can substantiate this assertion?

- In discussing the costs to participants to the program, you said that air travel coverage is only a loan, making it seem as though allocated funds for the program using taxpayer dollars would not be used to cover any of the services necessary to become a participant in the program. Yet, isn't it true that the DNA cost can be recouped by the parent for the costs of the testing if the results are positive? Why should taxpayers cover these costs?

- You mentioned that the program will use FBI resources and communications with Guatemala, El Salvador, and Honduras as part of security screening potential candidates, but the GAO has found FBI screening inadequate and these countries have even fewer resources available. How do you reconcile these facts with your claims that screening for criminal history will be comprehensive?

- You compared this program to the Orderly Departure Program, which was implemented before the 1980 Refugee Act that gave a much more narrow definition of refugee status. Are you claiming that the legal legitimacy of this program is supported by an outdated program that would not have existed under the framework of the Refugee Act?

- In your opinion, do the potential children under this program qualify as refugees that constitute a particular social group under the original language of the 1980 Refugee Act or any subsequent legislative clarification?

- Considering the USCIS internal guidance that Senator Sessions discussed and the general intent of that agency to skirt the original meaning of refugee status, is this really the benign program that some of the other witnesses contend?

- In your opinion, did the Obama administration use the words “lawfully present” to describe family members already in the U.S. under this program to deceive the general public about the legality of their status here?

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#1)
Senate Judiciary Committee
April 23, 2015**

Question:

Please cite the statutory basis for the creation and implementation of the Central American Minors Refugee/Parole Program (CAM Program).

Answer:

The legal basis is found in The Refugee Act of 1980 (Public Law 96-212, enacted March 17, 1980) and as incorporated in the Immigration and Nationality Act (INA). Section 207(a) of the INA grants the President the authority to admit a certain number of refugees each year after appropriate consultation as defined in Sec. 207(e) of the INA. The term “refugee” is defined in INA Section 101(a)(42) and includes those who are in their country of nationality. The relevant language of Section 101(a)(42)(B) is:

(42) The term “refugee” means (B) in such circumstances as the President after appropriate consultations (as defined in sec. 207 of this Act) may specify, any person who is within the country of such person’s nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or

who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#2)
Senate Judiciary Committee
April 23, 2015**

Question:

Is it the State Department's official position that the following conditions justify extension of refugee status to a foreign national:

- a. Poor economic conditions within that foreign national's country?
- b. That foreign national's individual impoverished condition or status?
- c. That foreign national's gender, by itself?
- d. That foreign national's status as a female head of household?
- e. That foreign national's involvement as a victim in any crime?

Answer:

Extension of refugee status to a foreign national is granted by the Department of Homeland Security (DHS). The Department of State understands that DHS also received this question and will submit the answer.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#3)
Senate Judiciary Committee
April 23, 2015**

Question:

In the event a foreign national is seeking entry to the United States pursuant to the CAM Program but is unable to provide sufficient documentation demonstrating identity or background, is that foreign national:

- a. Automatically rejected from the CAM Program? Is he/she ineligible to apply?
- b. Ineligible to reapply?

Answer:

The lawfully present parent in the United States must provide proof of identity and lawful presence to demonstrate his or her eligibility to file an Affidavit of Relationship (AOR) for the CAM program. Each section of the AOR must be complete and all supporting documentation must be present in order for the AOR to be accepted.

Once an AOR is accepted, all biological parent-child relationships must be verified via DNA testing through laboratories in the United States. Additionally, the beneficiary in El Salvador, Honduras, or Guatemala must present documentation, including a passport, at the time of interview to verify identity.

Failure to provide supporting documentation of identity, relationship, or lawful presence in the United States at any stage of the process would halt the processing of that case. The case would resume processing once the documentary requirements were met.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#4)
Senate Judiciary Committee
April 23, 2015**

Question:

Please provide additional detail about the degree to which the United States government coordinated with the governments of El Salvador, Guatemala, and/or Honduras to develop and implement the CAM Program.

Answer:

The U.S. government continues to coordinate with the governments of El Salvador, Guatemala, and Honduras on immediate assistance and long-term strategies to minimize irregular migration and address underlying factors of migration. However, the U.S. government does not coordinate with foreign governments on the development of new refugee programs. All three Central American governments agreed to regularized returns of families and the United States is working in close coordination with each to ensure the safe and humane return of these individuals. Central American governments redirected consular personnel to the southwest U.S. border.

USAID's International Organization for Migration (IOM)-managed program is improving repatriation facilities and capacities in Northern Triangle capitals, has monitored the arrival of 29,041 returned persons, and

has delivered immediate assistance to nearly 4,000 returning families, unaccompanied children, and adults. Additionally, El Salvador, Guatemala, and Honduras implemented complementary public awareness campaigns and high-ranking officials made numerous public statements on the dangers of irregular migration. All three countries supported U.S. messaging campaigns in print media, television, and radio in areas of high outbound migration.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#5)
Senate Judiciary Committee
April 23, 2015**

Question:

Did the governments of El Salvador, Guatemala, and/or Honduras in any way request that the United States government extend this capacity to their respective populations? If the answer is yes, please indicate the names of the foreign officials from these respective countries who were involved in these requests or related conversations.

Answer:

The governments of El Salvador, Guatemala, and Honduras did not specifically request the United States extend this capacity to their respective populations.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Ted Cruz (#6)
Senate Judiciary Committee
April 23, 2015**

Question:

Is access to the CAM Program limited to citizens of El Salvador, Guatemala, and Honduras, or are citizens of other countries who reside in these three countries also eligible for the CAM Program?

Answer:

Access to the CAM Program is limited to citizens of El Salvador, Guatemala and Honduras who are living in one of the three countries.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator Amy Klobuchar
Senate Judiciary Committee
April 28, 2015**

Question:

The influx of unaccompanied minors in recent years isn't just an immigration issue. It's a humanitarian crisis that we must address.

- a. What role does the Central American Minors Refugee Program play in addressing this crisis?
- b. What other actions are the Department of Homeland Security and State Department taking to address this crisis?

Answer:

The Central American Minors program is one of many measures the United States has put in place to help reduce the number of parents and others who are paying smugglers to lead minors on the dangerous journey to the United States. It offers a real alternative to children who may have legitimate claims to refugee status.

The Departments of State and Homeland Security also launched new public information campaigns, in coordination with the Central American governments, warning about the dangers of irregular migration and delivering the message that unaccompanied children are not given a

“permiso” or permit to stay in the United States upon arrival at the border, and many will ultimately be returned to their country of origin.

The Administration’s Strategy for U.S. Engagement in Central America addresses the underlying factors of migration, prioritizing prosperity, governance, and security. The Administration requested \$1 billion for FY 2016 to support Strategy implementation. A secure, democratic, and prosperous Central America will provide an environment in which all of its citizens choose to remain and thrive.

The Administration also increased significantly the number of Border Patrol agents and surveillance to ensure our borders remain secure. We also increased the number of investigators and prosecutors to impede smuggling. On the diplomatic front, we are making sure that all countries in the region are working to stop the irregular flow of migrants and to address the underlying factors that lead to migration. Domestically, we increased our capacity to care for and process these children while they were in the United States.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#1)
Senate Judiciary Committee
April 28, 2015**

Question:

Can you cite any precedential case law that stands for the proposition that any of the intended beneficiaries of the Central American Minors Refugee/Parole Program would qualify as refugees, as that term is defined under the law?

Answer:

The Department of Homeland Security conducts the adjudication for both refugee and asylum applicants, and is therefore best placed to answer a question about precedential case law.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#2)
Senate Judiciary Committee
April 28, 2015**

Question:

Please explain in detail what security and background checks would be performed on program beneficiaries, including whether and to what extent the Federal Bureau of Investigation (FBI) is involved in this process.

Answer:

All refugees of all nationalities considered for admission to the United States undergo intensive security screening involving multiple federal intelligence, security and law enforcement agencies, including the FBI's Terrorist Screening Center, the National Counterterrorism Center, the Department of Homeland Security and the Department of Defense, in order to ensure that those admitted are not known to pose a threat to our country.

Applicants to the U.S. Refugee Admissions Program are currently subject to as high a level of security review as any category of traveler to the United States. These include biometric (fingerprints) and biographic checks, and a lengthy in-person overseas interview by specially trained DHS officers who scrutinize the applicant's story to ensure the applicant is a bona fide refugee and does not present security concerns to the United States. The

classified details of the refugee security screening process have been shared with relevant Congressional Committees.

While no security screening program can guarantee a 100% success rate, the vast majority of refugees who have cleared the current security screening regime for admission to the U.S., including from some of the most troubled regions in the world, have proven to be peaceful additions to our society and, in time, productive citizens.

While the State Department manages the overall US Refugee Admissions Program, the Department of Homeland Security manages the security screening of applicants for US refugee admissions and only DHS has the authority to determine that an individual applicant is sufficiently vetted for admission to the United States. Please inquire with DHS for additional details on security and background checks, including the role of the Federal Bureau of Investigation in this process.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#3)
Senate Judiciary Committee
April 28, 2015**

Question:

Please explain in detail how the Department of State plans to pay for the costs associated with the Central American Minors Refugee/Parole Program.

Answer:

Given the current scope of the program, the FY 2015 Migration and Refugee Assistance (MRA) appropriation includes sufficient funding for Department of State's portion of the Central American Minors Refugee/Parole Program for this fiscal year. MRA resources will be used to fund the costs associated with the overseas processing of refugee applicants, transportation-related services for approved refugees, and initial reception and placement services to those admitted as refugees. MRA resources will not be used to fund costs for applicants once they have been denied refugee status and instead are eligible for parole. Costs associated with the out processing of denied refugee applicants who were recommended for parole will be covered by the Department of Homeland Security/United States Citizenship and Immigration Services and the parents of the parolee.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#4)
Senate Judiciary Committee
April 28, 2015**

Question:

The State Department website says that the Central American Minors program “will not be a pathway for undocumented parents to bring their children to the United States”. In light of the fact that the program clearly allows parents without lawful status to bring their children into the United States, please explain whether that is an accurate statement.

Answer:

The Central American Minors program is not a pathway for undocumented parents to bring their children to the United States. A parent is eligible to request refugee resettlement for his or her child who is resident in one of the three countries if the parent is at least 18 years old and is lawfully present in the United States in one of the following categories:

- Permanent Resident Status, or
- Temporary Protected Status, or
- Parolee, or
- Deferred Action, or
- Deferred Enforced Departure, or
- Withholding of Removal

Approved: PRM/ DAS Simon Henshaw

Drafted: PRM/A – Kelly Gauger, ext. 3-9268; cell (202) 674-4198

Cleared: PRM – LBartlett OK
PRM – PLewis OK
D - YGonzales OK
D (MR) - ESmith OK
H – LDeWine OK
P – MOrona OK
S/P – AMansour info
WHA – EMendrala OK

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#5)
Senate Judiciary Committee
April 28, 2015**

Question:

Please explain why the administration's justification for this program – that is, preventing the illegal entry of individuals who leave countries experiencing generally high rates of crime and poverty by providing them with a purportedly safe, legal, and orderly alternative to the dangerous journey associated with illegal immigration, in a manner not authorized by Congress – could not be used to establish a similar program in another country.

Answer:

The Administration launched this program to allow some parents who are in the United States lawfully to ask that their children in El Salvador, Guatemala, and Honduras be considered for refugee resettlement in the United States. We established the program to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to join their parents in the United States. The overwhelming numbers of unaccompanied minors arriving at our borders created an unprecedented crisis and we do not anticipate establishing similar programs in other countries at this time.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#6)
Senate Judiciary Committee
April 28, 2015**

Question:

The underlying premise for the existence of this program appears to hinge on the existence of poor conditions in El Salvador, Guatemala, and Honduras, which this Administration attributes as one of the primary reasons why these individuals attempt to illegally enter the United States. As Mr. Langlois testified, in evaluating applications for this program, the government “will be taking the country conditions into account”.

- a. Does the Department of State contemplate termination of this program if the government determines that there is a change in “country conditions”?
- b. If so, how will the Department of State measure such changes?
- c. For how long does the administration intend on operating this program?

Answer:

The Department of State, in close coordination with the Department of Homeland Security and other U.S. government agency partners, regularly evaluates the need to continue refugee resettlement programs given current country conditions and number of applications or referrals, among other factors. The Department of State has received more than 3,000 applications from lawfully present parents in the United States from El Salvador, Guatemala, and Honduras seeking refugee resettlement for their children.

We intend to continue operating the program for the foreseeable future, given current conditions in all three countries as well as the increased submission rate of applications.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#7)
Senate Judiciary Committee
April 28, 2015**

Question:

Please explain why the administration's justification for the Haitian Family Reunification Parole Program – that is, supporting “broader U.S. goals of Haiti’s long-term reconstruction and development by allowing the beneficiaries of the HFRP Program to work in the United States and contribute to Haiti through their remittances, if they wish to do so” – could not be used to establish a similar program to circumvent normal visa processes and timelines for individuals from other parts of the world.

Answer:

The Haitian Family Reunification Parole Program is operated by the Department of Homeland Security (DHS). Please contact DHS for further information on the program.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#8)
Senate Judiciary Committee
April 28, 2015**

Question:

On December 9, 2014, Anne C. Richard, Assistant Secretary for the Bureau of Population, Refugees, and Migration said that the State Department is “reviewing some 9,000 recent United Nations High Commissioner for Refugees referrals from Syria. We are receiving roughly a thousand new ones each month, and we expect admissions from Syria to surge in 2015 and beyond.” How many total refugees does the Department of State anticipate admitting from Syria?

Answer:

As of July 30, 2015, the Department of State has received more than 16,000 Syrian referrals from the United Nations High Commissioner for Refugees. As of July 30, the United States has admitted 1,042 Syrian refugees in FY 2015 and anticipates admitting a total of 1,500-1,800 Syrians this fiscal year. We anticipate admitting 5,000-8,000 Syrian refugees in FY 2016.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#9)
Senate Judiciary Committee
April 28, 2015**

Question:

At a February 11, 2015 hearing before the House Committee on Homeland Security, FBI Assistant Director Michael Steinbach expressed significant concerns with admitting Syrian refugees to the United States, stating: “I’m concerned. We’ll have to take a look at those lists and go through all of the intelligence holdings and be very careful to try and identify connections to foreign terrorist groups.” He also said that the FBI’s databases do not have “information on those individuals, and that’s the concern.”

- a. Please explain in detail what security and background checks will be performed on potential Syrian refugees.
- b. Please explain how the government intends to address the concerns identified in Mr. Steinbach’s testimony regarding the limitations of FBI databases.

Answer:

Mindful of the particular conditions of the Syria crisis, Syrian refugee applicants for U.S. Refugee Admission go through additional forms of security screening, the details of which can be shared in a classified setting, and the Administration continues to examine options for further enhancements for screening Syrian refugees.

The Administration made the policy decision to participate in the global effort to resettle Syrian refugees, highly mindful of our security

responsibility to the homeland and with the belief that the risks could be managed responsibly.

We have, for years, safely admitted smaller numbers of Syrian refugees and we have a great deal of experience screening and admitting larger numbers of refugees from other chaotic environments.

We are compensating for the relatively diminished intelligence holdings on the Syrian population by implementing additional screening measures tailored to the Syrian refugee population, the details of which can also be shared in a classified setting.

The American people have been generous in their support for refugee admissions. They have a right to expect the program to be as safe as possible. We take this responsibility very seriously.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#10)
Senate Judiciary Committee
April 28, 2015**

Question:

At an April 20, 2015 press conference regarding the arrest of six Somali men from Minnesota who planned to conspire to provide support to the Islamic State, Andrew Luger, U.S. Attorney for the District of Minnesota, stated, “[t]o be clear, we have a terror recruitment problem in Minnesota.” As you know, a large population of Somali refugees was resettled in Minnesota. Can the State Department guarantee that other communities will not experience similar problems in the future with Syrian refugees?

Answer:

For decades, U.S. communities have welcomed refugees fleeing the world's most dangerous and desperate situations. The U.S. Refugee Admissions Program (USRAP) has historically enjoyed broad bipartisan support, reflecting the generosity and values of the American people.

By admitting Syrian refugees, we stand with Jordan, Turkey, Iraq and Lebanon in alleviating their commendable, but increasingly strained efforts in each hosting hundreds of thousands of Syrian refugees.

As with all refugee populations, our emphasis will be on admitting the most vulnerable Syrians – particularly female-headed households, children, survivors of torture, and those with severe medical conditions – in a manner

that is consistent with U.S. national security. Not only do these cases represent the greatest humanitarian need, but this population generally does not fall into the more high risk categories most likely to pose a threat to the American people.

The Administration recognizes that there are risks associated with the increased admission of Syrian refugees, just as there are risks associated with the admission of other travelers to the U.S., including from other unstable environments. We are working diligently every day to reduce those risks.

The Administration made the decision to increase the admission of Syrian refugees with the belief that the risks could be managed responsibly. Of the 3 million refugees we have admitted to the United States since 1975, very few have been found to pose a national security concern, and we are committed to keeping it that way, while continuing to be a global leader on refugee protection. The vast majority of refugees go on to lead productive lives, receive an education and work hard. Some serve in the U.S. military and undertake other forms of service for the betterment of their communities and our country.

Approved: PRM/ DAS Simon Henshaw

Drafted: PRM/FO – SNaplan – 3-9333

Cleared: PRM – LBartlett OK
PRM – PLewis OK
D - YGonzales OK
D (MR) - ESmith OK
H – LDeWine OK
P – MOrona OK
S/P – AMansour info
NEA – LKeene OK

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Chairman Jeff Sessions (#11)
Senate Judiciary Committee
April 28, 2015**

Question:

Can the State Department state with absolute certainty that the United States government will not admit as refugees any aliens from Syria affiliated with ISIS or any other terror organizations?

Answer:

Mindful of the particular conditions of the Syria crisis, Syrian refugees go through additional forms of security screening, the details of which can be shared in a classified setting, and the Administration continues to examine options for further enhancements for screening Syrian refugees.

We have, for years, safely admitted smaller numbers of Syrian refugees and we have a great deal of experience screening and admitting larger numbers of refugees from other chaotic environments. The Administration recognizes that there are risks associated with the increased admission of Syrian refugees, just as there are risks associated with the admission of other travelers to the U.S., including from other unstable environments. We are working diligently every day to reduce those risks.

Our emphasis will be on admitting the most vulnerable Syrians – particularly female-headed households, children, survivors of torture, and those with severe medical conditions – in a manner that is consistent with U.S. national security. Not only do these cases represent the greatest humanitarian need, but this population generally does not fall into the more high risk categories most likely to pose a threat to the American people.

While no security screening program can guarantee a 100% success rate, the vast majority of refugees who have cleared the current security screening regime for admission to the U.S., including from some of the most troubled regions in the world, have proven to be peaceful additions to our society and, in time, productive citizens.

**Questions for the Record Submitted to
Principal Deputy Assistant Secretary Simon Henshaw
Senator David Vitter
Senate Judiciary Committee
April 28, 2015**

Question:

In discussing the costs to participants to the program, you said that air travel coverage is only a loan, making it seem as though allocated funds for the program using taxpayer dollars would not be used to cover any of the services necessary to become a participant in the program. Yet, isn't it true that the DNA cost can be recouped by the parent for the costs of testing if the results are positive? Why should taxpayers cover these costs?

Answer:

Migration and Refugee Assistance Account (MRAA) funds are used to pay for all costs associated with the overseas processing of refugee applicants, including determining if the applicant is eligible to be processed for consideration for refugee status. Additionally, the MRAA funds initial reception and placement services to those admitted as refugees. The cost of transportation is provided to refugees in the form of a loan. Refugees are responsible for repaying these loans over time. MRAA funds will not be used to pay for costs for applicants once they have been denied refugee status and are eligible for parole. Costs associated with the out-processing of parolees will be covered by the Department of Homeland Security/U. S. Citizenship and Immigration Services and the parents of the parolee.

Approved: PRM/ DAS Simon Henshaw

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Cleared: PRM – LBartlett OK
D - YGonzales OK
D (MR) - ESmith OK
H – LDeWine OK
P – MOrona OK
S/P – AMansour OK
F – LTafara-Maddox OK

Question#:	1
Topic:	security screening
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You mentioned that the program will use FBI resources and communications with Guatemala, El Salvador, and Honduras as part of security screening potential candidates, but the GAO has found FBI screening inadequate and these countries have even fewer resources available. How do you reconcile these facts with your claims that screening for criminal history will be comprehensive?

Response: Security checks are an integral part of the U.S. Refugee Admissions Program (USRAP) for refugee applicants of all nationalities. A standard suite of required biographic and biometric security checks has been developed for all refugee applicants. Through close coordination with the federal law enforcement and intelligence communities, including but not limited to the FBI, these checks are continually reviewed to identify potential enhancements and to develop approaches for specific populations that may pose particular threats. USCIS defers to the FBI with regards to the referenced GAO report with regard to its security screening. In collaboration with DHS's Office of Intelligence and Analysis; DHS's Office of Policy, Screening Coordination Office; and interagency partners in the intelligence and national security communities, USCIS may identify future opportunities to enhance our vetting processes. With regard to Central American minors processing, USCIS has identified new opportunities to partner with the FBI's Transnational Anti-Gang Unit (TAG) in El Salvador and the DHS/U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the Transnational Criminal Investigative (TCI) Unit in Honduras.

Question#:	2
Topic:	unaccompanied minors
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: The influx of unaccompanied minors in recent years isn't just an immigration issue. It's a humanitarian crisis that we must address.

What role does the Central American Minors Refugee Program play in addressing this crisis?

Response: The U.S. Government is taking an integrated and comprehensive approach to address the underlying economic and security challenges facing Central American countries and to decrease the unlawful migration of unaccompanied minors across the U.S. border.

The Central American Minors Refugee/Parole Program was designed to provide a safe, legal, and orderly alternative to the dangerous journey that children from El Salvador, Guatemala, and Honduras are currently undertaking to join parents in the United States. The goal is to extend protection to those with legitimate humanitarian claims while providing an effective deterrent for irregular migration driven by dangerous criminal smuggling networks.

This program is one of many measures the United States is putting in place to help reduce the number of parents and others who are paying smugglers to lead minors on the dangerous journey to the United States. It offers a real alternative to children who may have legitimate claims to refugee status.

The Departments of State and Homeland Security launched new public information campaigns, in coordination with the Central American governments, warning about the dangers of irregular migration and delivering the message that unaccompanied children are not given a "permiso" or permit to stay in the United States upon arrival at the border, and many will ultimately be returned to their country of origin.

Question: What other actions are the Department of Homeland Security and State Department taking to address this crisis?

Response: We defer to the Department of State (DOS) for a response regarding its actions. To address the unprecedented humanitarian situation last summer, DHS took a whole of government, comprehensive approach. In early June 2014, President Obama

Question#:	2
Topic:	unaccompanied minors
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

directed Secretary Johnson to establish a Unified Coordination Group to bring to bear the assets of the entire Federal Government on the situation. This group, which is led by Federal Emergency Management Agency (FEMA), includes DHS, the Department of Health and Human Services (HHS), the Department of Defense (DOD), the Department of Justice (DOJ), DOS, and the General Services Administration (GSA).

During the response operations, FEMA, U.S. Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE), along with HHS, examined and made improvements to each step of the process that touches an unaccompanied child (UC), including initial CBP apprehension and processing, placement and transfer to an HHS shelter, transportation by ICE to the shelter, and HHS's release of the child to an appropriate sponsor able to provide for the child's physical and mental well-being, often the child's parent or guardian, following required assessments, interviews and background checks.

DHS surged additional border security and law enforcement resources to south Texas. To address the situation of overcrowded border patrol stations, we created more capacity through new CBP processing centers for UC in Arizona and in Texas. DHS also built additional detention capacity for adults who cross the border illegally in the Rio Grande Valley with their children to help ICE increase its capacity to house and expedite the removal of such individuals in a humane manner that complies with federal law and provides for the safety, security, and medical needs of all occupants.

DHS is working hard to expand use of the Alternatives to Detention program, where appropriate, to serve a similar purpose.

We dedicated resources to the prosecution of the criminal smuggling organizations that are inducing people to take the long, dangerous journey from Central America.

We launched a renewed public messaging campaign in Central America, highlighting the dangers of the journey, and correcting the misinformation the coyotes were putting out about supposed "free passes" to come to the United States.

Question#:	3
Topic:	training manual
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: As discussed at the hearing, a recent training manual for U.S. Citizenship and Immigration Services (USCIS) asylum officers (attached) proffers two "new and novel" "particular social groups": (1) persons who reported a serious gang-related (or cartel-related) crime to law enforcement; and, (2) "female heads of household." These new and novel particular social groups are radical departures from existing statutory or case law.

In how many cases has USCIS granted asylum based on either of these two particular social groups, or based on similarly constructed particular social groups?

In how many cases has USCIS made a positive credible fear or reasonable fear finding based on either of these two particular social groups, or based on similarly constructed particular social groups?

Response: The USCIS Asylum Division does not capture the description of particular social groups in its databases. The Asylum Division is also not aware of any affirmative asylum application being granted based on past and/or feared future persecution on account of one of the above-referenced particular social groups.

Likewise, for credible and reasonable fear screenings, the USCIS Asylum Division does not capture in its database information that specifies the particular social group to which the applicant claims to belong and for which he or she claims to have been targeted for past or future persecution.

Question#:	4
Topic:	asylum to aliens
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Does USCIS grant asylum to aliens based on an expressed fear of gang violence, poverty, generalized threats, or civil unrest?

If so, how many applications for asylum has USCIS granted based on these types of claims?

Does USCIS make credible fear findings involving factual scenarios similar to these types of claims, and if so, in how many cases has USCIS made such a finding?

Response: An expressed fear of gang violence, poverty, generalized threats, or civil unrest alone is not sufficient to justify a grant of asylum or a positive credible fear finding under existing statutes or federal court and Board of Immigration Appeals precedent decisions.

USCIS is not aware of any affirmative asylum application being granted based upon one of the above-referenced claims alone, and its database does not capture data to that level of granularity.

USCIS is not aware of any positive credible fear finding being made based upon one of the above-referenced claims alone, and its database does not capture data to that level of granularity.

Question#:	5
Topic:	lawful immigration status
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The law defines an “unaccompanied alien child” as a person who “has no lawful immigration status in the United States,” who “has not attained 18 years of age,” and with respect to whom “there is no parent or legal guardian in the United States,” or “no parent or legal guardian in the United States is available to provide care and physical custody.” 6 U.S.C. § 279(g)(2). The plain language of the law is phrased in the present tense, as clearly represented by the words “has,” “has not,” “there is,” and “is available.” In 2013, Ted Kim, then Acting Chief of the Asylum Division at USCIS, issued a memorandum titled “Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children” (“Kim Memo”). Contrary to the law, the memorandum provides that if an alien child is determined to be unaccompanied at the border, the child is still considered to be “unaccompanied,” even if released to the custody of a parent or legal guardian. That means that, pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, such individuals are able to file for asylum directly with USCIS rather than having to appear before an immigration judge. Having an asylum application adjudicated by USCIS rather than before an immigration judge is a tremendously more lenient process, as the applicant is not subject to cross-examination by an opposing party, or from a neutral judge.

- a. Is the Kim Memo current USCIS policy?
- b. Will USCIS issue guidance clarifying the Kim Memo, and insist that the determination of when an individual is an “unaccompanied alien child” be made at the time of the filing and adjudication of the asylum application, as required by law?
- c. How many asylum applications has USCIS received from unaccompanied alien children for each of the last three fiscal years?
 - i. Of those applications, how many were approved by USCIS?
 1. Of those approvals, please break down the data by the claimed underlying protected ground (race, religion, nationality, membership in a particular social group, or political opinion).
 2. Of those approvals based on persecution on account of membership in a particular social group, please list every definition of a particular social group that served as the basis for an approval.
 - ii. Of those applications, how many were submitted by individuals who were in the custody of a parent or legal guardian, either at the time of the application or subsequent to the application?

Question#:	5
Topic:	lawful immigration status
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Response:

A. Yes

B. At this time, USCIS does not plan to alter our guidance, which we believe is consistent with the law. The statute does not specify when the UC determination should be made for purposes of the asylum application, nor does it specify who within the government should make it. The statute simply directs that USCIS has initial jurisdiction over asylum claims filed by UCs. CBP (and in some cases ICE) routinely make UC determinations for the purpose of determining the proper custodial arrangements for the child. Under current policies, USCIS adopts the determinations that these other DHS law enforcement components have already made, unless another component has revisited the issue and made a different determination. Absent any instruction in the statute requiring USCIS to make a redetermination on an issue that has already been determined by another DHS component, the current USCIS guidance applies the statute in a way that maximizes government efficiency and resources. The Kim Memo and related guidance should not be viewed as applicable to determining UC status for purposes unrelated to asylum applications.

C. **Response:** Please see table below. Please note that most UCs who apply for asylum do so approximately one year or more after arrival in the U.S.

i. **Response:** Please see table below.

1. **Response:** Please see table below.
2. **Response:** USCIS does not track specific types of particular social groups in its asylum case management system.

ii. **Response:** USCIS does not possess information responsive to this question.

	Receipts	Total Grants	Only 1 ground for asylum						Multiple grounds for asylum				
			Race	Religion	Nationality	Political Opinion	Social Group	Total	Any 2	Any 3	Any 4	Any 5	Total
FY2013	718	58	2	3		3	48	56	2	0	0	0	2
FY2014	2,797	271	11	12	1	16	223	253	6	2	0	0	8
FY2015 to May 5	7,712	2,458	85	107	14	128	2056	2390	57	11	0	0	68
Total	11,227	2,787	98	122	15	147	2,327	2,709	65	13	0	0	78

Notes: Cases granted in the above fiscal years could have been received in previous fiscal years. The USCIS Asylum Division asylum officer records the ground(s) for a asylum upon which the asylum is granted in the Refugees, Asylum and Parole System (RAPS) at the time of final decision. The asylum officer may record one or more grounds for asylum.

Question#:	6
Topic:	refugees 1
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Can you cite to any precedential case law that stands for the proposition that any of the intended beneficiaries of the Central American Minors Refugee/Parole Program would qualify as refugees, as that term is defined under the law?

Response: Every refugee applicant is interviewed to determine the factual basis of the claim so that the law governing refugee determinations can be applied to those facts. The process requires a case-by-case assessment of each legal element of the refugee definition under the facts found in the specific case. USCIS conducts a rigorous analysis in each case under the applicable statutory, regulatory and precedential authorities. While the specific fact patterns presented by applicants under this program cannot be predicted with any certainty, the following precedent decisions may be applicable to some of these claims.

Ornelas-Chavez v. Gonzalez, 458 F. 3d 1052 (9th Cir. 2006) (restating the well-settled principal that “persecution may be inflicted ... by persons the government is unable or unwilling to control”);

Reyes-Reyes v. Ashcroft, 384 F.3d 782 (9th Cir. 2004) (claim based on sexual orientation and identity from El Salvador);

Ordonez-Quino v. Holder, No. 13-1215 (1st Cir. July 23, 2014) (fear of harm based on ethnic minority in Guatemala);

and the following cases related to particular social group and opposition to gang activity:

Matter of M-E-V-G-, 26 I&N Dec. 227 (BIA 2014)

Matter of W-G-R-, 26 I&N Dec. 208 (BIA 2014)

Crespin-Valladares v. Holder, 632 F.3d 117 (4th Cir. 2011)

Affirmative Asylum Application Approval Rates – Decision made by USCIS Asylum Division

Source Country	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015 Q2
Honduras	36%	26%	37%	36%	34%	46%
El Salvador	23%	21%	24%	21%	37%	46%
Guatemala	31%	27%	30%	39%	43%	46%

Question#:	7
Topic:	refugees 2
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: With respect to the Central American Minors Refugee/Parole Program, please explain in detail what security and background checks would be performed on program beneficiaries, including whether and to what extent the Federal Bureau of Investigation (FBI) is involved in this process.

Please explain in detail how USCIS plans to pay for the costs associated with the Central American Minors Refugee/Parole Program.

Response: Security checks are an integral part of the U.S. Refugee Admissions Program (USRAP) for refugee applicants of all nationalities. A standard suite of required biographic and biometric security checks has been developed for all refugee applicants. Through close coordination with the federal law enforcement and intelligence communities, these checks are continually reviewed to identify potential enhancements and to develop approaches for specific populations that may pose particular threats. The biographic checks include vetting refugee data against the State Department's Consular Lookout and Support System (CLASS). CLASS is a biographic name check database used to access critical information for visa adjudication and is run on all refugee applicants. CLASS contains information from TECS (formerly the Treasury Enforcement Communication System), the Terrorist Screening Database (TSDB), the Department of Health and Human Services (HHS), the Drug Enforcement Agency (DEA), Interpol, and the Federal Bureau of Investigations (FBI). In addition, refugee applicants meeting certain criteria are subject to Security Advisory Opinions (SAOs), including law enforcement and intelligence communities checks. SAO checks are run on applicants who meet these criteria and are between the ages of 16 to 50. Refugee applicants are subject to a third biographic check referred to as the Interagency Check (IAC); the IAC consists of screening biographic data against a broader range of intelligence community holdings. IACs are run on applicants who are age 14 and older. The biometric (fingerprint) checks (for applicants ages 14-79) include screening against the holdings of the Federal Bureau of Investigation (FBI) Next Generation Identification (NGI), the Department of Homeland Security (DHS) Automated Biometric Identification System (IDENT), and the Department of Defense Automated Biometric Identification System (ABIS).

The FBI's Transnational Anti-Gang Unit (TAG) in El Salvador will be involved in the training and preparation of USCIS officers for processing of refugee applicants from the Northern Triangle. It is anticipated that this will include providing country conditions

Question#:	7
Topic:	refugees 2
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

information; recommending lines of questioning to be used by USCIS; and providing responses to requests for local law enforcement information from USCIS officers in the field.

In Honduras, DHS/U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) works with the Transnational Criminal Investigative (TCI) Unit. This unit has met with USCIS officers to provide training related to gangs, and further coordination is anticipated to enhance the refugee processing in Honduras. USCIS is still working to identify an appropriate law enforcement partner in Guatemala.

While not a traditional security check, USCIS officers conduct extensive interviews with each refugee applicant to develop all relevant issues related to eligibility for refugee resettlement and admissibility to the United States. Prior to departing the United States, all USCIS officers conducting refugee adjudications overseas are given caseload-specific training regarding country conditions. Officers develop lines of questioning to elicit information regarding any involvement in terrorist activity, criminal activity, or the persecution/torture of others, and they use a variety of interview techniques to assess an applicant's credibility.

To process refugees under this program, USCIS is using fee funding from the Immigration Examinations Fee Account (IEFA). USCIS allocates funds from the IEFA for worldwide refugee processing on an annual basis. In the FY2015 Report to Congress on Refugee Admissions, USCIS estimated that its share of the total cost of refugee processing worldwide was \$32.9 million, which includes this program. USCIS is also using IEFA funding for costs associated with processing parole requests for individuals under this program.

Question#:	8
Topic:	Central American Minors Refugee/Parole Program I
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The underlying premise for the existence of this program appears to hinge on the existence of poor conditions in El Salvador, Guatemala, and Honduras, which this Administration attributes as one of the primary reasons why these individuals attempt to illegally enter the United States. As Mr. Langlois testified, in evaluating applications for this program, the government "will be taking the country conditions into account."

Does USCIS contemplate termination of this program if the government determines that there is a change in the "country conditions"?

If so, how will USCIS measure such changes?

For how long does the administration intend on operating this program?

Response: The Department of State's Bureau of Population, Refugees, and Migration (PRM) is responsible for coordinating and managing the U.S. Refugee Admissions Program (USRAP), of which the Central American minor program is a component. A critical part of this responsibility is determining which individuals or groups from among the millions of refugees worldwide will have access to U.S. resettlement consideration. PRM coordinates within the Department of State, as well as with DHS/USCIS, HHS/ORR, and other agencies, to carry out this responsibility.

An annual refugee admissions ceiling is established by the President, in consultation with the Congress. The process leading to that annual determination was established by the Refugee Act of 1980 and incorporated into section 207 of the INA. Section 207(a)(3) of the INA states that admissions "shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation." Following the congressional consultations, the Department of State drafts a Presidential Determination for signature by the President, which establishes the overall admissions levels, regional allocations, and in-country processing locations for the given fiscal year.

During its history, the USRAP has responded continually to changing circumstances. Part of the Presidential Determination process involves an interagency evaluation of the country conditions that affect designated populations and a determination whether they should continue to be designated of "special humanitarian concern to the United States."⁸

Question#:	8
Topic:	Central American Minors Refugee/Parole Program 1
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

USCIS cannot speculate on how long the Central American Minors program will continue, but that decision will be made as part of the annual consultation process and be reflected in the annual Presidential Determination.

Question#:	9
Topic:	Central American Minors Refugee/Parole Program 2
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Please explain why the administration's justification for the Central American Minors Refugee/Parole Program - that is, preventing the illegal entry of individuals who leave countries experiencing generally high rates of crime and poverty by providing them with a purportedly safe, legal, and orderly alternative to the dangerous journey associated with illegal immigration, in a manner not authorized by Congress - could not be used to establish a similar program in another country.

Response: The size and composition of the USRAP is governed by the process set forth in section 207 of the INA. The establishment of any future in-country refugee resettlement program would follow the same process. Section 207(e) of the INA requires “discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest...” The consultations would include any proposed new in-country designations planned for the upcoming fiscal year. Under 8 U.S.C. 1157(a)(2), the USRAP must be reauthorized by the President each fiscal year; this includes the designation of in-country processing under section 101(a)(42)(B) of the INA.

Question#:	10
Topic:	referrals from Syria
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: On December 9, 2014, Anne C. Richard, Assistant Secretary for the Bureau of Population, Refugees, and Migration, said that the State Department is "reviewing some 9,000 recent [United Nations High Commissioner for Refugees] referrals from Syria. We are receiving roughly a thousand new ones each month, and we expect admissions from Syria to surge in 2015 and beyond." How many total refugees does USCIS anticipate admitting from Syria?

Response: The Department of State has estimated that the United States will admit between 1,000-2,000 Syrian refugees in Fiscal Year 2015. USCIS does not have an estimate on the number of Syrian refugees who will be admitted to the United States in future years.

Question#:	11
Topic:	Syrian refugees 1
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: At a February 11, 2015, hearing before the House Committee on Homeland Security, FBI Assistant Director Michael Steinbach expressed significant concerns with admitting Syrian refugees to the United States, stating: "I'm concerned. We'll have to take a look at those lists and go through all of the intelligence holdings and be very careful to try and identify connections to foreign terrorist groups." He also said that the FBI's databases do not have "information on those individuals, and that's the concern."

Please explain in detail what security and background checks will be performed on potential Syrian refugees.

Please explain how the government intends to address the concerns identified in Mr. Steinbach's testimony regarding the limitations of FBI databases.

Response: Refugee applicants of all nationalities are subject to rigorous biographic and biometric screening. These procedures and partnerships have been substantially enhanced over time since the launch of large-scale Iraqi refugee resettlement in 2007. See the Response to Question 5 above for a description of the background checks performed on refugee applicants of all nationalities.

In addition to this standard suite of security checks, USCIS Headquarters staff review all Syrian refugee cases prior to DHS interview to identify potential national security concerns. For those cases with potential national security concerns, USCIS conducts open source and classified research on the information presented in the refugee claim and prepares an evaluation for use by the interviewing officer. The evaluation provides case-specific context relating to country conditions and regional activity and is used by the interviewing officer to develop lines of inquiry related to the applicant's eligibility and credibility. USCIS has also instituted Syria-specific training for officers adjudicating cases with Syrian applicants, which includes a classified briefing on country conditions.

USCIS continues to engage with law enforcement and intelligence communities, including exploring training opportunities and potential screening enhancements, to ensure that vetting for Syrian refugee applicants is as robust as possible. USCIS defers to the FBI for information regarding its databases.

Question#:	12
Topic:	Syrian refugees 2
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: At an April 20, 2015, press conference regarding the arrest of six Somali men from Minnesota who planned to conspire to provide support to the Islamic State, Andrew Luger, U.S. Attorney for the District of Minnesota, stated, "[t]o be clear, we have a terror recruitment problem in Minnesota." As you know, a large population of Somali refugees was resettled in Minnesota. Can USCIS guarantee that other communities will not experience similar problems in the future with Syrian refugees?

Response: Based on the premise that well-informed and well-equipped families, communities, and local institutions represent the best defense against violent extremist ideologies, DHS works toward strengthening local communities by developing relationships with communities that may be targeted for recruitment by violent extremists and by supporting community-based programs. Furthermore, DHS assists local law enforcement programs, including information-driven, community-oriented policing efforts, which, for decades, have proven effective in preventing violent crime.

Efforts have been undertaken to catalogue, coordinate, and institutionalize Countering Violent Extremism (CVE) efforts and resources across DHS. In furtherance of this, a CVE Working Group (reflecting the missions of components and equities across DHS) led by a CVE Coordinator has been formalized to oversee and coordinate all CVE activities. Many components of DHS, including USCIS, participate in this working group. The CVEWG is led by the CVE Coordinator and includes participation from the Office for Civil Rights and Civil Liberties (CRCL), Office of Intelligence and Analysis (I&A), Federal Emergency Management Agency (FEMA), National Protection and Programs Directorate (NPPD), Office of Policy, Office of Privacy (PRIV), and the Science and Technology Directorate (S&T). The CVEWG also has members from other DHS Components, such as U.S. Customs and Border Protection (CBP), Federal Law Enforcement Training Center (FLETC), Office of the General Counsel (OGC), U.S. Immigration and Customs Enforcement (ICE), Office of Operations Coordination and Planning (OPS), Office of Public Affairs (OPA), Transportation Security Administration (TSA), U.S. Citizenship and Immigration Services (USCIS), U.S. Coast Guard (USCG), and the U.S. Secret Service (USSS).

In furtherance of DHS's mission to safeguard the homeland, USCIS is committed to fostering integration and community cohesion. USCIS engages and supports partners to welcome immigrants, promote English language learning and education on the rights and responsibilities of citizenship, and encourage U.S. citizenship. These efforts emphasize the role that shared citizenship rights and responsibilities play to unify all Americans.

Question#:	13
Topic:	terror organizations
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Can USCIS state with absolute certainty that the United States government will not admit as refugees any aliens from Syria affiliated with ISIS or any other terror organizations?

Response: Refugee applicants are subject to stringent security screening. USCIS does not approve applications for individuals who are known to be inadmissible for terrorist activity or as members of terrorist organizations. USCIS is aware of the national security concerns surrounding the Syrian refugee population and continues to work with law enforcement and intelligence community members to identify additional opportunities to protect the integrity of the process and to guard against dangers to the United States.

Security checks are an integral part of the U.S. Refugee Admissions Program (USRAP) for refugee applicants of all nationalities. A standard suite of required biographic and biometric security checks has been developed for all refugee applicants. Through close coordination with the federal law enforcement and intelligence communities, these checks are continually reviewed to identify potential enhancements and to develop approaches for specific populations that may pose particular threats. The biographic checks include vetting refugee data against the State Department's Consular Lookout and Support System (CLASS). CLASS is a biographic name check database used to access critical information for visa adjudication and is run on all refugee applicants. CLASS contains information from TECS (formerly the Treasury Enforcement Communication System), the Terrorist Screening Database (TSDB), the Department of Health and Human Services (HHS), the Drug Enforcement Agency (DEA), Interpol, and the Federal Bureau of Investigations (FBI). In addition, refugee applicants meeting certain criteria are subject to Security Advisory Opinions (SAOs), including law enforcement and intelligence communities checks. SAO checks are run on applicants who meet these criteria and are between the ages of 16 to 50. Refugee applicants are subject to a third biographic check referred to as the Interagency Check (IAC); the IAC consists of screening biographic data against a broader range of intelligence community holdings. IACs are run on applicants who are age 14 and older. The biometric (fingerprint) checks (for applicants ages 14-79) include screening against the holdings of the Federal Bureau of Investigation (FBI) Next Generation Identification (NGI), the Department of Homeland Security (DHS) Automated Biometric Identification System (IDENT), and the Department of Defense Automated Biometric Identification System (ABIS).

Question#:	14
Topic:	parole program for Syrians
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Has USCIS at any time considered, or is it currently considering, a parole program for Syrians with approved immigrant petitions similar to the Haitian Family Reunification Parole Program?

Response: At the request of more than 70 members of Congress in 2013, USCIS considered whether to establish a parole program for Syrians in Syria but decided that establishing such a program was not warranted. However, as the situation continues to evolve and USCIS continues to engage with stakeholders, USCIS may reconsider the use of parole for certain Syrian nationals.

Question#:	15
Topic:	Central American Minors Refugee/Parole Program 3
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you confirmed that parole under section 212(d)(5)(A) of the Immigration and Nationality Act may only be exercised on a case-by-case basis, and only for urgent humanitarian reasons or a significant public benefit. You also testified that with regard to the Central American Minors Refugee/Parole Program, USCIS intends to grant parole if it finds "that the individual is at risk of harm in his or her country and that applicant merits a favorable exercise of discretion." You testified that this was not a more liberal standard, and that "a significant public benefit is being achieved by basically attempting to deter the mass migration that we saw at the border last year, and so the significant public benefit element of the authorization of parole is being achieved in that fashion."

This reasoning - justifying the paroling in of individuals to prevent their illegal entry into the United States - is contrary to both the letter and spirit of the law.

In September 2008, USCIS, U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) executed a Memorandum of Agreement (MOA) pertaining to the use of parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act. In this document, the three DHS components agreed that parole is "an extraordinary measure, sparingly used only in urgent or emergency circumstances, by which the Secretary may permit an inadmissible alien temporarily to enter or remain in the United States." Does the Central American Minors Refugee/Parole Program violate the terms of the MOA? Please explain your answer.

The House Report accompanying the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 indicates that the "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit" language in section 212(d)(5)(A) was added with the intent to "end the use of parole authority to create an ad hoc immigration policy or to supplement current immigration categories without Congressional approval." Is it the administration's position that the Central American Minors Refugee Parole/Program - which allows for parents without lawful status to bring their children from Central America to the United States - does not create an ad hoc immigration policy or supplement current immigration categories without Congressional approval? Please explain your answer.

Response: Using parole as an integrated strategy to discourage the use of dangerous criminal smuggling networks, by providing a safe, legal, and orderly alternative to the

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dangerous journey that some children are currently undertaking to join parents in the United States is entirely consistent with section 212(d)(5)(A) of the INA.

Last year, the U.S. experienced an unprecedented increase in the migration of unaccompanied children from El Salvador, Guatemala and Honduras using criminal networks, as outlined in the recent GAO report.¹ In response, DHS and the Department of State have adopted a multi-faceted strategy to deter large numbers of children from using criminal cartels and smugglers to take the dangerous journey to the United States and to avoid the humanitarian challenges of any large scale irregular migration, particularly of families and unaccompanied children. The Central American Minors Refugee/Parole Program is one facet of that strategy, and the consideration of these policy goals as part of a case-by-case determination whether to exercise the parole authority as a matter of discretion is fully consistent with section 212(d)(5)(A).

The parole component of the Central American Minors Refugee/Parole Program falls squarely within the terms of the MOA. Similar parole programs are noted in the MOA as falling within the responsibility of USCIS. The purpose of the MOA is to coordinate the exercise of DHS parole authority for aliens outside the United States or at ports of entry by clarifying jurisdiction among the three DHS components that exercise parole authority. To illustrate and clarify jurisdiction, the MOA provides a non-exhaustive list of parole programs in existence at the time of the MOA to be processed by USCIS, ICE and CBP. For example, this list assigns responsibility to USCIS to process parole requests under the Moscow Refugee Parole Program (for certain individuals denied refugee status in the former Soviet Union), and Cuban parole programs..

In passing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Congress rejected the stricter limitations on the use of parole authority proposed in the cited House Report in favor of the more limited amendment to section 212(d)(5)(A) passed by the Senate. Congress accordingly left to the Attorney General the discretionary authority (later transferred to the Secretary of Homeland Security) to determine whether parole would serve a "significant public benefit" or would be warranted for "urgent humanitarian reasons." DHS has exercised and will continue to exercise its authority consistent with section 212(d)(5)(A).

¹ Available at <http://www.gao.gov/assets/670/668749.pdf>.

Question#:	16
Topic:	Haitian Family Reunification Parole Program
Hearing:	Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: Under the terms of the Haitian Family Reunification Parole Program, individuals from Haiti are permitted to come to the United States before a visa available for them to claim.

The aforementioned MOA also states that "[p]arole is not to be used to circumvent normal visa processes and timelines." Please explain how the Haitian Family Reunification Parole Program does not violate the terms of the MOA.

Please explain why the administration's justification for the Haitian Family Reunification Parole Program – that is, supporting "broader U.S. goals for Haiti's long-term reconstruction and development by allowing the beneficiaries of the HFRP Program to work in the United States and contribute to Haiti through their remittances, if they wish to do so" – could not be used to establish a similar program to circumvent normal visa processes and timelines for individuals from other parts of the world.

Response: Individuals who seek parole are asking for permission to come to the U.S. outside of normal consular processing. The language in the 2008 MOU recognizes, however, that circumventing such processing is not the purpose of parole. Instead, the Secretary may exercise discretion to grant parole to an individual to enter the United States temporarily without a visa "for urgent humanitarian reasons or significant public benefit." INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A).

The Haitian Family Reunification Parole (HFRP) program was modeled on the Cuban Family Reunification Program, which is one of the parole programs listed in the MOA. Just as a determination was made that it may be appropriate to allow certain qualified Cuban beneficiaries of family-based immigrant petitions awaiting eligibility for visa processing to receive parole, it was determined that it would be appropriate to authorize parole for certain qualified Haitian beneficiaries of family-based immigrant petitions. The Federal Register Notice establishing the program states: "By expanding existing legal means for Haitians to immigrate, the HFRP Program serves a significant public benefit by promoting safe, legal, and orderly migration to the United States. Furthermore, it supports U.S. goals for Haiti's long-term reconstruction and development. Once paroled into the United States, HFRP Program beneficiaries will be eligible to apply for employment authorization, and those who are able to work may contribute to Haiti's post-earthquake reconstruction and development through remittances." 79 Fed. Reg. 75,581, 75,582 (2014).

Question#:	16
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Congress has given the Secretary of Homeland Security the authority to make determinations on whether parole should be authorized for urgent humanitarian reasons or for significant public benefit. The Secretary has and will continue to exercise this authority consistent with the law.

Responses to Questions for the Record**IGOR V. TIMOFEYEV****Hearing on****Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program****Before the Subcommittee on Immigration and the National Interest of
the Committee on the Judiciary
United States Senate****Question for the Record from Senator Vitter:**

- In your opinion, do the potential children under this program qualify as refugees that constitute a particular social group under the original language of the 1980 Refugee Act or any subsequent legislative clarification?

Response:

The refugee determinations are made on an individualized basis. As the Department of Homeland Security witness indicated at the hearing, the Department has not yet interviewed any applicants for refugee status under the Central American Minors Refugee/Parole Program ("the CAM Program"). Therefore, at the present time it is not possible to state definitively whether specific children who would apply for refugee status under the CAM Program could demonstrate membership in a particular social group under the Refugee Act of 1980.

As indicated in my testimony before this Subcommittee, however, there is a serious question whether these children could meet that requirement. Under current law, a refugee applicant must be a member of a group that shares a common, immutable characteristic; the group must be recognized within the society as a distinct group; and the group must be defined with sufficient particularity to ascertain the group's membership.

To date, no federal court has approved a social group defined solely by childhood; indeed, as my testimony indicated, at least one court of appeals has rejected such an argument. Federal courts also have rejected social groups comprised of young people resisting gang recruitment as not distinct or particular, and my written testimony lists such decisions. Finally, as stated in my testimony, courts have held that generalized violence is not sufficient to demonstrate persecution on account of a statutorily protected ground.

As stated in my testimony, I would encourage the Departments of State and Homeland Security to explain the basis on which the children applying under the CAM Program would be able to demonstrate the requisite membership in a particular social group under the Refugee Act of 1980. In creating a dedicated refugee program for these children, we must ensure that we can deliver on our commitment in compliance with the existing law.

Jessica Vaughan's Response to Questions for the Record
Hearing on "Eroding the Law and Diverting Taxpayer Resources:
An Examination of the Administration's Central American Minors Refugee/Parole Program
April 23, 2015, Senate Subcommittee on Immigration in the National Interest

Senator Vitter: In your opinion, did the Obama administration use the words "lawfully present" to describe family members already in the U.S. under this program to deceive the general public about the legality of their status here?

Response: Yes. The term "lawfully present" was created by Congress to describe those non-citizens who are covered under the provisions of the Affordable Care Act of 2010 (known as "Obamacare") who have not been admitted for permanent residency and who do not have legal status. Some are in a limbo-like status with a pending request for legal status that may or may not be approved, or which could take years to be heard in immigration court. It includes a large number of aliens who entered or attempted to enter illegally and do not qualify for legal status, or are unlikely to qualify, but who have been allowed to stay under executive branch policies. They include: asylum applicants, Cuban and Haitian boat people, aliens with Temporary Protected Status (TPS), those approved for Deferred Action for Childhood Arrivals (DACA), illegal aliens who have been ordered removed but whose countries will not take them back, and illegal aliens from Central America who arrived in the recent surge and were granted parole (mostly family units). "Lawful presence" is not the same as "legal status;" it refers to someone who is being allowed to stay even though they lack legal status.

The original announcement for the CAM Program from the State Department came on November 14, 2014 (<http://www.state.gov/j/prm/releases/factsheets/2014/234067.htm>) and included this passage:

The United States is establishing an in-country refugee/parole program in El Salvador, Guatemala, and Honduras to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States. This program will allow **certain parents who are lawfully present** in the United States to request access to the U.S. Refugee Admissions Program for their children still in one of these three countries. Children who are found ineligible for refugee admission but still at risk of harm may be considered for parole on a case-by-case basis. **The refugee/parole program will not be a pathway for undocumented parents to bring their children to the United States**, but instead, the program will provide certain vulnerable, at-risk children an opportunity to be reunited with parents lawfully resident in the United States.

The language in bold is meant to be misleading, in my opinion. In fact, nearly all, if not 100 percent, of the parents who will take advantage of this program to seek entry for their children are illegal aliens who do not have legal status, but who have been allowed to stay in some form of limbo-like status, such as parole, asylum applicants, Temporary Protected Status (TPS), and Deferred Action for Childhood Arrivals (DACA). This includes Central American illegal aliens who entered in previous surges, for example in the late 1990s and early 2000s, as well as those

who entered in the most recent surge. It also would have included Central Americans who were awarded deferred action under the President's planned executive action known as DAPA, which was announced just days later, but which has been blocked by a lawsuit by 26 states. In addition, the term "lawful presence" covers any illegal alien in deportation proceedings who is released from ICE custody, either by court order or as a result of ICE discretion, under an order of supervision. Many of these individuals are convicted criminals.

The statement that the program "will not be a pathway for undocumented parents to bring their children to the United States" is simply false. It is obvious that is exactly what the program will do.

Senator Cruz: Please provide any additional information you believe would be helpful to the Committee in its formulation of immigration policy and/or addressing the Central American Minors Refugee/Parole Program.

Response: It is apparent from official intelligence reports, journalists' accounts, and surveys of the migrants that, while the quality of life in the homes and home countries of the young people who will be resettled under the CAM Program may be less than ideal for some, the primary reasons driving them to seek entry to the United States are to join family members who are living here illegally and to work. Their friends and families who are already in the United States illegally know that they face little threat of deportation unless they are convicted of a serious crime – this has been announced far and wide by the Obama administration.

Therefore, the best way to deter parents from attempting to smuggle their children into the United States is to change the policies of non-enforcement; of rubber-stamping approval of dubious "credible fear" claims; of stretching the definition of "refugee," "persecution," and "particular social group" beyond recognition and common sense; and of releasing smuggled children to their illegally-resident parents without consequence. The response should not be to reward their violation of U.S. laws by creating a family reunification program for them at taxpayer expense and in conflict with the laws written by Congress.

Contrary to what has been suggested in some media reports, the surge of Central American children and families is not over. As of the end of April, 2015 the Border Patrol had apprehended 26,067 unaccompanied minors and members of family units, and this is before the usual peak in illegal crossings, which in the past have occurred in May and June. If this pace continues, 2015 will be the year with the second highest rate of these cases ever. Nearly all of the new arrivals are being released.

Further, at this writing, the Obama administration appears to be preparing to release most of the few family units who have been detained in brand-new multi-million-dollar state-of-the-art family residential centers after complaints from advocacy groups. Statements from the administration suggest that these residential centers will be run more like processing centers for brief detention and prompt release. This development likely will spur even more interest in illegal migration from Central America.

In order to stem the influx and avoid additional costs to American communities, Congress needs to step in. Legislation that would clarify how the government should handle minors; impose limits on use of executive parole authority; boost enforcement and compliance with existing laws; require use of accelerated forms of due process for juveniles, families, and especially criminal aliens; create infrastructure and authority for the Border Patrol to maintain custody of arriving aliens in the immediate vicinity of the border; mandate speedier asylum case disposition, ideally at the border; clarify the criteria for the admission of refugees and asylees; and create a process for state and local governments to receive information about planned resettlements in their jurisdiction.

In addition, Congress must insist that DHS provide additional information to permit adequate oversight. First, the agency should share the details of its official mass migration plan formulated in 2011-12 with members of Congress, and explain why it did not implement this plan to address the surge of Central American minors and families.

Second, the agency should disclose the status of all cases of Central American juveniles and family units who were caught and released since the 2013 fiscal year – what is the status of the cases, basic demographic and citizenship information; how many have been granted relief or admission (and what type of relief, i.e. asylum, SIJS, etc.), how many absconded from proceedings, how many were ordered deported, how many were removed, and how many have been arrested for criminal offenses.

In addition, the agencies should provide detailed information on the CAM program – how many are admitted as refugees, how many as parolees, costs to the U.S. government and amount of fee revenue collected, number of I-602 ineligibility waivers processed and reasons waivers were needed, number repaying promissory notes for travel expenses, and details on the immigration status of the sponsoring parents.

I hope this information is helpful to the Subcommittee. Thank you for the opportunity to testify, and for your attention to this important matter.

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CWS statement to the U.S. Senate Committee on the Judiciary, regarding its hearing on the Central American Minors Refugee / Parole Program on Thursday, April 23, 2015

As the committee discusses the Central American Minors Affidavit of Relationship (CAM/AOR) program, Church World Service (CWS) urges all Senators to recognize the importance of providing safe avenues for children to seek protection from violence, conscription into gangs, trafficking, and sexual exploitation. In Honduras alone, murders of women and girls have increased by 346 percent, and murders of men and boys are up by 292 percent since 2005. Asylum requests in Mexico, Panama, Nicaragua, Costa Rica and Belize by Guatemalans, Hondurans and Salvadorans have increased by 712 percent since 2009. Children seeking safety within the region and in the United States have clear and compelling international protection concerns.¹

The United States has moral and legal obligations under international² and domestic³ law to see that children seeking protection are not returned back into the hands of traffickers and others who seek to exploit them. The CAM/AOR program is one of many steps that the U.S. government can and should take to help these children, and it is not without precedent. The United States has used in country-processing to help Cubans⁴, Haitians⁵, Soviet Jews⁶ and Vietnamese⁷ fleeing violence and persecution. The CAM/AOR program continues our historic efforts of providing safe haven to vulnerable populations in need. CWS urges both chambers of Congress to support the program and validate the importance of access to life-saving protection for children and all individuals seeking safety.

Over the past three years, the number of unaccompanied children seeking safety in the United States has increased substantially, from 6,800 in 2011 to an estimated 90,000 in 2014. Recognizing the different demographics of these children – they are younger, with more girls and victims of trauma than ever before, and the majority are from the Northern Triangle -- the U.S. Department of State (DOS) and Department of Homeland Security (DHS) established the CAM/AOR program. This program is designed to help unmarried children under the age of 21 from El Salvador, Guatemala and Honduras who have a parent living in the United States and meet other criteria seek refuge or parole status in the United States. To apply, a parent with legal status in the United States must file an Affidavit of Relationships (AOR) with a local refugee resettlement agency that contracts with both DOS and the Department of Health and Human Service's Office of Refugee Resettlement. In certain cases, if the child's other parent is living with them in the Northern Triangle, they can also be included in this process. The screening process is rigorous, with a medical examination, in-person interview with DHS and multiple security checks. The program began accepting applications from qualifying parents on December 1, 2014. As of the writing of this statement, only 565 applications have been received.

The realities of corruption, weak institutions, human rights abuses by local authorities, and militarization of the police have created environments of chaos, insecurity and vulnerability in the Northern Triangle that are forcing many to flee. The combination of high impunity rates, military and police complicity with gang violence, and lack of secure witness protection programs mean that there is little to no recourse for victims of violence and that, in fact, reporting crime can put individuals at further risk. Children are most at risk, and forced conscription into gangs and sexual violence are being waged on grade-school age children. For these reasons, the CAM/AOR program is needed as one of many ways that the United States must offer protection to children fleeing violence. CWS encourages all Members of Congress to support these efforts that are critical to the well-being of so many children in danger who seek safety and reunification with their parents in the United States.

¹ UNHCR "Children on the Run", July 9, 2014. <www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>

² The Convention on the Rights of the Child, Articles 2, 3, 6 and 22. <www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>

The Universal Declaration of Human Rights, Article 14. <www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>

United Nations General Assembly, Declaration on Territorial Asylum, 14 December 1967, A/RES/2312(XVII). <www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>

United Nations High Commissioner for Refugees, Convention and Protocol Relating to the Status of Refugees. <www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>

³ U.S. Code Title 22, Foreign Relations and Intercourse, Chapter 78: Trafficking Victims Protection; and U.S. Code Title 8: Aliens and Nationality, Chapter 12: Immigration and Nationality, Section 1158: Asylum. <<http://www.unhcr.org/refugees/children/2014/07/09/children-on-the-run.html>>

⁴ CRS Report 40566, *Cuban Migration to the United States: Policy and Trends*, Ruth Ellen Wasem, June 2009.

⁵ CRS Report 7-5700, *U.S. Immigration Policy on Haitian Migrants*, Ruth Ellen Wasem, May 2011.

⁶ Rabinovitch, Zaira, "Pushing Out the Boundaries of Humanitarian Screening With In-Country and Offshore Processing", Migration Policy Institute, October 16, 2014. <<http://www.migrationpolicy.org/article/pushing-out-boundaries-humanitarian-screening-country-and-offshore-processing>>

⁷ Finberg, Harvey, Richardson, Leroy and Martin, David. The Orderly Departure Program From Vietnam: April 1990. The United States General Accounting Office. <<http://www.gao.gov/assets/220/212435.pdf>>



**Statement submitted to the Committee on the Judiciary of the
U.S. Senate**

Hearing on Central American Minors Program

April 23, 2015

In less than a year, nearly 60,000 unaccompanied children from the “Northern Triangle” of Central America—Honduras, Guatemala, and El Salvador—have been apprehended or, in most cases, turned themselves in to U.S. Border Patrol agents. These children arriving at the border are a symptom of a humanitarian crisis and pervasive violence in Central America. Honduras has the highest murder rate of any country in the world, with nearly 100 murders for every 100,000 people. Central America as a whole is home to less than one percent of the world's population but accounts for four percent of murders worldwide.

In June 2014, President Obama called the increase in children arriving to the U.S. “an urgent humanitarian issue.” In July, HIAS—the global Jewish nonprofit that protect refugees—coordinated a [statement](#) signed by 20 national Jewish organizations urging the U.S. government to respond to this issue with a holistic approach that prioritizes safety and opportunity for children and families. The American Jewish community emphasized that children in particular must have the legal and social assistance they need to determine whether or not they have a refugee claim or other forms of legal relief available to them and, above all, to ensure that their lives are protected.

The United Nations’ refugee agency, UNHCR, estimates that over half of the Central American children arriving in the United States would be eligible for some form of immigration relief in the U.S. due to their having fled violence, sexual abuse, forced gang recruitment, and other forms of exploitation. The United States has a responsibility and a deeply ingrained tradition of providing humanitarian assistance to asylum seekers. The in-country processing program for children in El Salvador, Guatemala, and Honduras is one way the U.S. is upholding that tradition.

After a lengthy debate in Congress about protections and funding for Central American children, the U.S. State Department announced that the Central American Minors (CAMs) in-country processing program for certain eligible individuals to be resettled in the United States in September 2014. The program allows lawfully present parents of children living in El Salvador, Guatemala, and Honduras to apply for resettlement on behalf of their children before the child attempts the dangerous journey north. Parents

who apply for their qualifying child must currently be living in legal status in the United States, and a DNA test must affirm the parent-child relationship. No individual will arrive in the U.S. without sufficient interviews, background checks, and medical exams.

In-country processing has been effective in the past and it is vital in the context of Central American children that the program allows for speedy processing to decrease the risk of harm to the applicant while waiting for status. Importantly, this program provides accessibility to the U.S. asylum program that may not be as easily obtained at the border. In-country processing provides clear eligibility standards and processes that a refugee assistance organization may help parents navigate. This is preferable to children arriving and having to assert an asylum claim without the assistance of counsel. The current program is intended to be efficient and will hopefully reduce the time for a status determination, which can take years. In-country processing also provides a safe route to the U.S. that bypasses smugglers and prevents children from undertaking a thousand mile plus journey on foot and on the top of trains.

The CAMs in-country processing program is a start, however it is by no means a comprehensive solution to the humanitarian crisis in Central America. A coordinated and multifaceted approach is needed to address the root causes for flight and to build a response to the increased numbers of people seeking assistance. Until a more comprehensive strategy is established, the in-country processing program begins to address the needs of minors in the Northern Triangle region.

As an organization deeply rooted in Jewish and American values, we support policies that promote human rights, ensure the protection of children, and fulfill our tradition to “welcome the stranger.” There is a problem at the border, but it is not a problem caused by children, and it is not a problem caused by giving fleeing children due process to claim asylum. The U.S. must ensure that children who flee the violence and have asylum claims are able to make them, and that procedures in the immigration system are fair and humane.



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Written Statement for the Record

**Submitted by Sharon Waxman, Vice President for Public Policy and Advocacy,
 International Rescue Committee**

**To the Senate Committee on the Judiciary, Subcommittee on Immigration & the National
 Interest, United States Congress**

**For the Hearing entitled "Eroding the Law and Diverting Taxpayer Resources: An Examination of
 the Administration's Central American Minors Refugee/Parole Program"**

April 23, 2015

The International Rescue Committee (IRC) would like to express its deep appreciation to Chairman Sessions and the members of the Subcommittee for the opportunity to share, through this written statement, our views on the Central American Minors in-country refugee resettlement/parole program (hereafter referred to as "CAM").

IRC's competence

The IRC is a global humanitarian organization with a presence in 40 countries worldwide and in 22 cities in the United States. We provide emergency relief and post-conflict development and help refugees and other vulnerable people uprooted by conflict, violence and disaster to find protection and rebuild their lives, including through our participation in refugee resettlement through the US Refugee Admissions Program (USRAP).

Since its inception, the IRC has been involved in virtually every major refugee or other humanitarian crisis and resettlement initiative around the globe. The IRC is recognized globally as having expertise in child protection in humanitarian situations, in particular, the protection of children and youth affected by violence, persecution or conflict – often in a transnational or cross-border setting. The IRC currently implements large-scale, multi-sectoral child protection responses in at least eight countries impacted by arrivals of displaced children around the world.

IRC's involvement in the U.S. Refugee Admissions Program and the CAM

The IRC is one of the largest voluntary agencies, with offices in 23 cities around the country serving resettled refugees and other particularly vulnerable immigrants in the United States. For decades, IRC staff and a vast network of volunteers around the country who support our work have served resettled refugee children. We have provided services such as home studies, legal guardianship assistance, case management, family reunification support, specialized psychosocial services, access to health and education, and services to child victims of trafficking. These services have been delivered within a broader framework of IRC's resettlement support, in public-private partnership with U.S. federal and state government offices, under the umbrella of the US Refugee Admissions Program (USRAP).



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As one of the 9 voluntary agencies working with the U.S. Government to implement the USRAP, the IRC is currently engaged in outreach to the Central American diaspora community in the United States and is assisting qualifying parents to apply for the CAM on behalf of their child. Our highly capable and dedicated staff and volunteers are doing this work with no additional financial resources, other than those that we raise through the private-sector. The public resources we are using for this work are those already appropriated by Congress to the Administration for FY15.

IRC's views on the CAM resettlement program

There is a growing body of compelling evidence that points to violence as a predominant factor in what has become a forced displacement situation in Guatemala, Honduras and El Salvador. Two studies conducted by the UN Refugee Agency show that well over half of all unaccompanied children from these countries transiting Mexico or arriving to the U.S. border are fleeing circumstances which make them eligible for refugee status or other forms of international protection.

The U.S. must protect these children: our moral values, foreign policy tradition, and the asylum safeguards in our own immigration laws require it. For those children with a relative in the U.S. – and absent the legal pathways to the U.S. for family reunification which are required – children facing grave harms have no other choice than to flee. They are forced into making a treacherous journey which often results in serious injuries and even severed limbs, physical and sexual assault, and kidnapping and extortion. They are easy prey for human traffickers who wish to exploit them for sexual servitude or forced child labor. Those children lucky enough to avoid such a fate often experience horrific psychosocial trauma after witnessing the harms and abuses suffered by other migrants along the route.

The CAM program was designed specifically to try to reduce the total number of children who must make that treacherous journey. The IRC believes that the CAM resettlement program can be an important part of the solution, if implemented expeditiously and with the appropriate child protection safeguards. But it must also be remembered that many children who are persecuted and at risk of violence in Central America will not even be eligible to apply for CAM.¹ And some children who are eligible to apply may face risks that do not allow them to remain inside their country to await a bureaucratic immigration procedure, which by necessity takes time (particularly due to the rigorous security checks that are part of any resettlement process through the USRAP). As such, the program must be part of a wider comprehensive regional humanitarian response that enhances the protection of Central American children wherever they are and preserves the right to seek asylum.

There is at present no comprehensive U.S. or regional humanitarian response plan to the child protection crisis in Central America, and calls by the UN Refugee Agency for modest levels of funding have not yet been met. While we wait for a comprehensive strategy, the U.S. approach has focused almost exclusively on enforcement, which is highly problematic. Of course, enforcement has a place in any response to migration movements. But in a democratic society, border control measures must be compatible with asylum safeguards.

¹ This is so either because they do not have a parent in the U.S. or because their parent in the U.S. is undocumented.



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The current U.S. enforcement strategy, which aims to “push the border south”, only leaves unaccompanied children at the mercy of transit countries, who may have neither the capacity nor the political will to protect them and to fairly process their asylum claims. The strengthening of child protection systems and asylum systems in countries of transit requires a massive investment and a very long-term view. There is no low-cost, short-term investment or “quick fix” that will allow the United States to effectively close its borders and leave our southern neighbors to try to cope. In such a scenario, children *will* be returned to serious harms. Policies designed to deny vulnerable children the right to reach a safe haven are not only inappropriate, they are also ultimately ineffective and can even be counterproductive to the intended aim. Children who flee violence and are desperate to reach safety with a relative in the U.S. will not be deterred from trying. And enforcement measures intended principally for deterrence will force these children underground, raising the “transaction costs” and making them even more vulnerable to smugglers and traffickers. Such an enforcement-only approach to a child migration or refugee crisis would be soundly rejected by the U.S. Government if practiced by other, far less well-resourced Governments bordering conflict, violence- or disaster-impacted countries around the world.

In short, the CAM program can be part of the solution for a narrow set of the children from Central America who are in need of international protection, but it must not be the only pathway to protection in the United States. The U.S. must robustly support a comprehensive regional humanitarian strategy, and must lead by example to ensure that the right to seek asylum in all countries in the region, starting with our own, is preserved.

The U.S. Refugee Admissions Program has for many decades received strong bipartisan support based on our common experience as a nation of immigrants and our common American values of compassion for the most vulnerable. We must come together once again, this time to support the successful implementation of the CAM program, as part of a wider set of tools and actions to address the child protection crisis in Central America.

As the world’s largest democracy and most influential global leader, the US must set the example. We must demonstrate to the world that we adhere to the same standards that we expect of other countries around the world, and that our compassion is not selective. No less than children’s lives are at stake.



Lutheran Immigration and Refugee Service

STATEMENT FOR THE RECORD

On

**"Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program"**

The Senate Committee on the Judiciary

April 23, 2015

By Lutheran Immigration and Refugee Service

Lutheran Immigration and Refugee Service (LIRS) appreciates the opportunity to submit its views on the Central American Minors (CAM) program for the record. As the national organization founded by Lutherans to serve uprooted people, LIRS is committed to helping those who have been forced to flee their homes access the protections to which they are legally entitled. Following God's call in scripture to uphold justice for the sojourner, LIRS advocates to ensure newcomers in the United States are treated fairly and humanely.

With 75 years of experience in service, LIRS is a leading voice on protecting vulnerable migrants and refugees, including children and families from Central America seeking refuge in the United States. In Fiscal Year 2014, LIRS and its Refugee Resettlement affiliates welcomed 11,198 refugees to their new communities and empowered them to build new lives. In that same time period, LIRS's Children's Services affiliates served 21,826 unaccompanied children seeking refuge in the United States.

As one of nine refugee resettlement agencies in the United States, LIRS has witnessed the impact of in-country refugee processing programs, like the CAM program for Central American children, in other volatile regions. LIRS urges the United States Congress to robustly support the CAM program while also recognizing that it is only one protection tool with a very limited scope that will aid a small number of child refugees in Central America. We encourage Congress and the Administration to ensure robust protections for all those suffering and fleeing persecution in the region.

"In-country processing programs such as the Central American Minors program act as a critical lifeline for vulnerable migrants who seek safety and a new life here in the United States," said LIRS President and CEO Linda Hartke. "Restricting or ending this program would not only fail to honor

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the courage of these children, but also would betray our strong history as a nation of welcome and our Biblical call to welcome the stranger and protect the most vulnerable.”

It is beyond dispute that children living in the countries served by the CAM program- Guatemala, Honduras and El Salvador- face systemic gang violence, sexual and gender-based violence, forced recruitment into transnational gangs and drug cartels, domestic violence, abandonment, and trafficking. A multitude of experts, including the United Nations High Commissioner for Refugees, agree that the danger facing children in these three Central American countries is dire and only getting worse. UNHCR issued a report in 2014 finding that children and adults from El Salvador, Honduras and Guatemala filed 712% more claims for asylum in neighboring countries in 2013 than in 2008.

Out of deep concern for the safety of children in Central America, LIRS, supports the robust implementation of the CAM program. We submit the following recommendations to ensure maximum success:

- At this time, the CAM program is available only to children determined to be in danger of persecution who have parents with lawful immigration status in the United States. This limited scope restricts protection to a very small segment of the children who desperately need it. It is our recommendation that as the program evolves, consideration should be given to expanding the criteria for in-country processing, including to at-risk children and families without family ties in the United States.
- We are concerned that children applying for the CAM program face danger during the application process, before they can complete the requirements. We recommend establishing mechanisms to ensure that child applicants and their families have access to safety and protection while their cases make their way through the in-country process.
- We recommend that transportation and safe shelter be provided for eligible children who do not live in the capital cities where processing will take place. If these opportunities are not available, many children who would otherwise benefit from the program will be excluded due to logistical obstacles that could easily be addressed.
- Children and families paroled into the United States through the CAM program lack critical follow-up services that comprise the safety net provided to refugees.

LIRS understands that many children and families from Central America are in immediate peril and will continue to make the difficult journey to the United States in search of safety. The establishment of the CAM program must not mean that other avenues to life-saving protection should close, especially since the current parameters of the program are so limited in scope. Under no circumstances should children or others seeking protection be turned away at the U.S. border, or at other borders along the migration route, and denied access to the United States asylum system.

LIRS urges the United States government to uphold its obligation to provide protection to individuals fleeing persecution in their homelands. This obligation is found in international treaties

the United States has ratified, such as the 1967 Protocol to the United Nations Refugee Convention and the Convention against Torture, as well as in domestic immigration law.

Beyond these legal obligations, our nation has a long and proud history of living out the moral imperative to protect the most vulnerable newcomers and offer compassion and justice to all. LIRS is committed to ensuring that American policies and programs are just and protective of migrants and refugees who face the greatest risks.



Statement of
Mary Meg McCarthy, Executive Director
Heartland Alliance's National Immigrant Justice Center

Senate Subcommittee on Immigration and the National Interest
Hearing on "Eroding the Law and Diverting Taxpayer Resources: An Examination of the
Administration's Central American Minors Refugee/Parole Program"

April 23, 2015

Chairman Sessions, Ranking member Schumer, and members of the Immigration and National Interest Subcommittee of the Senate Judiciary Committee:

Heartland Alliance's National Immigrant Justice Center (NIJC) appreciates the opportunity to submit testimony for the Senate Subcommittee on Immigration and the National Interest hearing on the Central American Minors (CAM) Refugee/Parole Program. As a non-governmental organization (NGO) dedicated to safeguarding noncitizens' due process rights, NIJC is committed to ensuring meaningful access to legal protections for unaccompanied immigrant children and other asylum seekers. The CAM Program attempts to prevent child asylum seekers from making dangerous journeys to the United States by allowing parents legally residing in the United States to sponsor their children for in-country processing of their asylum claims. Although NIJC supports efforts to provide children with safe passage to the United States, it is imperative to acknowledge the limitations of this program and that the CAM Program alone cannot address refugee protection issues.

NIJC is unique among immigrant advocacy groups in that our advocacy and our impact litigation are informed by our direct representation of approximately 10,000 immigrants annually, including unaccompanied immigrant children. NIJC's Immigrant Children's Protection Project provides Know Your Rights presentations and legal screenings to children detained in Chicago-area shelters for unaccompanied children. In addition, the children's project represents unaccompanied children before the Chicago Immigration Court. Through NIJC's community outreach, we speak with families whose children remain in peril in their countries of origin and are in need of protection. We see first-hand the barriers children experience as they pursue legal protections and are well aware of the reasons they have fled their home countries.

Based on our experience, it is clear that many children flee extreme violence in their home countries and are in need of protection. We recommend that the government:

1. Expedite processing of applications submitted under the CAM Program.
2. End U.S. support of interdiction policies that deny children the opportunity to seek protection.

3. Maintain due process protections provided to unaccompanied children under the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.¹
4. Broaden access to the CAM Program by allowing parents without legal status to sponsor children and permitting children with viable refugee claims who do not have a parent in the United States to apply.
5. Use humanitarian parole to provide protection to children who must flee immediately.

These recommendations are critical to maintaining the United States' proud reputation as a nation that provides refuge to those fleeing harm.

I. Expedite CAM Program application processing to accommodate children fleeing rampant violence in Central America.

The government created the CAM Program in response to the increase in unaccompanied immigrant children fleeing violence in the Northern Triangle countries of El Salvador, Guatemala, and Honduras. Under the program, parents with legal status in the United States may sponsor their children for in-country refugee processing. Children must be nationals of one of the Northern Triangle countries and must reside in that country while their applications are processed. Children who are approved will be granted refugee status and allowed to join their parent(s) in the United States.

The CAM Program requires children to apply for refugee status and wait in their home countries for their applications to be processed. Currently, processing times are estimated at nine to 12 months. This wait time is not only impractical, but is extremely dangerous for asylum seekers given the extreme violence that plagues the Northern Triangle.

The United States is not the only country experiencing a dramatic increase in asylum seekers from Central America due to this violence. Together, Mexico, Panama, Nicaragua, Costa Rica, and Belize reported a 712 percent increase in the number of asylum applications filed by individuals from El Salvador, Guatemala, and Honduras from 2008 to 2013.² These numbers demonstrate that the current crisis is a regional problem caused by country conditions in the Northern Triangle.

There has been a well-documented increase in destabilizing violence and turmoil in the region in recent years.³ The victims of this violence are often targeted for reasons—such as gender, family

¹ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), P.L. 110-457 (Dec. 23, 2008).

² United Nations High Commissioner for Refugees (UNHCR), <http://unhcrwashington.org/children>.

³ See, e.g., "Guatemala 2013 Crime and Safety Report", U.S. State Department, Apr. 2013, http://www.iccnw.org/documents/Access_to_Justice_in_Mexico_-_English.pdf; "Transnational Crime in Mexico and Central America: Its Evolution and Role in Migration", Migration Policy Institute, Nov. 2012, <http://www.migrationpolicy.org/pubs/RMSG-TransnationalCrime.pdf>; "Forced from Home: The Lost Boys and Girls of Central America", Women's Refugee Commission, Oct. 2012, <http://womensrefugeecommission.org/resources/migrant-rights-and-justice/844-forced-from-home-the-lost-boys-and-girls-of-central-america/file>; "Invisible Victims: Migrant on the Move in Mexico", Amnesty International, 2010, <http://www.amnesty.org/en/library/asset/AMR41/014/2010/en/8459f0ac-03ce-4302-8bd2-3305bdac9cde/amr410142010eng.pdf>; "Persistent Insecurity: Abuses Against Central Americans in Mexico", Jesuit Refugee Services, November 2013, https://www.jrsusa.org/Assess/Publications/File/Persistent_Insecurity.pdf; "A Profile of the Modern Salvadoran Migrant", US Committee for Refugees and Immigrants, December 2013, http://www.uscrifugees.org/2010Website/3_One%20Work/Child_Migrants/FINAL_ENGLISH_VERSION.pdf

group membership, and status as witnesses of crimes—that give rise to viable asylum claims. For the past two years, San Pedro Sula in northwest Honduras has had the highest murder rate in the world, with a rate of 169 homicides for every 100,000 inhabitants, which is 36 times as many deaths as the U.S. national average.⁴ Honduras is not alone. Violence in Guatemala and El Salvador is equally pervasive. The expansion and increased influence of the Mexican-based drug cartel Los Zetas, has increased gang violence in the region; impunity is nearly universal.⁵ The U.S. State Department reported that Guatemala has one of the highest rates of violent crime in Central America, with nearly 100 murders each week.⁶ In El Salvador, a 2012 truce between rival gangs has completely broken down. Homicide levels have increased since the middle of 2013 and have now reached levels similar to those in 2011.⁷ There were 14 murders per day during the first few weeks of 2015, which is similar to homicide rates pre-dating the 2012 gang truce.⁸ In addition, corruption is widespread in Central America and seeking police protection from criminal elements is not an option.⁹ Over the past three years, 48,947 people were murdered in El Salvador, Guatemala, and Honduras. Countries achieved convictions in 2,295 of those homicide cases, meaning 95 percent of homicides went unsolved or unprosecuted.¹⁰ Even more concerning, children are increasingly targeted for violence. In Honduras, a boy born today has a one-in-nine chance of being murdered.¹¹ El Salvador and Guatemala have the highest child murder rates in the world.¹² These factors, combined with the lack of an effective government response, have forced many children to flee for their lives.

One of those children is Oscar (pseudonym). Oscar's friend, Alex, was only 13 when a gang in Guatemala murdered him for refusing to join them. For two years, the same gang that killed Alex also threatened to kill Oscar if he did not join the gang. Initially, the gang tried to force Oscar to do things he did not want to do, like use drugs. As time went on, their efforts to force Oscar to join escalated, and the gang threatened to kill Oscar's family if he went to the police for help. Oscar finally fled after a friend told him that the gang had set a date and time to kill him. He came to the United States to seek refuge with his father, who has lived in the United States for nearly 10 years.

⁴ FBI, Crime in the United States by Metropolitan Statistical Area, 2012. <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/6tabledatadecpdf>; Romo, Rafael and Nick Thompson. "Inside San Pedro Sula, the 'Murder Capital' of the World." CNN. <http://www.cnn.com/2013/03/27/world/americas/honduras-murder-capital/>.

⁵ Catherine Shoichet, "Mexican Forces Struggle to Rein in Armed Vigilantes Battling Drug Cartel," CNN, Jan. 17, 2014, <http://www.cnn.com/2014/01/17/world/americas/mexico-michoacan-vigilante-groups>.

⁶ Guatemala 2013 Crime and Safety Report, OSAC, U.S. Dept. of State: Bureau of Diplomatic Security, <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=13878>.

⁷ Robert Valencia, "How El Salvador's Gang Truce Redefined the Geography of Violence," *InSight Crime: Organized Crime in the Americas*, Apr. 9, 2015, <http://www.insightcrime.org/news-analysis/how-el-salvadors-gang-truce-redefined-geography-violence>.

⁸ *Id.*

⁹ Charles Parkinson, "Why is Latin America So Corrupt?" *InSight Crime*, Jan. 8, 2014, <http://www.insightcrime.org/news-analysis/why-is-latin-america-so-corrupt>.

¹⁰ Suchit Chavez & Jessica Avalos, "The Northern Triangle: The Countries That Don't Cry for Their Dead," *InSight Crime – Organized Crime in the Americas*, April 24, 2014, available at <http://www.insightcrime.org/news-analysis/the-northern-triangle-the-countries-that-dont-cry-for-their-dead>.

¹¹ Frances Robles, "Fleeing Gangs, Children Head to U.S. Border," *New York Times*, July 9, 2014, http://www.nytimes.com/2014/07/10/world/americas/fleeing-gangs-children-head-to-us-border.html?_r=1.

¹² UNICEF, *Hidden in Plain Sight: A statistical analysis of violence against children*, Sept. 2014, http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf, p. 36.

Children like Oscar cannot wait for months in the midst of danger while the United States processes their refugee claims; choosing to endure a nine-to-12 month wait rather than flee immediately may often be a choice between life and death.

II. End U.S. support of interdiction policies that deny children the opportunity to seek protection.

The number of child asylum seekers arriving in the United States has decreased drastically since a year ago. Many people attribute this drop to U.S.-supported efforts by Mexico to increase interdictions. In 2014, Mexico deported record numbers of Salvadorans, Guatemalans, and Hondurans. According to Mexico's 2014 deportation statistics, the number of individuals from these three countries who were deported increased by 35 percent from 2013.¹³ In addition, the number of detained children increased by 230 percent.¹⁴ Children apprehended in southern Mexico are overwhelmingly deported back to their home countries without being screened for protection needs or receiving information on their right to apply for protection. Prior to their deportation, children are detained for "long, unpredictable periods of time" despite Mexican laws that require children to be quickly transferred to shelters.¹⁵

The existence of the CAM Program does not justify interdiction of children and other asylum seekers in Mexico. The policy of interdicting and returning children without screening them for legal protections is a breach of international legal standards which require nation-states to recognize as a refugee anyone with a "well-founded fear" of persecution in his or her home country, to accord refugees certain legal rights, and to refrain from returning refugees to countries where their safety would be threatened.¹⁶ The existence of the CAM Program is not a substitute for robust protection screenings.

III. Strengthen due process protections for unaccompanied children under the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.¹⁷

Although the CAM Program is a welcome step toward providing protection to child asylum seekers, the program alone is not sufficient to address the magnitude of need of those fleeing rampant violence in the Northern Triangle. As discussed above, the pervasive reach of gangs and drug cartels in these countries makes it impossible for children to safely wait there while the U.S. government processes their applications. Thus, many children—both those who qualify for the CAM Program and those who do not—continue to flee to the United States. The United States must make sure that the CAM Program is accompanied by complementary efforts to ensure access to legal protections for those who reach the United States.

One critical protection is the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. The bill, which unanimously passed Congress, was a response to years of

¹³ *Id* at 18.

¹⁴ *Id* at 18.

¹⁵ *Id* at 26.

¹⁶ "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Refugee Convention, art. 33-1, 189 UNTS 150.

¹⁷ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), P.L. 110- 457 (Dec. 23, 2008).

insufficient screenings of unaccompanied children at the border that resulted in the return of vulnerable children to situations of violence, abuse, and persecution.¹⁸ The TVPRA provides critical protections and child-sensitive procedures for immigrant children and child refugees that should be bolstered, not eliminated. Specifically, the TVPRA requires that unaccompanied children from non-contiguous countries be placed in removal proceedings before an immigration court rather than subjected to a hurried screening and repatriation process akin to expedited removal. This due process protection is critical to ensure that children who have been or fear being trafficked, abused, tortured, and/or persecuted are not summarily removed to places where they face serious harm. Under the TVPRA, children have the opportunity to receive full due process protections in immigration court proceedings. This affords children time to recover from their journeys and past trauma, receive legal orientation, seek counsel, and gather evidence supporting their cases.

a. Expedited removal is inappropriate for children and survivors of violence.

NIJC's Immigrant Children's Protection Project sees first-hand the benefits of the TVPRA through our work in Chicago-area shelters for unaccompanied children where we provide Know Your Rights presentations and legal screenings. In our experience, young survivors of violence and trauma need time to recover from their long journeys before they can effectively share their stories. For instance, NIJC client Carlie (pseudonym) initially denied being sexually abused:

Carlie came to the United States with her sister Esperanza after experiencing severe sexual trauma in Honduras. The sisters were only 12 and 13 years old, respectively, when their uncle first raped and beat them. He threatened to kill them and their siblings if they told anyone. After Carlie and Esperanza told their grandmother what happened, she reported the crime to the police, but their uncle was never arrested or charged with any crime. The sisters' step-grandfather was angry at them for accusing his nephew of rape and he beat the girls. Carlie and Esperanza's mother wanted to bring the girls to join her in the United States, where she had been living since 2008, for their safety. NIJC represented the girls in their successful asylum cases. Initially, the younger sister, Carlie, was in complete denial about the sexual trauma she had experienced. Her attorney was aware of the abuse because her older sister, Esperanza, was able to recount it. Carlie could only discuss the abuse after her attorney gained her trust over time and with the help of a therapist. The girls continue to work with therapists to overcome the trauma they experienced in Honduras.

Expedited processing makes it extremely difficult for child victims of violence and trauma, and their family members, to effectively make claims for asylum or other protections under U.S. law. It is difficult for immigrant children who have suffered abuse in their home countries or during their journeys to the United States to overcome the mental and emotional impact of that harm and to discuss their fears with strangers. It is clear that children continue to be in great need of asylum protections provided under U.S. law. It is of utmost importance that Congress continue to uphold and expand current standards to protect children's due process rights.

b. U.S. Customs and Border Protection (CBP) agents should not make relief determinations for children.

Children in many countries do not trust law enforcement that often turns a blind eye to and, at worst, is complicit in the violence that pervades their lives. Yet under the TVPRA, Mexican children

¹⁸ Bersy Cavendish & Maru Cortazar, *Children at the Border: The Screening, Protection, and Repatriation of Unaccompanied Mexican Minors*, Appleseed, 2011, <http://appleseednetworks.org/wp-content/uploads/2012/05/Children-At-The-Border1.pdf>.

are required to immediately reveal their protection claims to U.S. Customs and Border Protection (CBP) agents—the very people who have apprehended and detained them—without first being able to speak to attorneys. This procedure should be terminated altogether so that all unaccompanied children receive full and fair hearings when facing deportation.

In addition, CBP should not house children for any great length of time. The standard of transferring children to the custody of the Office of Refugee Resettlement (ORR) within 72 hours should be upheld with proper oversight. NIJC's mass complaint to the DHS Office of Civil Rights and Civil Liberties (OCRCL) and Office of the Inspector General (OIG) on behalf of 116 unaccompanied children abused and mistreated in CBP custody demonstrates that CBP is not the appropriate agency to house or screen children for relief.¹⁹ Approximately one in four children in the complaint reported some form of physical abuse, including sexual assault, beatings, and the use of stress positions by CBP officials. More than half of the children reported various forms of verbal abuse, including racially and sexually charged comments and death threats. One 16-year-old girl reported that an immigration official verbally abused her and accused her of lying when she tried to explain the threats she faced in her home country. CBP does not have the specialized training needed to productively and compassionately interview children to learn what harm they have experienced and what they fear if deported. Children like Adrian (pseudonym) need professionals who have expertise working with children and survivors of violence to disclose past harm:

Seventeen-year-old Adrian was forced into sex trafficking by his aunt in Honduras. After Adrian's parents abandoned him, he lived with his grandma, aunt, and uncle. Beginning at age 12, his aunt started exploiting both him and his grandma for labor. In addition, she forced Adrian and his cousin to do sex work. She threatened them with starvation if they did not cooperate, and was particularly abusive to Adrian because he is gay. Adrian's grandma tried to protect him and his cousin from their aunt, but she was unaware of the sexual exploitation. After Adrian attempted suicide, his grandma sent him north. His coyote raped him multiple times during his journey. Initially, Adrian completely denied experiencing any past abuse and claimed that he had a good relationship with his family in Honduras and that his coyote treated him well during his journey. However, he showed signs of depression and struggled to answer questions. It took a long time for his NIJC attorney to build rapport with him and many sessions for him to fully disclose his past trauma. Adrian is eligible for asylum, Special Immigrant Juvenile Status (SIJS), and a T visa based on his past abuse. He was released to a relative in Boston and is working with an attorney to apply for protection.

It is extremely difficult for all asylum seekers, but particularly for child asylum seekers, to understand how to request asylum at the border and articulate claims for protection. Children need attorneys to guide them through this process. Moreover, expedited processing in remote locations along the border makes it impossible for children to obtain legal counsel during this process.

IV. Broaden access to the CAM Program by allowing undocumented parents to sponsor children and permitting children with viable refugee claims without parents in the United States to participate.

As noted earlier, the CAM Program stipulates that parents must have legal status in the United States to sponsor their children for refugee status. This requirement makes the pool of eligible

¹⁹ Complaint to DHS from NIJC *et al.*, regarding The Systematic Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection, Jun. 11, 2014, <https://www.immigrantjustice.org/sites/immigrantjustice.org/files/FINAL%20DHS%20Complaint%20re%20CBP%20Abuse%20to%20UICs%202014%2006%2011.pdf>

children very small. To broaden access to asylum protections and prevent children from embarking on dangerous journeys to the United States, the government should allow undocumented parents to sponsor children and should permit children with viable refugee claims with no parents in the United States to participate.

Expanding sponsor eligibility to undocumented parents is a rational move. Many of these parents would likely be eligible for relief under President Obama's Immigration Executive Action or the bipartisan Senate immigration bill, S. 744.²⁰ Further, children fleeing violence should not be denied opportunities to seek safety in the United States only because they do not have a parent residing in the country. Without these measures, the numbers of children seeking protection under the CAM Program will remain low.

V. Use humanitarian parole to provide protection to children who must flee immediately.

Humanitarian parole is an important tool for the U.S. government to use in situations where our refugee laws are incapable of expeditiously processing the claims of individuals who face imminent harm. Under humanitarian parole, U.S. Citizenship and Immigration Services (USCIS) has the authority to allow individuals into the United States for a temporary period of time based on an urgent humanitarian need. This is a particularly important tool for relatives of individuals who are in the process of pursuing legal protections. Frequently, individuals are forced to leave family members behind when they flee for safety. Because of court and visa backlogs, family members of individuals in the United States who are in danger in their home countries are forced to wait years to be eligible to be reunited with loved ones. Humanitarian parole is frequently used for individuals fleeing persecution throughout the world.

Antoine (pseudonym) was an infant when her mother and three siblings were tortured and killed by Hutu militias fleeing to the Democratic Republic of Congo (DRC) in the wake of the Rwandan genocide. Six years later, Congolese government forces murdered her father and two more of her siblings because her father pursued the prosecution of the men who had killed his family. Left alone and unprotected, Antoine and her older sister, Monique, were abducted by militia fighters who brutally tortured and raped them on a daily basis for nearly three months. Monique eventually escaped and fled to the United States where she received asylum with NIJC's assistance. Meanwhile, Antoine, fearing persecution by the Hutu militia in the DRC, eventually fled to Rwanda where she continued to be targeted for rape by several other men. After some of the Hutu militia members who raped her returned to Rwanda as heroes, Monique began living in hiding fearing that the men would recognize and kill her to prevent her from reporting their crimes. Late last year, she was granted humanitarian parole and was able to join Monique in the United States after nearly five years of living in hiding. NIJC is helping her apply for asylum protections.

Children fleeing the Northern Triangle face realities similar to Antoine, and humanitarian parole can be the difference between life and death.

VI. Recommendations and Conclusion

As a nation committed to human rights, we must ensure that child asylum seekers are treated humanely and receive robust access to legal protections. Any attempt to roll back the TVPRA or deny legal protections to those children who arrive outside of the CAM Program would undermine

²⁰ Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744), 113th Cong. (Jun. 27, 2013).

American values of protecting children from harm. To maintain our great legacy as a beacon of hope for those fleeing harm, the U.S. government and Congress must:

1. **Expedite processing of applications submitted under the CAM Program** to ensure that children fleeing immediate danger are able to receive protection in a timely manner. The U.S. government should examine best practices from the U.S. Refugee Program to efficiently and expeditiously process refugees. For those children who must remain in their home countries for long periods while their applications are processed, emergency shelters should be established in the region to ensure children have a safe place to stay.
2. **End U.S. support of interdiction policies that deny children the opportunity to seek protection.** The CAM Program alone is not a sufficient solution to address child asylum seekers. Given the urgency with which children flee their home countries, children will continue to pursue safety outside of the CAM Program. These children must continue to have access to legal protections.
3. **Maintain due process protections provided to unaccompanied children under the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.**²¹ Children cannot be expected to clearly articulate their need for legal protection at the border. They must have ample time to recover from their journeys and work with attorneys who can assess their eligibility for legal protections.
4. **Broaden access to the CAM Program** by allowing parents without legal status to sponsor children and permitting children with viable refugee claims who do not have a parent in the United States to apply.
5. **Use humanitarian parole to provide protection to children who must flee immediately.** This will allow children with viable refugee claims to expeditiously leave places where their lives are in immediate danger.

²¹ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), P.L. 110- 457 (Dec. 23, 2008).



Living in God's amazing grace

Statement for the Judiciary Committee Hearing
 “Eroding the Law and Diverting Taxpayer Resources: An
 Examination of the Administration’s Central American Minors
 Refugee/Parole Program”
 Evangelical Lutheran Church in America and the
 April 23, 2015

The Evangelical Lutheran Church in America (ELCA), a church of about 4 million members and 10,000 congregations nationwide, thanks the Senate Judiciary Committee for considering the views of people of faith on the Central American Minors (CAM) Program. As a church that believes that love for our neighbor is a fundamental reflection of our own identity, we are deeply concerned with the well-being of our brothers and sisters in Central America and their treatment in the United States.

A delegation of ELCA leadership recently visited companion Lutheran churches in El Salvador, Guatemala and Honduras to learn more about the root causes of the migration from the region. Our leaders met with young people who face the consequences of violence, poverty and lack of opportunities without a place to turn for assistance. We have heard the stories and seen the faces of children who had been told they had 24 hours to leave before they would be killed and of parents doing all they could to ensure their safety. We prayed with those doing what they could to keep people safe, asking God to help us find ways to keep children and families in safety. We urge Congress to expand, not reduce ways in which these children can find refuge on our shores. The ELCA asks Congress to continue the CAM Program and honor our commitment to protect those fleeing persecution.

People in the Northern Triangle countries of Central America who might be able to come to the U.S. through the CAM Program would have experienced multiple types of violence. One of the women we met described this violence as an “octopus with many tentacles that has been normalized.” The region is home to 4 of the most violent cities in the world, and the country with the highest rate of homicides, Honduras. The CAM Program provides an otherwise nonexistent channel for a child to find safety.

Most of the children we met in urgent need for protection would not qualify for this program due to its requirements that their sponsor in the United States have some sort of legal status. In addition, many children have only a limited time to flee to safety and could not remain in their communities through the lengthy application adjudication process. Better ways to protect children going through the CAM Program process and a more effective way to ensure that all children with international protection needs have the ability to flee their countries are critical. As children of God, we are all called to protect and respect each other. Children in Central America are our children too.

As a church, we honor the dignity in all of God's children. We urge Congress to do the same by expanding, not limiting, ways in which Central American children in need of protection can find refuge in our nation.



Mission to Central America: The Flight of Unaccompanied Children to the United States

November, 2013

Report of the Committee on Migration of the United States
Conference of Catholic Bishops

TRIP DELEGATION

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INTRODUCTION

From November 16-23, 2013, a delegation from Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB) traveled to southern Mexico and Central America to examine and understand the flight of unaccompanied migrating children and youth from the region. Bishop Mark Seitz, bishop of El Paso, Texas, led the delegation, and was accompanied by Jeanne Atkinson, Executive Director of the Catholic Legal Immigration Network, Inc. (CLINIC), Reverend Daniel Groody, Professor of Theology, University of Notre Dame, and consultant to the USCCB Committee on Migration; Jane Bloom, Director, Washington Office of the International Catholic Migration Commission (ICMC); Kristyn Peck, Associate Director of Children's Services, MRS/USCCB; Ashley Feasley, Immigration Policy Advisor, MRS/USCCB; and Kevin Appleby, Director of Migration Policy and Public Affairs, MRS/USCCB.

Currently, El Salvador, Guatemala, Honduras, and Mexico have the highest numbers of unaccompanied youth arriving at the U.S./Mexico border where they are apprehended by federal immigration enforcement due to their lack of immigration status and placed into the custody and care of the U.S. Department



of Health and Human Services' Office of Refugee Resettlement (HHS/ORR). According to U.S. Customs and Border Protection (CBP), in fiscal year 2012, 24,120 out of a total of 24,481 unaccompanied children apprehended at the U.S./Mexico border or in the interior were from Mexico, Guatemala, El Salvador and Honduras.¹

With these figures in mind, the delegation travelled to the Northern Triangle of Central America to hear the stories of child migrants and meet with high-level government officials. The delegation first visited Tapachula, a city in the state of Chiapas Mexico which is the epicenter of the migration flow North and also is the location of one of the children's shelters run by the Mexican government's child welfare agency, DIF (el Desarrollo Integral de la Familia). Subsequently the delegation travelled to Guatemala, Honduras, and El Salvador to collect information and assess the plight of child migrants on the ground. The following report details the delegation's findings and policy recommendations.

OVERVIEW

Since 2011, the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving to the country, predominately at the U.S./Mexico border. Whereas the number of children apprehended averaged 6,800 between federal fiscal years (FY) (October 1-September 30) 2004 and 2011, the total jumped to over 13,000 children in FY2012² and over 24,000 children in FY 2013.³ HHS/

ORR, as well as the Department of Homeland Security (DHS) estimate that more than 60,000 unaccompanied minors could enter the United States during 2014.

Why are so many children making the dangerous journey north? Are there recent developments in these countries that have led to the spike in child migration over previous years? The delegation attempted to find answers to these questions during their mission. In short, there are no simple answers. The delegation found that a series of interrelated factors have contributed to this dramatic increase in migration

and that a "perfect storm" of a number of these root causes has coalesced to create this phenomenon. Push factors include the absence of economic opportunity, the lack of quality education and access to education generally and the resulting inability for individuals to financially support themselves and their families in their home countries/local communities. The desire to reunify with family in the United States, in part driven by these forces, also has contributed to this increase in migration.

While these factors were omnipresent, the delegation found that one overriding factor has played a decisive and forceful role in recent years: generalized violence at the state and local levels and a corresponding breakdown of the rule of law have threatened citizen security and created a culture of fear and hopelessness.

To be sure, each country exhibited individual challenges which have added to these push factors. In Guatemala, for example, the demise of the coffee industry in recent years has contributed to the outflow of child migrants.⁴ In Honduras, political instability in recent years has led to the absence of good governance and a breakdown in the rule of law. And El Salvador, particularly dependent on remittances from the United States, has been severely affected by the global recession.

Nevertheless, violence and coercion, including extortion, kidnapping, threats, and coercive and forcible recruitment of children into criminal activity are per-

perated by transnational criminal organizations and gangs have become part of everyday life in all of these countries, exerting control over communities. Transnational criminal organizations, such as the Mexican-based Los Zetas cartel, which deals in the smuggling and trafficking of humans, drugs, and weapons, operate in Mexico with impunity, and have expanded their influence throughout Central America by contracting with local gangs, primarily MS-13 and the 18th Street gang.

A. Violence in the Community: Strengthened Gangs and Loosely-Affiliated Imitators

While the violence in these countries is widespread, part of the problem facing children in communities is the increasingly crowded landscape of bad actors operating at the community level. Domestically, individuals face the threat of violence and extortion from both street gangs contracting with transnational criminal organizations and copy-cat or loosely-affiliated low-level perpetrators. According to United Nations Office of Drug and Crime (UNODC), in 2012, there were an estimated 20,000 gang members in El Salvador, 12,000 in Honduras, and 22,000 in Guatemala.⁵

The major gangs operating in Central America are the 18th Street gang (also known as Barrio 18) and their main rival, the Mara Salvatrucha (MS-13).⁶ These two particular gangs, or “Maras,” have been prevalent in Honduras and El Salvador for years and, until recently, were loosely structured and largely operated at the local street level.⁷ In recent years both of these gangs have expanded geographically (moving into some areas of Guatemala in addition to intensified presence in El Salvador and Honduras) and have become more organized and sophisticated both in terms of operation (from low-level robberies and extortions to becoming guards and transporters for large lucrative narcotics shipments) and execution.

Some of the reasons behind the consolidation of the transnational gang presence in Central America can be attributed to the expanded reach of Los Zetas (discussed below) and to the lack of individual and coordinated governmental response to the gangs. For example, the El Salvadoran government’s decision in recent years to organize prisons according to gang affiliation likely has led to further gang consolidation, resulting in more organized and effective criminal enterprises.⁸ The financial potency and transnational danger that these criminal organizations pose to their societies and to entire geographic regions has been increasingly recognized by the international commu-

nity. To this end, in October 2012 the United States Department of Treasury designated and sanctioned the MS-13 as a significant Transnational Criminal Organization (TCO), the first transnational street gang to receive the designation.⁹ In El Salvador, the epicenter of the Mara infiltration, various government-affiliated actors organized a gang truce in March 2012 that has led to a significant reduction in the number of murders and kidnappings that occurred in 2012. While the truce halted the murders and kidnappings, it also highlighted the culpability of the gangs for the nation’s violence epidemic and the inability of the El Salvadoran government to control them.¹⁰

The growing power and success of the Maras, particularly MS-13 and 18th Street, has given rise to incidences of gang copy-cats or loosely affiliated operators, who seem to have replaced or at least augmented the actions of the Maras with regard to low-level daily crime and intimidation. The existence of these copy cats or loosely affiliated criminal operators also underscores the growing difficulty in defining and identifying “gang” members within local communities in El Salvador, Honduras and Guatemala. The distinction between members of the MS-13 or 18th Street gangs and copycat or low level criminal actors has become increasingly blurred, leading to increased hopelessness in communities because of the anonymous but increasing threat of violence affecting daily life.

This perspective is shared by academics who have documented an increasingly strong but amorphous criminal presence threatening children and pushing them to migrate.¹¹

For example, in many instances gangs or low-level imitators require the payment of money (“renta”) from families or businesses to ensure that they are “protected” from violence or intimidation. To many families, the renta itself is just an accepted fact of life that comes with living in the community, with many individuals interviewed from El Salvador comparing payment of the renta to life insurance.¹² This growth in community crime and strengthened gang-related violence has become an overwhelming factor for children and families in their decision to migrate.

B. Violence in the Region and on the Journey: Los Zetas and Independent and Gang/Cartel Affiliated Coyotes and Traffickers

Even if children are able to navigate the localized violence within their communities, another more sinister

criminal actor affects their migration: los Zetas.¹³ Los Zetas was formed in the late 1990s by an elite band of Mexican anti-drug commandos from the Air-Mobile Special Forces who defected and evolved into a well-financed and heavily armed drug-smuggling force. Despite recent media reports about the weakening of the organization due to the loss of its leader, Miguel Angel Trevino Morales, in July 2013, Los Zetas is rapidly expanding into Central America. Since 2008, the Zetas have moved to claim the northern triangle of Central America as drug shipment territory and, as a result, Honduras, Guatemala, and El Salvador have seen a spike in crime related to drug shipment routes and trafficking. The areas of greatest conflict have been the most traveled trafficking routes: the Guatemala-Honduras border and the northern Caribbean coast of Honduras.¹⁴ In recent months, the US government and international observers have been alarmed by Los Zetas' relationship with the maras, particularly MS-13.

These emerging alliances between transnational crime and drug trafficking organizations and local gangs have increased the efficiency and frequency of violence in the region, in part leading to the increased migration of youth.¹⁵ In addition to expanding their presence into Central America, los Zetas have augmented their operations to include migrant smuggling and trafficking along the major migration routes north in Mexico, particularly along the Gulf of Mexico corridor. The expansion of los Zetas into migrant smuggling and trafficking has resulted in a corresponding rise of violence, extortion, kidnapping, sexual assault,

physical assault, trafficking and murder.

In addition to navigating los Zetas controlled migration routes north into Mexico, unaccompanied youth must also contend with coyotes or smugglers who may or may not be affiliated with larger criminal enterprises like los Zetas. Human smugglers and human traffickers also cause havoc to young persons and their families.

For example, the delegation heard about smugglers ("coyotes") promising a family three attempts to take a family member to the United States, at exorbitant costs. In Guatemala specifically, the delegation learned that a new trend is for coyotes to promise three attempts for the price of one, with families taking a mortgage out on their home to cover the cost of the coyote and then the coyote failing in order to gain the deed for the family's land with the coyote taking ownership of the land himself personally, or as part of a criminal enterprise.¹⁶ In all four countries visited there were reports of coyotes either abandoning minors along the journey or encouraging them to report themselves as "adults" if they get apprehended by the Mexican government or CBP, ensuring their deportation. Once returned, the smugglers wait for the children outside the airport or shelter in order to take them north again. When families cannot pay the costs, which can reach \$7,000, the coyotes take control of their property, leaving families and children homeless. In Honduras the estimated \$5,000-\$7,000 cost of the coyote represents 18 months of earnings for an entire

Hope beyond the Gangs

Fernando*, a former client of Catholic Relief Services (CRS) El Salvador's Youth Builders program, said he was aware of the "gang life" before he even started high school. He described the gangs' ubiquitous presence in the community, underscored by his statement that he has known one of the gang leaders since he was six-years-old. Once he started high school, Fernando said it was "a whole other story." Illustrating an atmosphere of intimidation and fear, Fernando recounted stories of the gangs' presence on school property—selling drugs, throwing rocks at the school busses, beating kids on the school bus with belts, or worse, as part of the gang initiation, beating kids with a knife and removing the insignia from their school uniform. Fernando shuddered as he described the fate of high school girls—drugged at high school parties and gang raped. Fernando depicted a school atmosphere in which the teachers and administrators were completely unable to protect the students as "at least 50 percent are armed." Fernando, who did well in school, was beaten every day on the school bus, and ultimately, "learned to control his environment" through marginalized gang involvement. "I was never a rank and file gang member", said Fernando, although he describes low-level gang activity such as patrolling busses and drinking with gang members. Ultimately, Fernando was motivated to leave the gang life when he had a child, stating, "I don't want my child to grow up like that." Fernando turned to the CRS Youth Builders project which he said, "inspired me to have a better life for myself." He began going to church, and said, "Thanks to God's mercy, now I'm changed."

*Name changed to protect identity.



family.¹⁷

The presence and activity of these groups have undoubtedly impacted youth, perhaps the most vulnerable of victims. They are squeezed from both ends: pressure from the family to help with economic support and pressure from gangs and drug trafficking networks to become members, at threat to their lives. Often the life-threatening journey north is a more appealing option to these young persons, or is seen as a family strategy to protect their child, as the governments in these countries are unable to fully protect them.

Children from Honduras, El Salvador and Guatemala who have a parent or relative working in the United States are especially vulnerable for two reasons: they lack a stabilizing element within their family structure and they can become targets for extortion from the Maras and other community criminal actors because they are perceived as being wealthier or having the benefits of remittances. In addition, these children experience less supervision because the female head-of-household has to work more for economic stability and is unable to watch over the family, thus creating an opening for the gang to exploit these vulnerable youth. One mother at the return station in San Salvador lamented that she felt helpless in preventing the harassment of her daughter by a gang member because she had to find work outside of the home and could not operate a home business due to the pressure to pay rent to the gang for operating the business in the home/community. Without a stable family to protect them, young men are recruited to join gangs, receiv-

ing extreme pressure from within the community and even at schools. Young persons who resist are threatened with violence or even death. Because of a lack of protection from the government or their families, youth are faced with the choice of complying with the demands or fleeing from the region or the country. Combined with an absence of economic or educational opportunities, minors often choose the latter course.

Given the difficult conditions minors must confront in their home countries, the delegation believes that a robust protection regime for children must be implemented in Central America, Mexico, and the United States.

FINDINGS

Violence and bad criminal actors have permeated all aspects of life in Central America and are one of the primary factors driving the migration of children from the region. The delegation found that in each country—particularly Honduras and El Salvador—organized gangs have established themselves as an alternative, if not primary, authority in rural areas and towns and cities outside the capitals. In many cases, the governments are unable to prevent gang violence and intimidation of the general public, especially youth. The delegation heard accounts of gang members infiltrating schools and forcing children to either join their ranks or risk violent retribution to them or their families. Even in prisons, incarcerated gang members are able to order violence against members of the community. The delegation heard reports that law enforcement collaborated with the gangs but also heard extensively that most of these governments do not have the resources to aggressively pursue these types of crimes. For example, according to Casa Alianza, 93 percent of crimes perpetrated against youth in Honduras go unpunished.¹⁸

Youth who do manage to flee the violence are then exposed to extreme danger and criminal mistreatment by actors along the migration journey. The journey north is increasingly dangerous and children find little protection in Mexico. The delegation heard horrific stories of abuse and violence that young persons endured on their journey to the United States. Drug traffickers, human traffickers, and even law enforcement pose stark risks to these children and prey upon their vulnerabilities. Maras, for example,

charge money for children to ride the train north into Mexico, throwing them off when they cannot pay. Girls and young women are at risk of rape and prepare for such an event. Human smugglers often abandon children at the first sign of trouble or mislead them by telling them to pretend they are adults. This does not include the physical and emotional hardships of such a journey. Despite the dangers, minors continue to try to make it to the United States, because, as one official put it, "the lack of hope exceeds the fear."

The delegation also heard reports of human trafficking, where minors begin the journey north, sometimes with friends or even family, and find that the expectations of the type of work they had agreed to do in the U.S. changed, or, that in exchange for their travel, they would be required to work to pay off the debt, or they are instructed to provide sex to "clients" along the way.

Violence and the lack of economic and educational opportunity have led to the family breakdown in poor families, leaving children unprotected. The escalation in violence, combined with the lack of jobs and quality education, has led to a breakdown in the family unit, as male heads of households- or sometimes both parents- have left for the United States, leaving children behind with relatives, often, grandparents. As children enter teenage years, heightening their risk for victimization or recruitment by gangs, it becomes increasingly difficult for their relatives, especially elderly grandparents, to protect them. Children flee, as a strategy to escape the gangs, to help support the family, and to reunify with their parents or other loved ones, from whom they have been separated for years. In an analysis conducted by MRS/USCCB of 140 children from Mexico, Honduras, Guatemala and El Salvador whom MRS/USCCB provided family reunification services to in FY 2011, 74 percent (104) reported migrating to the United States to reunify with a family or friend. Of that number, 46 reported other reasons for migration, such as, escaping violence (41%) or to look for work in order to help financially support their family (36%).¹⁹

The delegation interviewed a group of women waiting at a center run by the Salvadoran immigration authorities for returned migrants. The women were mothers, grandmothers, and aunts of children who were to be returned that day from Mexico, where

Human Trafficking

Dani* had recently turned 18-years-old at the time the delegation interviewed her in the DIF shelter in Tapachula, Mexico. Dani reported that she left her two children—two and nine months—in Honduras with her mother when she left for the United States in search of work to support her family. Dani planned on living with her cousins, one of whom recruited her to work in a cantina. As Dani proceeded on the migration journey, she realized that what she thought was a straightforward waitressing job would in fact require her to do what was necessary to please the male customers, to include sexual activity. In Mexico, Dani was apprehended, and she disclosed to Mexican immigration officials what was expected of her when she reached her destination. With the information she provided, Mexican authorities arrested the traffickers, and Dani was placed in the custody of DIF while she applied for a humanitarian visa, which she was told would be awarded the week that we visited.

*Name changed to protect identity.

they were apprehended on their way to the United States. While awaiting reunification with the children, the staff psychologist provided an orientation on the dangers of the journey as a prevention mechanism. The women listened to the statistics about the number of children who are raped, mugged, beaten, and injured on the journey, and the room was heavy with their grief. When the psychologist exited the room, the women, one by one, shared the motivations for migration of their children, grandchildren, nieces, and nephews. As one mother of a 16 year old girl who had been repeatedly harassed by a neighborhood gang said, "I know it's not the best solution, to send her to the U.S., but what else can we do? We have no place to go." She said when she tried to work from home, cutting hair so she could be with her daughter in the afternoons; the gangs demanded she pay "la renta". Unable to make the payments, she closed her business and began working in a nearby town, leaving her daughter vulnerable to harassment by the gangs while she was away from home. "It's an intolerable situation. I know the journey is dangerous, but it's dangerous here" she said.

An elderly grandmother of two boys, 14 and 16, both

who fled harassment and recruitment by gang members at school, said although she wanted to welcome her grandchildren home with open arms, she was terrified of what would happen to them once she took them back home. She recalled moving several times already to escape the gangs and said, "There's nowhere else to go." Without a male parent, minors are often unprotected against gang members or other criminal elements. Children, mostly males, can be sent to the fields or other areas by the remaining parent to work and provide for the family. Young girls can also be subject to harassment and sexual violence, as gang members recruit them to become "girlfriends" of gang members.

Another symptom of the pressures on the family is the rise in domestic violence cases. The delegation heard reports of young boys and girls escaping domestic violence, either targeted at them or another member of the family. In some cases, children were escaping sexual abuse from a parent or an older sibling.

Tragically, the delegation found that children do not find the protection they need once they arrive in Mexico, even those who are eligible for asylum. UNHCR and MRS/USCCB are working with government authorities to provide training to law enforcement

and protection officers on identifying and screening vulnerable children, and continued capacity building efforts should be supported. MRS/USCCB, in response to a request from UNCHR Mexico, developed and presented three on-site trainings for UNCHR staff, government officials, and NGO partners in Mexico City and Tapachula, Mexico from November 13th-15th, 2013. The goal of this training was to support the implementation of UNHCR's Child Protection Strategy in Mexico by strengthening institutional capacity of UNHCR Mexico staff, direct care providers, and government officials working with migrating children.

An inherent weakness regarding the current system in Mexico that the delegation encountered is the fact that once apprehended in Mexico, foreign national children often are placed in detention with adults. There is only one children's shelter in southern Mexico and one in Mexico City run by the Desarrollo Integral de la Familia (DIF), the Mexican government's division of child welfare. Children who request asylum usually remain in detention for months longer and there is little in the way of legal services to help them navigate the Mexican legal system. Once a child receives asylum status, he or she resides in a child shelter in Mexico City until age 18, as there is no foster care system in



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A Rise in Domestic Violence

The delegation interviewed 12-year-old Cristina* in the DIF shelter in Tapachula. Cristina reported that she left the home of her grandmother and aunt with whom she lived in Honduras for Mexico to reunify with her mother whom she hadn't seen in years. Cristina reported suffering abuse at her mother's hands, and when asked about the abuse, she did not elaborate. Cristina had a broken arm at the time of the interview, and when asked how she broke it she stated, "I don't remember." With help from a church, Cristina ran away from her mother's home. She was placed in the DIF shelter and will return to her father in Honduras. When asked what life would be like when she returned to Honduras, Cristina looked down at her lap, and avoided the question.

* Name changed to protect child's identity.

place for these children. Because of the challenges in gaining asylum in Mexico and the absence of an effective child welfare system, children often choose deportation back home so they can try to migrate again.

Countries of origin lack the capacity to protect children adequately. The delegation found that Guatemala, Honduras, and El Salvador lack the capacity to protect children in their law enforcement, child and social welfare, and educational systems. As mentioned, gangs and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements. National educational systems are inadequately funded, with many children only advancing to 6th or 7th grade. Child welfare services are virtually non-existent, as are foster-care and family reunification and reintegration services.

A significant number of migrants, particularly youth, have valid asylum claims. While the popular perception of many in the United States is that migrants come here for economic reasons, the delegation found that a growing number are fleeing violence in their homelands. The increased number of those requesting asylum shows a more complex picture, with many children, for example, entering the United States to join family members in search of security. Denying them asylum and sending them back to the gangs and drug traffickers persecuting them could ensure their demise.

RECOMMENDATIONS

In light of the findings of the mission, the delegation

recommends the following policy changes:

I.

The United States should strengthen protections for unaccompanied, migrating children, whom U.S. law refers to as Unaccompanied Alien Children (UAC).²⁰ UAC possess legal rights which should be honored. Often children are scared and are unable to articulate their fears and do not understand what rights they have under U.S. law. We recommend the following:

a. The best interest of the child standard should be applied in legal proceedings involving UAC.

The U.S. government should adopt a transnational family approach in deciding on durable solutions in the best interest of UAC. This should include family tracing, assessment of all family members for potential reunification, and involvement of all family members in the decision-making process, regardless of geography. Currently, decisions about the welfare of UAC are made separately from the existing U.S. child welfare infrastructure, meaning that court decisions on the welfare of UAC are based on their eligibility for immigration relief alone rather than involving a comprehensive assessment of the best interest of the child.

b. UAC should be afforded legal counsel to represent them throughout the course of their immigration proceedings. Many UAC are eligible for immigration relief, once they arrive in the United States. Legal status designations that have been statutorily created to protect vulnerable populations include: asylum, which was designed to protect vulnerable immigrants who are fleeing persecution; Special Immigrant Juvenile Status, which protects children who have been abused, abandoned, or neglected; T-visa for victims of human

trafficking, and U-visa for victims of certain recognized crimes. Applying for immigration relief is a complex process, which often involves research on the situation in the client's country of origin, documentation of abuses, family history documentation, and articulating a comprehensive fact pattern of events. It is simply not possible for a child, in particular, a child with limited to no English speaking skills, to file for immigration relief alone. All UAC should have the benefit of representation by an attorney to ensure all available relief is afforded to them.

c. Articulation of fear of gang-related activity in the credible fear interview should be considered de facto justification for an asylum hearing. UAC who express a fear of non-state actors, such as gangs, drug cartels, or human traffickers, should receive *de facto* an asylum hearing.

d. The Department of State should pilot Section 104 of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 08) in Mexico. Sec. 104 of the Trafficking Victims Protection Reauthorization Act of 2008 amends Sec. 107 (a) of the Trafficking and Violence Protection Act (TVPA 2000) to require the "Secretary of State and the Administrator of the

United States Agency for international development" to "establish and carry out initiatives in foreign countries"²¹ "in cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations... for--(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and (ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement."²² The delegation interviewed several Central American child victims of trafficking in the DIF shelter in Tapachula, Mexico whom would benefit from a best interest determination (BID) which would result in a recommendation for a durable solution to ensure their protection and permanency. Currently, there is no systemic way in Mexico to identify children who have been trafficked or are at risk of being trafficked, and without a BID, the fate of children who



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were trafficked or at risk of being trafficked consists of repatriation to their country of origin, often sending them back into the hands of the traffickers, or, if they receive refugee status in Mexico, remaining in a shelter until they turn 18 years old, leaving them vulnerable to exploitation within the shelter and lacking appropriate services to address their trauma and developmental needs.

e. The United States should adopt international principles for repatriation that focus on the best interest of the child and safe return to better ensure child protection. This would include ensuring that relevant partners on both sides of the border establish systems for the reception, monitoring, and reintegration of repatriated unaccompanied children. The US government should coordinate the relevant agencies to develop long term plans for UAC emancipation, family reunification, or other option for safe and sustainable integration in the US or their home country.

f. Child welfare experts should assist the Customs and Border Protection (CBP) in screening UAC who arrive at the US/Mexico border. CBP should solicit the services of independent consultants with child welfare expertise to assist in the development and implementation of trauma-informed and developmentally appropriate screening mechanisms, which would allow fair and equal access to services for all unaccompanied children in need of protection irrespective of their country of origin. This would ensure that children are able to tell their stories in a safe environment and increase the likelihood that they receive appropriate protection. As a law enforcement entity, CBP agents are trained to interrogate border crossers using a style that is direct and confrontational. This approach is neither effective nor appropriate when the goal of the interview is to identify victims and those at risk for exploitation. This is particularly true in the case of children, who may be unaware of their victimization and believe that the forced sex, forced labor, or other abuse and exploitation they endure during their journey is the cost of their migration. Given their traumatic experiences, children are fearful to tell law enforcement personnel their stories or, as instructed by their smuggler, represent themselves as adults when they are minors. Interviewing child victims of trauma requires specialized interviewing techniques that are child-centered, trauma-informed, and developmentally

appropriate. These types of techniques necessitate training and practice. The interviewers themselves should also be trained to comfortably work, interact and interview this particular population of children and teens.

g. Funding to reflect the spike in arriving UAC in the United States should be increased, and Congress should mandate family reunification and legal orientation programs for all unaccompanied youth to help these children integrate into their communities, reunify with their families, and pursue immigration relief. Often, increased funding to ORR, which is responsible for the custody and care of UAC, is directed at the temporary shelters in which unaccompanied children reside while waiting for release to their families. However, the time UAC spend in shelter is less than 50 days, at which point, 90 percent are released to their families.²³ Funding is not available for services for all released UAC, meaning a small percentage receive services once reunified with their families. The lack of funding for services once children are released increases the likelihood of family breakdown, makes it more difficult for children to access public education and community services, and decreases the likelihood that the children will show up to their immigration proceedings. Funding should be directed at increasing the number of home studies provided to UAC prior to their release from custody to assess any potential placement risks, and the protective capacity of the sponsor to ensure the safe reunification of the child. Post-release services should be required for all UAC to assist the family with navigating the complex educational, social service, and legal systems. Finally, funding should be increased for the



Department of Justice's Legal Orientation Program for Custodians (LOPC) which was developed to "inform the children's custodians of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008."²⁴ To give an example of the effectiveness, CLINIC, a former LOPC provider through DOJ/EOIR, found that absentia rates were 9.2% for UAC who attended LOPC (and admitted to ORR custody between FY 2011-FY 2012) whereas the absentia rate was 14.6% for someone who did not attend LOPC.²⁵

h. Special attention should be given to Mayan youth. A significant number of youth migrating from Guatemala are from indigenous Mayan communities and are fleeing domestic violence, organized crime and poverty. Mayan youth speak up to as many as 21 distinct Mayan languages, and are from indigenous and rural settings and therefore require specialized attention, to include interpretation and translation in their language of choice and cultural understanding of Mayan culture and how that may affect the way they disclose information. We encourage DHS to work with non-government organizations to ensure Mayan youth are appropriately screened and assisted. Additionally, we recommend that CBP scale up its translating services to better address the communication needs of this vulnerable population.

II.

Mexico, with assistance from the United States government and child welfare organizations, must build the capacity of the Mexican child welfare system to adequately protect migrating youth. This includes training for direct care providers and government officials to employ child-appropriate techniques when interviewing and serving migrating children as well as the development of protocols related to identification of safe placement for children, including, but not limited to, those identified to be eligible for refugee status. It also includes the development of and implementation of standardized tools and methods to screen migrating children for symptoms of trauma and for human trafficking.

a. Develop a continuum of care for unaccompanied

children. The Mexican government should establish a continuum of care for unaccompanied children in their custody. Currently, unaccompanied children who are seeking asylum may remain in shelters for as long as six months to years and children who receive asylum remain in shelter until they are 18 years old. Studies have shown that prolonged stays in restrictive settings impact a child's development and well-being. The higher the capacity of the care arrangement, the more restrictive the environment becomes. Consistent with child welfare best practice, unaccompanied children should be placed in the least-restrictive setting, ideally, in community-based care, such as foster care, which allows children freedom of movement and access to community. Furthermore, care settings should be constructed to ensure minors are not commingled with gangs or other criminals, who often infiltrate these facilities.

b. Conduct Best interest determinations (BIDs) for children in custody in Mexico. Rather than immediately deport them back to Central America, Mexico should allow UNHCR to employ a BID system for unaccompanied and separated children in detention to ensure they are protected from criminal elements in Mexico and Central America. This would include the possibility of reuniting them with their families in the United States, particularly if they are victims of trafficking or asylum seekers.

c. The U.S. government should consider child refugee cases for resettlement to the United States through UNHCR or embassy referrals. Cases of children with valid refugee claims who are not able to integrate into Mexico or cannot return safely to their country of origin, especially those with family in the United States, should be considered by the U.S. government for possible resettlement. In many cases, children are neither safe in Mexico nor the country of origin, and resettlement to the United States is their only option for a durable solution.

III.

With assistance from the U.S. government, Central American governments must employ systems to protect children so they are able to remain home in safety and with opportunity.

The long-term solution to the crisis in Central America is to address the push factors driving minors north.

This would include improvements in education, employment, and enforcement as well as improvements in the social service and child protection systems. We recommend the following:

a. The United States should invest in repatriation and re-integration in sending countries. The delegation found that source countries did not employ comprehensive re-integration programs for children returning from the United States and Mexico, programs which would provide follow-up services to children to help them readjust to life in their home country. A program operated by Kids in Need of Defense (KIND) in Guatemala is showing promising results and should be expanded and duplicated.²⁶

b. The United States should invest in prevention programs in sending countries.

Other than programs provided by Catholic Relief Services and other NGOs, source countries do not employ programs to encourage youth to remain and not take the journey north. Instead there have been some efforts by the governments of Guatemala and El Salvador along with DHS in the form of media campaigns and videos/talks on the dangers of migration as programs to encourage youth to remain. Programs encouraging children to remain in their local communities would include skill-based training and employment services. Catholic Relief Services operates Youth Builders, which has helped youth remain at home and live productive lives. Of the 53 children served by the program to date, 52 have not migrated north.²⁷

c. The current reliance on consular staff to investigate, handle and treat children who are intercepted in Mexico during their migration is inadequate and leaves children vulnerable to coyotes, traffickers and further trauma and exploitation. Currently, in Tapachula, Mexico, the consular officials are responsible

for identifying where apprehended unaccompanied children are from, interfacing with the other consulates, collecting information on children's families, and making determinations about their repatriation. The training these individuals receive is on an ad hoc basis sometimes led informally by local NGOs. These government officials are performing the work of child welfare experts and should receive adequate training and staff on site within the consulates to help consult on possible child trafficking, smuggling and exploitation cases.

d. Anti-gang efforts should include stakeholders from government, civil society, private sector, religious institutions and international donors in order to effectively leverage limited resources. These efforts should include job and educational opportunities and training programs. Anti-gang prevention measures should be tackled at regional and local community levels in addition to national levels. Including key local stakeholders and engaging regional governmental bodies and actors is a vital part of prevention efforts. Additionally, prevention efforts must include systematic training and educational programs in order to fully offer meaningful opportunities for former gang members engaging in civilian society once they leave the gang.

COUNTRY-SPECIFIC RECOMMENDATIONS

The United States should assist Guatemala in implementing a child protection strategy, particularly in assessments during the family reunification process and expansion of foster-care. Within the Central American region, Guatemala has diligently worked to increase governmental capacity and develop advanced strategies to protect children. The recent government and media attention given to this issue by the First Lady of Guatemala and her staff has increased aware-

Prevention

Through its Youth Builders project, Catholic Relief Services (CRS)—El Salvador and its partners provide at-risk youth with peer support, vocational and entrepreneurial training, job-placement, life skills and leadership development, and community service opportunities. This project targets youth who are at risk of unemployment, of violence—as victims and as perpetrators, and/or of migration. CRS, in partnership with Caritas, strengthens diocesan programs to work with at-risk youth through a network of community and government agencies. Through partnerships with the United Nations Development Program, local governments and the Salvadoran Chamber of Commerce, CRS provides job and income generating opportunities for gang-involved youth. Through these projects, CRS has served more than 2,500 young people.

(SOURCE: <http://crs.org/countries/el-salvador>)

ness and reinvigorated action on this issue from a national and regional perspective and should receive further support in order to encourage implementation and further development.

The United States should consider a designation of Temporary Protected Status (TPS) for Guatemala. Guatemala has requested a designation of Temporary Protected Status (TPS) from the United States based on natural disasters in the country. This would reduce deportations to the country and help stabilize families through remittances.

The United States should expand enforcement assistance to the government of Honduras to control gangs and other criminal organizations. Honduras and El Salvador exhibited the most challenging problems with gang activity, with gangs pervasive in many aspects of society. As mentioned, almost 93 percent of crimes against youth in Honduras—mainly from gangs and loosely affiliated street violence—go unpunished. San Pedro Sula, where many Honduran children are returned, is still the most dangerous city in the world in part due to the increased presence of los Zetas and the fight over drug trafficking territory between criminal actors.²⁸ The number of Honduran children migrating north has increased dramatically as a result of this endemic violence, intimidation, and extortion.

The United States should assist Honduras in protecting child migrants and victims of trafficking. The Honduran government does not have the capacity to assist and protect children, such as the provision of family reunification services, shelter for children without families, or other necessary benefits. Part of the obstacles facing the Honduran government come from the locations of the governmental shelters and related resources versus the migration flows in and through Honduras. A greater governmental presence is needed in San Pedro Sula and the outlying border areas rather than in the capital, Tegucigalpa. Casa Alianza and the Centro Atención al Migrante Retorno are two of the limited number of NGOs working within Honduras that are providing services to migrant children.

Re-integration and prevention programs should be introduced in Honduras. Of the countries visited, Honduras was most in need of programs to help re-integrate children into Honduran life and to offer children alternatives to migration through basic skills



training, education, and job placement. The U.S. government should consider partnering with NGOs to establish these programs.

Prevention programs should be expanded in El Salvador. The Youth Builder program operated by Catholic Relief Services (CRS) in El Salvador is a model which should be expanded to other parts of the country.

Protocols should be developed by the El Salvadoran government to make assessments during family reunification process. As children are returned to El Salvador, the process for reunifying them with family is ill-defined and the roles of the government agencies are unclear. NGOs with child welfare expertise can assist the government in deploying appropriate family assessment tools and protocols.

Reintegration program should be re-introduced in El Salvador. The International Organization of Migration (IOM) operated a reintegration program in El Salvador in 2011 which successfully re-integrated deported children. However, the U.S. government ended funding for this program after one year, despite its success.

CONCLUSION

The situation of child migration from Central America

is a complex one, with no easy answers. It is a result of social and economic insecurity, lack of protection, violence and coercion, and the desire to be with family. It is clear, however, that more must be done to address the root causes of this flight and to protect children and youth in the process. This includes working together to address economic reasons behind family separation, the barriers to family reunification in immigration laws and policies, violence, and other root causes of migration.

Too often we look at child migrants as adult migrants and treat them as such: detaining them and treating them as irregular migrants, thereby, emphasizing enforcement rather than protection priorities. The new 2012 UNHCR Framework for the Protection of Children offers a concrete strategy for refugee and other displaced children, including both accompanied and unaccompanied children. Attention and implementation of this framework needs to be elevated within the international and regional systems, the United States, Mexico, the Central American countries, and implementing NGOs. Implementing Best Interest Determinations (BIDs) and strengthening comprehensive child welfare systems are crucial strategies for the realization of durable solutions.

Anyone who hears the stories of these children would be moved by the injustice and horror they have been exposed to at such early and tender ages. They are in need of protection. The delegation found that these children long not only for security, but also for a sense of belonging—to a family, a community, and a country. They are often unable to find this belonging in their home country.

We ask our elected officials to consider the individual stories of these vulnerable migrants and open their minds and hearts to their plight. We ask them to respond to the needs of these children, not to turn them away or ostracize them. American values include compassion and Americans are a compassionate people.

We look forward to working with Congress, the Administration, and others of good will in pursuing just solutions to the challenge of child migration.

WE WOULD LIKE TO THANK:

Catholic Relief Services Baltimore
Catholic Relief Services Mexico
Catholic Relief Services Guatemala
Catholic Relief Services Honduras
Catholic Relief Services El Salvador
Fray Matias Human Rights Center, Tapachula, Mexico
United Nation's High Commissioner for Refugees, Tapachula, Mexico
Casa del Migrante, Tecun Uman, Guatemala
Guatemalan Episcopal Conference
Centro de Atencion al Migrante Retornado, Tegucigalpa, Honduras
Casa Alianza, Honduras
Fr. Mauricio Gaborit, Central American University, San Salvador, El Salvador
Episcopal Conference of El Salvador
Fundacion Castillo de Amor, Guatemala
Caritas International Honduras

Endnotes

¹ United States Border Patrol, Unaccompanied Children (Age 0-17) Apprehensions, Fiscal Year 2008 through Fiscal Year 2012 available at http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/appr_uac.citt/appr_uac.pdf

² ORR Year in Review, 2012, HHS website, available at <http://www.acf.hhs.gov/programs/orr/resource/orr-year-in-review-2012> (accessed December 12, 2013)

³ About Unaccompanied Children Services, ORR/HHS website, <http://www.acf.hhs.gov/programs/orr/programs/ucs/about> (accessed December 10, 2013)

⁴ See La Roya del Café: Sus Efectos Directos en la Pérdida de Empleo Y Emigración, Boletín No. 2, Comisión Pastoral de Movilidad Humana de la Conferencia Episcopal de Guatemala, Guatemala City, Julio, 2013; Anna Edgerton, Adam Williams and Marvin G. Perez, "Coffee Fungus Spurs Central America Migration Plans: Jobs," Bloomberg News, April 13, 2013 available at <http://www.bloomberg.com/news/2013-04-23/coffee-fungus-spurs-central-america-migration-plans-jobs.html>

⁵ U.N. Office on Drugs and Crime (UNODC), *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, at 29 September 2012 available at http://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf

⁶ *Maras: Gang Violence and Security in Central America*, eds. Thomas Bruneau, Lucia Dammert and Elizabeth Skinner (Austin, TX: University of Texas Press, 2011) see also Clare Ribando Seelke, Gangs in Central America, Congressional Research Service, at 4 January 28, 2013 available at <http://www.fas.org/sgp/crs/row/RL34112.pdf>

⁷ Clare Ribando Seelke, *Gangs in Central America*, Congressional Research Service, at 4 January 28, 2013 available at <http://www.fas.org/sgp/crs/row/RL34112.pdf>

⁸ José Miguel Cruz, *Global Gangs in El Salvador: Maras and the Politics of Violence*, Geneva, 2009 available at http://www.academia.edu/1451010/Global_Gangs_in_El_Salvador_Maras_and_the_Politics_of_Violence. Cruz and other scholars have stated that the Mano Dura laws from 2003 and 2004 greatly augmented the number of gang members in prisons and simultaneously strengthened the power base of the gangs

⁹ U.S. Department of Treasury, "Treasury Sanctions Latin American Criminal Organization," Executive Order (E.O.) 13581

¹⁰ Seelke; Randal C. Archibald, "Gangs' Truce Buys El Salvador a Tenuous Peace", *New York Times*, August 27, 2013 available at <http://www.nytimes.com/2012/08/28/world/americas/in-el-salvador-gang-truce-brings-tenuous-peace.html>

¹¹ Delegation interview with Professor Fr. Mauricio Gaborit at Central American University, San Salvador, El Salvador, November 22, 2013 notes on file with the author. In his work Professor Gaborit has found that youth in El Salvador are not necessarily recruited outright to be in a gang but are pressured to commit low-level crime- such as picking up rent or attending a meeting and then are systematically pressured to do something more violent such as extortion or murder. They often flee/ look to migrate because of this threat but still they are not necessarily considered to be gang members but are certainly afraid of gang members' retaliation

¹² Delegation Interview with UNHCR/COMER Mexico Official, Tapachula, Mexico, November 17, 2013, notes on file with the author

¹³ The author acknowledges the existence of other violent cartels in Mexico, particularly the Knights Templar and the media coverage of the cartel's actions towards migrants and local community members, (see e.g. Damien Cave, "A Civil Servant in Mexico Tests U.S. on Asylum," *New York Times*, December 28, 2013 available at http://www.nytimes.com/2013/12/29/world/americas/path-to-asylum-for-mexicans-bearing-letter.html?_r=0; Katherine Corcoran, In Mexico, Locals In Self-Defense Squads Take Fight To Knights Templar Drug Gang And Win, *Huffington Post*, November 8, 2013 available at http://www.huffingtonpost.com/2013/11/08/mexico-self-defense-squad_n_4242627.html) However, the Knights Templar were not specifically discussed or mentioned by interviewees as a factor causing migration during the entire delegation nor has their presence been a factor in the case service and family reunification work that USCCB provides domestically. For this reason, the report focuses on the Los Zetas cartel exclusively

¹⁴ Dwight Dwyer and Daniel Sachs, "Los Zetas' Spawn: The Long Afterlife of Mexico's Most Ruthless Drug Gang," *Foreign Affairs*, August 5, 2013 available at <http://www.foreignaffairs.com/articles/139626/dwight-dwyer-and-daniel-sachs/los-zetas-spawn>; see also Daniel Sachs, "Los Zetas' Southward Expansion," *Forbes*, August 27, 2013 available at <http://www.forbes.com/sites/riskmap/2013/08/27/los-zetas-southward-expansion/>

¹⁵ See "Central American migrants flee turf wars and corrupt states for refuge in Mexico," *The Guardian*, December 30, 2013.

¹⁶ Interview with Sylvia Mendez, Fundación Castillo de Amor, Guatemala City, Guatemala, November 18, 2013, interview

on file with the author

¹⁷ Interview with Father German Calix, Caritas Honduras, Tegucigalpa, Honduras, November 20, 2013 interview is on file with the author

¹⁸ Interview with Casa Alianza (Covenant House) Honduras, Tegucigalpa, Honduras, November 20, 2013 on file with the author

¹⁹ USCCB/MRS, "FY 2011 Family Reunification Analysis," May 2013, information on file with author and available upon request.

²⁰ "Unaccompanied Alien Child" is defined in the Homeland Security Act of 2002 as a child who a) has no lawful immigration status in the United States; (b) has not yet attained 18 years of age; and (c) with respect whom there (i) is no parent or legal guardian in the United States or (ii) no parent or legal guardian in the United States available to provide care and physical custody. Homeland Security Act of 2002, §462.2, 107th Cong., 2nd Sess. Public Law 107-296 (2002).

²¹ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457, 23 Sec. 104, December 2008, available at: <http://www.refworld.org/docid/49805ac72.html>; see also Trafficking and Violence Protection Act, 2000 PUBLIC LAW 106-386, Sec. 107(a) OCT. 28, 2000 available at <http://www.state.gov/documents/organization/10492.pdf>

²² Ibid

²³ Release From ORR Custody for FY 2012, slide 28, Unaccompanied Alien Children Program Overview, Department of Health and Human Service, Division of Children Services slides, 2012

²⁴ Office of Legal Programs, US Dept. of Justice, LEGAL ORIENTATION PROGRAM FOR CUSTODIANS OF UNACCOMPANIED ALIEN CHILDREN available <http://www.justice.gov/eoir/probono/probono.htm>

²⁵ The Legal Orientation Program for Custodians of Unaccompanied Alien Children: October 2010-May 2012 Final Report, CLINIC, June 2012

²⁶ The Time is Now: Understanding and Addressing the Protection of Immigrant Children Who Come Alone to the United States KIND February 2013 available at <https://www.supportkind.org/en/about-us/fact-sheets/reports>; see also Interview with Sylvia Mendez, Fundacion Castillo de Amor, Guatemala City, Guatemala, November 18, 2013, interview on file with the author

²⁷ Interview with CRS El Salvador, Youth Builders Program Director Erica Dahl-Bredine and Program Director Kay Andrade, San Salvador, El Salvador, November 23, 2013 interview on file with the author

²⁸ Jessie Bullock, "Welcome to San Pedro Sula, the Most Dangerous City in the World," Policy Mic July 22, 2013 available at <http://www.policymic.com/articles/55849/welcome-to-san-pedro-sula-the-murder-capital-of-the-world>



**Statement for the Record
Lavinia Limón, President and CEO,
U.S. Committee for Refugees and Immigrants (USCRI)
Senate Judiciary Committee Subcommittee on Immigration and the National Interest
Hearing on the Central American Minors Refugee/Parole Program**

April 23, 2015

Chairman Sessions, Ranking Member Schumer, and Members of the Subcommittee, on behalf of the U.S. Committee for Refugees and Immigrants (USCRI), a national non-profit organization serving refugees and immigrants for the past 100 years, I submit our statement for the record in support of the in-country processing program for Central American Minors (CAM) and to provide clarification in light of news articles containing misinformation about the program.

In-country processing allows applicants to apply for refugee status in their home country. In-country processing is not new. The U.S. government currently has such a program in Cuba. As precedent, to end the Mariel Boatlift in 1980, a lottery was established which allows 20,000 Cubans to enter the U.S. every year. The hope of “winning” has kept Cubans from hazarding the ocean for the last 34 years. In-country processing was also used in the past for the resettlement of Soviet Jews and Vietnamese.

We urge you to support the CAM in-country processing program. This program provides some children a safe, legal, and orderly alternative to embarking on the dangerous journey to the U.S. and preventing them from becoming victims of human smugglers and trafficking operations. Not only will this program protect children, but it will also take away resources and therefore power from traffickers. Once children are qualified as refugees, it is possible that other countries in North or South America may also be willing to accept children for resettlement.

In 2014 the world witnessed an increased migration of unaccompanied children from Central America. Many of these children came to the U.S. fleeing persecution and seeking safety. The children, and sometimes their families, saw no other choice but to assume the risks of making the dangerous journey to the U.S., because they faced greater risks if they stayed in their country. To date USCRI has made a difference in the lives of over 7,500 unaccompanied immigrant children, by providing them with legal and social services. Based on this and our over 100 years of experience working with displaced individuals, USCRI compiled six solutions grounded in international law and a historical precedent to protect people fleeing persecution. We are happy to see one of our solutions, establishing an in-country processing program, implemented because it will save lives.

On December 1, 2014, the U.S. State Department announced the official launch of an in-country refugee/parole program in El Salvador, Guatemala, and Honduras. The program allows certain parents who are legally present in the U.S. to apply for refugee status via the U.S. Refugee Admissions Program for their children currently living in one of the above-named three countries. This means the children will be brought safely and legally to the U.S. through the U.S.



Refugee Program. This program will help protect children facing persecution and who meet the refugee definition under U.S. law. Children who don't meet the U.S. definition of a refugee, but are still considered to be at risk of harm may be eligible to travel to the U.S. safely and legally under humanitarian parole. Consideration for parole will be assessed on a case-by-case basis by the U.S. Department of Homeland Security.

Department of State-designated refugee resettlement agencies, through their national networks play an important role in this process by helping qualifying parents submit applications. Resettlement agencies do not receive any government funding to administer the CAM program. To apply, qualifying parents must make an appointment with a local refugee resettlement agency. Only designated resettlement agencies can file the Form DS-7699 Affidavit of Relationship.

We welcome any questions or opportunity to meet to discuss the program further. Thank you for your time and consideration.