

# Citizenship and Immigration Services Ombudsman

## Recommendation on the Central American Minors (CAM) Refugee/Parole Program

**December 21, 2016**

I am pleased to issue formal recommendations to improve administration of the Central American Minors (CAM) Refugee/Parole program. We undertook this assessment to evaluate whether, two years after its launch, the CAM program is delivering on its primary objective: providing a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States.

Over a decade ago, as an attorney in private practice, I had the privilege of meeting a 10-year old boy who had traveled on his own from his native Guatemala to the U.S. southern border. Back then, the number of unaccompanied children arriving at our borders was relatively limited, as was the public's awareness of the extreme vulnerabilities faced by migrant children traveling alone. Though we knew then that war, persecution, and poverty in the Northern Triangle countries of Central America had forced the migration of individuals seeking safety to the United States, we had not yet been faced with the regional challenge of a large-scale migration of children to the U.S. southern border.

As I listened to the child's story, I became keenly aware of how rampant, uncontrolled violence, poor living conditions, lack of educational opportunities, and persecution could drive a young child to travel north in search of safety and stability. I was a witness to the dangers the journey presented for such a vulnerable population and of their resilience and survival-driven determination to reach the one country where they hoped to be safe. Years later, the stories are similar though the dangers in the region have escalated to a hemispheric crisis.

This summer, in accordance with the Ombudsman's statutory mandate to propose changes to improve the administration of immigration benefits, I traveled to El Salvador, Guatemala, and Mexico to evaluate the CAM program launched by the U.S. Department of Homeland Security (DHS) and the U.S. Department of State in late 2014. During our assessment we met with government and intergovernmental officials, as well as service providers, religious groups, and other members of civil society. We also met with children from Honduras and El Salvador who had found shelter in Mexico. We heard accounts of daily encounters with criminal gangs and other factors that drove them to leave their homes on their own. We also spent time with girls – some as young as 11 years old – recovering in a Guatemalan shelter from the atrocities of sex trafficking. These firsthand accounts deepened our understanding of this population and the violence they have endured, underscoring the need for regional efforts to provide safe passage and refuge to the tens of thousands of displaced children in the region.

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The CAM program is an important tool aimed at reuniting qualifying children and certain family members, whose lives are in danger, with relatives in legal status in the United States. But it is only one piece of a comprehensive regional response needed to address the Northern Triangle refugee crisis.

I would like to thank stakeholders both in the United States and the Northern Triangle for their commitment to serving children under challenging conditions and often with limited capacity and resources. Their feedback is critical to our understanding of the factors that compel children to leave their home countries and journey to the United States, as well as areas of improvement for the CAM program. I would also like to express our appreciation to U.S. Citizenship and Immigration Services (USCIS), the State Department, the International Organization for Migration, and the office of the United Nations High Commissioner for Refugees for their collaboration and dedication to the success of this program. Finally, I would like to thank my team in the Ombudsman's Office for their thorough research, stakeholder engagement, and thoughtful compilation of this recommendation.

This is my last recommendation, regarding one of the most important programs DHS has developed in the last four years. Using existing authorities, USCIS, and the State Department have crafted a targeted option for minors to escape violence and join close family in the United States. I believe such a program has a place in the regional efforts to provide safe passage and long-term refuge to these displaced children.

Sincerely,

A handwritten signature in blue ink that reads "Maria M. Odom". The signature is fluid and cursive, with the first name "Maria" and the last name "Odom" being the most prominent parts.

Maria Odom

Citizenship and Immigration Services Ombudsman

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## RECOMMENDATION AT A GLANCE

Key Issues of Concern
<ol style="list-style-type: none"> <li>1) Lengthy processing times</li> <li>2) Need for enhanced protection mechanisms for particularly vulnerable qualifying children</li> <li>3) Restrictive eligibility criteria</li> <li>4) Costs associated with DNA testing</li> <li>5) Uncertainty regarding program eligibility, application process, and case status</li> <li>6) Insufficient funding for resettlement agencies' CAM-related activities</li> <li>7) Lack of access to counsel during CAM interviews</li> <li>8) Barriers for CAM parolees, such as travel costs, lack of resettlement assistance, and adjustment of status limitations</li> </ol>

Recommendations to USCIS	Further Actions Needed
<p>The Ombudsman recommends that:</p> <ol style="list-style-type: none"> <li>1) USCIS, in coordination with DOS, should increase the volume of interviews and associated Refugee Access Verification Unit (RAVU) processing of CAM cases</li> <li>2) USCIS should permit access to counsel in CAM interviews</li> <li>3) USCIS, in coordination with DOS, should create a plain language, comprehensive CAM “Information Guide”</li> <li>4) USCIS, in coordination with DOS, should publish and regularly update CAM case processing times</li> </ol>	<p>The Ombudsman urges USCIS’ attention to and support for the following further actions needed to better meet the program’s objectives:</p> <ol style="list-style-type: none"> <li>1) Augmentation of Resettlement Support Center (RSC) Latin America staff</li> <li>2) Enhancement of safety mechanisms for particularly vulnerable qualifying children through improvements in expedite and safe shelter protocols</li> <li>3) Establishment of RSC Latin America website offering a “Check Case Status” feature and improvement of notification protocols relating to approved CAM parolees</li> </ol>

*Under Section 452 of the Homeland Security Act of 2002, the Ombudsman’s mandate is, inter alia, “[t]o identify areas in which individuals and employers have problems in dealing with ... Citizenship and Immigration Services” and “[t]o the extent possible, to propose changes in the administrative practices of ... Citizenship and Immigration Services to mitigate [those] problems....”<sup>1</sup> In 2016, the Ombudsman reviewed the Central American Minors Refugee/Parole program established by U.S. Citizenship and Immigration Services and the U.S. Department of State in late 2014.*

## **EXECUTIVE SUMMARY**

In recent years, unprecedented numbers of unaccompanied children from the “Northern Triangle” of Central America — El Salvador, Guatemala, and Honduras — have made the difficult journey to the United States.<sup>2</sup> Many of these minors flee their home countries to escape victimization,<sup>3</sup> only to endure further harm on the journey north in the form of extortion, abduction, rape, or other exploitation.<sup>4</sup>

The U.S. Citizenship and Immigration Services (USCIS), along with the U.S. Department of State (DOS), launched the Central American Minors (CAM) Refugee/Parole program in December 2014 to “...provide a safe, legal, and orderly alternative to [this] dangerous journey....”<sup>5</sup> Through CAM, parents lawfully present in the United States may apply for their children at risk in the Northern Triangle countries to be considered for relocation to the United States as refugees or parolees.<sup>6</sup> Unlike most refugee programs, CAM is an “in-country” processing program,<sup>7</sup> meaning that the child applicants generally remain inside their home

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<sup>1</sup> Homeland Security Act of 2002 (HSA) § 452(b), Pub. L. No. 107-296.

<sup>2</sup> See CBP Webpage, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016” (Oct. 18, 2016); <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (accessed Dec. 13, 2016).

<sup>3</sup> See UNHCR Report, “Children on the Run” at 6-7 (Mar. 2014); <http://www.unhcr.org/about-us/background/56fc266f4/children-on-the-run-full-report.html> (accessed Aug. 22, 2016).

<sup>4</sup> See “Review of the President’s Emergency Supplemental Request,” *before the* Senate Committee on Appropriations, 113th Cong. 2nd Sess. (2014) (statement of DHS Secretary Johnson); <http://www.dhs.gov/news/2014/07/10/statement-secretary-homeland-security-jeh-johnson-senate-committee-appropriations> (accessed Mar. 1, 2016); International Crisis Group Report, “Easy Prey: Criminal Violence and Central American Migration” at 11-14 (Jul. 28, 2016); <https://www.crisisgroup.org/latin-america-caribbean/central-america/easy-prey-criminal-violence-and-central-american-migration> (accessed Aug. 23, 2016); Amnesty International Webpage, “Most Dangerous Journey: What Central American Migrants Face When They Try to Cross the Border” (Feb. 20, 2014); <http://blog.amnestyusa.org/americas/most-dangerous-journey-what-central-american-migrants-face-when-they-try-to-cross-the-border/> (accessed Aug. 22, 2016).

<sup>5</sup> DOS Webpage, “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/j/prm/releases/factsheets/2014/234067.htm> (accessed Aug. 22, 2016).

<sup>6</sup> USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016); <https://www.uscis.gov/CAM> (accessed Dec. 13, 2016).

<sup>7</sup> DOS Webpage, “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/j/prm/releases/factsheets/2014/234067.htm> (accessed Aug. 22, 2016).

countries while their applications are processed. After the establishment of the CAM program, some minors who might otherwise journey to the U.S. southern border may — through a formalized process that includes security vetting — seek lawful relocation to the United States. For the over 10,700 vulnerable children and family members seeking relocation or who have already relocated through the program,<sup>8</sup> CAM is proving a vital lawful alternative to this dangerous trek. Nonetheless, nearly two years after the program’s launch, concerns remain regarding CAM’s implementation and current operations.<sup>9</sup> Accordingly, the Ombudsman conducted an independent assessment of the program in the spring and summer of 2016.

As with all U.S. refugee programs, USCIS and DOS share authority over CAM, administering separate but interlinked areas of the program. For example, through the DOS-contracted Resettlement Support Center (RSC) in Latin America, DOS directs prescreening of CAM applicants.<sup>10</sup> USCIS later interviews those applicants.<sup>11</sup> USCIS’ capacity to interview CAM applicants depends in part on the pace of DOS-directed pre-screening as well as space availability within the DOS-contracted facilities where USCIS interviews occur.<sup>12</sup>

Due to such shared responsibilities, various “Issues of Concern” in this Recommendation necessarily implicate facets of CAM outside USCIS authority. While the Ombudsman issues formal recommendations exclusively to USCIS,<sup>13</sup> the bifurcated nature of this program dictates that USCIS adoption of some proposals will require DOS action and cooperation. The Ombudsman also recognizes that even those recommendations that lie squarely within USCIS’ scope of responsibility in the CAM program may have an impact on DOS responsibilities, affirming interagency collaboration is critical to the success of the program.

With recognition of these operational complexities, the Ombudsman has identified the following key issues of concern in CAM program operations:

- 1) Lengthy processing times;
- 2) Need for enhanced protection mechanisms for particularly vulnerable qualifying children;
- 3) Restrictive eligibility criteria;
- 4) Costs associated with DNA testing;
- 5) Uncertainty regarding program eligibility, application process, and case status;
- 6) Insufficient funding for resettlement agencies’ CAM-related activities;
- 7) Lack of access to counsel during CAM interviews; and

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<sup>8</sup> Information provided by USCIS (Dec. 19, 2016).

<sup>9</sup> Information provided by stakeholders.

<sup>10</sup> See DOS Webpages, “U.S. Refugee Admissions Program;” <http://www.state.gov/j/prm/ra/admissions/> (accessed Aug. 23, 2016); “U.S. Refugee Admissions Program Central American Minors Flowchart” (Jan. 22, 2015); <https://static1.squarespace.com/static/580e4274e58c624696efadc6/t/583c496a20099ed67c51f2ea/1480345963566/CAM+Handout.pdf> (accessed Dec. 13, 2016).

<sup>11</sup> See DOS Webpage, “U.S. Refugee Admissions Program Central American Minors Flowchart” (Jan. 22, 2015).

<sup>12</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>13</sup> Homeland Security Act of 2002 (HSA) § 452(b)(3), Pub. L. No. 107-296.

- 8) Barriers for CAM parolees, such as travel costs, lack of resettlement assistance, and adjustment of status limitations.

After a complete review of the program, and based on extensive engagement with governmental, nongovernmental, and intergovernmental groups in the United States, Mexico, and the Northern Triangle, the Ombudsman recommends the following to USCIS:

- 1) USCIS, in coordination with DOS, should increase the volume of interviews and associated Refugee Access Verification Unit (RAVU) processing of CAM cases.
- 2) USCIS should permit access to counsel in CAM interviews.
- 3) USCIS, in coordination with DOS, should create a plain language, comprehensive CAM “Information Guide.”
- 4) USCIS, in coordination with DOS, should publish and regularly update CAM case processing times.

The Ombudsman also urges USCIS’ attention to and support for a number of further actions needed to better meet the program’s objectives. The actions suggested below are not formal recommendations to USCIS, as they pertain to areas predominantly within DOS’ authority. However, as these measures may bear upon USCIS processes or require USCIS cooperation, they have been included.

These actions are:

- 1) Augmentation of RSC Latin America staff;
- 2) Enhancement of safety mechanisms for particularly vulnerable qualifying children through improvements in expedite and safe shelter protocols; and
- 3) Establishment of an RSC Latin America website offering a “Check Case Status” feature and improvement of notification protocols relating to approved CAM parolees.

Implementation of the above recommendations and further actions needed would substantially strengthen CAM’s efficiency, safety protocol, accessibility, and overall program effectiveness.

## **METHODOLOGY**

In preparing this report, the Ombudsman met with governmental, nongovernmental, and intergovernmental agencies both domestically and abroad. In the United States, the Ombudsman engaged with officials from USCIS; DOS’ Bureau of Population, Refugees, and Migration (PRM); U.S. Customs and Border Protection (CBP); U.S. Immigration and Customs Enforcement (ICE); DOS’ Office to Monitor and Combat Trafficking in Persons; and the U.S. Agency for International Development (USAID). The Ombudsman also discussed the program with domestic CAM stakeholders, including over 30 representatives from 14 nongovernmental and intergovernmental organizations, as well as “qualifying parents” — individuals residing in the United States whose children live in the Northern Triangle and are seeking safe relocation to the United States through CAM.

In May 2016, the Ombudsman traveled to Mexico, El Salvador, and Guatemala to assess country conditions and observe the program’s implementation in the region. The Ombudsman met with U.S. government officials, host country government officials, and representatives of over 15 intergovernmental and nongovernmental organizations during that assessment. These meetings included discussions with USCIS’ Refugee Affairs Division (RAD) as well as the International Organization for Migration (IOM), which operates the overseas RSC supporting CAM. The Ombudsman observed RSC pre-screening interviews and USCIS interviews of CAM applicants. The Ombudsman also met with a number of children and adults not participating in CAM but who had fled homes in El Salvador, Guatemala, and Honduras in pursuit of safety.

## BACKGROUND

In recent years, record numbers of boys and girls — many of them 12 years old or younger<sup>14</sup> — have made the hazardous journey, without parental accompaniment, from El Salvador, Guatemala, and Honduras to the U.S. southern border.<sup>15</sup> In Fiscal Year (FY) 2011 CBP apprehended 3,993<sup>16</sup> such “Unaccompanied Alien Children (UACs).”<sup>17</sup> In FY 2014 that figure surged to 51,705, a nearly *1300% increase* in three years’ time.<sup>18</sup> Though apprehensions of these minors dropped to 28,387 in FY 2015,<sup>19</sup> this decline stemmed in large measure from the Mexican government’s increased interception of minors attempting to reach the United States, rather than a decrease in the attempts themselves.<sup>20</sup> Despite Mexico’s heightened enforcement, the number of Northern Triangle UACs apprehended by CBP grew to 46,893 in FY 2016, the second-highest annual total on record.<sup>21</sup>

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<sup>14</sup> See Pew Research Center Webpage, “Children 12 and under are fastest growing group of unaccompanied minors at U.S. border” (Jul. 22, 2014); <http://www.pewresearch.org/fact-tank/2014/07/22/children-12-and-under-are-fastest-growing-group-of-unaccompanied-minors-at-u-s-border/> (accessed Aug. 23, 2016).

<sup>15</sup> See CBP Webpage, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016” (Oct. 18, 2016); <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (accessed Dec. 13, 2016).

<sup>16</sup> *Id.*

<sup>17</sup> “UACs” are certain foreign national children without parental support and lawful immigration status. HSA § 462.

<sup>18</sup> See CBP Webpage, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016” (Oct. 18, 2016) <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (accessed Dec. 13, 2016).

<sup>19</sup> *Id.*

<sup>20</sup> See, e.g., Congressional Research Service, “Unaccompanied Children from Central America: Foreign Policy Considerations” at 26-28 (Apr. 11, 2016); <https://fas.org/sgp/crs/homesecc/R43702.pdf> (accessed Aug. 23, 2016).

<sup>21</sup> See CBP Webpage, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016.”

## Northern Triangle UACs Apprehended by CBP



Source: CBP Webpage, "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016" (Oct. 18, 2016) <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (accessed Dec. 13, 2016).

The factors triggering this continued surge of children are complex and interrelated. A prevalent driver is the pervasive violence and crime in the countries of origin.<sup>22</sup> The most recent United Nations Office on Drugs and Crime (UNODC) Global Study on Homicide identified Central America, along with southern Africa, as suffering the highest homicide rate of any sub-region in the world.<sup>23</sup> UNODC data also shows that in 2014 Honduras had the highest homicide rate of any country,<sup>24</sup> while the International Crisis Group, a non-profit, non-governmental organization that carries out field research on violent conflict and advances policies to prevent, mitigate or resolve conflict, found that in 2015, El Salvador eclipsed all other nations in this measure.<sup>25</sup> The United Nations Children's Fund (UNICEF), in a 2014 report focusing on crimes against children, determined that El Salvador and Guatemala were the two countries with the highest homicide rates of children under 18.<sup>26</sup>

<sup>22</sup> See U.S. Government Accountability Office, "Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras" at 4, GAO-15-362 (Feb. 2015); <http://www.gao.gov/assets/670/668749.pdf> (accessed Aug. 23, 2016).

<sup>23</sup> See UNODC Report, "Global Study on Homicide 2013" at 12 (2014); [https://www.unodc.org/documents/gsh/pdfs/2014\\_GLOBAL\\_HOMICIDE\\_BOOK\\_web.pdf](https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf) (accessed Aug. 23, 2016).

<sup>24</sup> See UNODC Webpage, "Intentional homicide, counts and rates per 100,000 population;" <https://data.unodc.org/#state:1> (accessed Aug. 23, 2016).

<sup>25</sup> International Crisis Group Report, "Easy Prey: Criminal Violence and Central American Migration" at 1 (Jul. 28, 2016); <https://www.crisisgroup.org/latin-america-caribbean/central-america/easy-prey-criminal-violence-and-central-american-migration> (accessed Aug. 23, 2016).

<sup>26</sup> UNICEF Report, "Hidden in Plain Sight: A statistical analysis of violence against children" at 36 (2014); [http://files.unicef.org/publications/files/Hidden\\_in\\_plain\\_sight\\_statistical\\_analysis\\_EN\\_3\\_Sept\\_2014.pdf](http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf) (accessed Aug. 23, 2016).

Organized criminal actors have fueled this violence and criminal activity.<sup>27</sup> The Northern Triangle’s two most prominent criminal gangs — Mara Salvatrucha, or MS-13, and the 18<sup>th</sup> Street Gang, or Barrio 18 — have an extensive presence in the region and endanger broad segments of the population through theft, assault, extortion, kidnapping, human trafficking, murder, and rape.<sup>28</sup> Children are frequent MS-13 and Barrio 18 victims.<sup>29</sup> Gang members have been known to kill children who refuse to join their ranks<sup>30</sup> and force “...girls as young as 11 years old...” to become “...sex slaves.”<sup>31</sup> Altogether, “[t]his level of violence makes daily living in much of the Northern Triangle a potentially fatal gamble.”<sup>32</sup>

Such victimization compels many children to flee the Northern Triangle.<sup>33</sup> A 2015 Government Accountability Office (GAO) report examined the rise in UACs from the Northern Triangle crossing the U.S. southern border.<sup>34</sup> The report presented the results of GAO’s survey of nine U.S. government officials from the U.S. Department of Homeland Security (DHS), USAID, and DOS — stationed in El Salvador, Guatemala, and Honduras — concerning the causes of this surge.<sup>35</sup> All nine identified violence and crime as drivers.<sup>36</sup> The United Nations High Commissioner for Refugees (UNHCR), which interviewed 404 unaccompanied children who arrived in the United States from the Northern Triangle, lent support to GAO’s conclusion.<sup>37</sup> UNHCR found that 66% of the interviewed children who fled El Salvador “cited violence by organized armed criminal actors as a primary motivation for leaving ...,” while 44% of the interviewed children from Honduras “were threatened with or were victims of violence by organized armed criminal actors.”<sup>38</sup> Another study conducted in 2015 study found 65% of

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<sup>27</sup> See, e.g., Congressional Research Service, “Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration” at 7-9 (Jul. 3, 2014); <https://fas.org/spp/crs/homesecc/R43628.pdf> (accessed Aug. 23, 2016).

<sup>28</sup> See Foreign Policy Webpage, “Central America’s Gangs Are All Grown Up” (Jan. 19, 2016); <http://foreignpolicy.com/2016/01/19/central-americas-gangs-are-all-grown-up/> (accessed Aug. 23, 2016); see also Congressional Research Service, “Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration” at 7-9; see generally U.S. Department of State Country Reports on Human Rights Practices for 2015, El Salvador, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=253013> (accessed Oct. 21, 2016); U.S. Department of State Country Reports on Human Rights Practices for 2015, Honduras, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=253023> (accessed Oct. 21, 2016); U.S. Department of State Country Reports on Human Rights Practices for 2015, Guatemala, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=253017> (accessed Oct. 21, 2016).

<sup>29</sup> See, e.g., Human Rights First, “Closed Doors: Mexico’s Failure to Protect Central American Refugee and Migrant Children” at 19 (Mar. 2016); [https://www.hrw.org/sites/default/files/report\\_pdf/mexico0316web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/mexico0316web_0.pdf) (accessed Oct. 2, 2016).

<sup>30</sup> Foreign Policy Webpage, “Central America’s Gangs Are All Grown Up” (Jan. 19, 2016).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> See, e.g., Congressional Research Service, “Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration” at 4; UNHCR Report, “Children on the Run” at 6-7 (Mar. 2014).

<sup>34</sup> U.S. Government Accountability Office, “Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras” GAO-15-362 (Feb. 2015); <http://www.gao.gov/assets/670/668749.pdf> (accessed Aug. 23, 2016).

<sup>35</sup> See U.S. Government Accountability Office, “Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras” at 4.

<sup>36</sup> *Id.*

<sup>37</sup> UNHCR Report, “Children on the Run” at 5 (Mar. 2014).

<sup>38</sup> UNHCR Report, “Children on the Run” at 9-10 (Mar. 2014).

children ages 10 to 17 who were deported from Mexico to Honduras indicated violence was the “main reason” for their flight.<sup>39</sup>

Violence, of course, is not the only factor. Economic concerns, including poverty and the absence of economic opportunity, represented the other driver cited by all nine officials surveyed in the GAO report.<sup>40</sup> The U.N. Economic Commission for Latin America and the Caribbean estimated that as of 2014, approximately 68% of the Guatemalan population and 42% of the Salvadoran population lived in poverty, while roughly 74% of the Honduran population lived in poverty as of 2013.<sup>41</sup> Additional factors influencing children’s migration include the desire to reunify with family members residing in the United States and to escape domestic abuse.<sup>42</sup> Thus, multiple factors often form the motivation for this perilous journey.<sup>43</sup> For example, of the 104 Salvadoran children UNHCR interviewed for its “Children on the Run” report, 69 of them pointed to “organized armed criminal actors” as a principal reason for flight from their countries of origin.<sup>44</sup> But only 12 of those 69 cited such violence as the *exclusive* reason.<sup>45</sup>

Though a substantial number of youth flee the Northern Triangle to escape violence and abuse, they often endure further victimization during the flight itself.<sup>46</sup> Amnesty International reports that “...as many as six in ten migrant women and girls are raped on the journey.”<sup>47</sup> Smuggling networks sometimes force them into prostitution in Mexico, before reaching their presumed destination.<sup>48</sup> Criminal groups such as the Zeta Cartel also carry out abductions of migrants in Mexico.<sup>49</sup> In a March 2016 report, the Inter-American Commission on Human Rights expressed concern over the disappearance of child migrants in Mexico.<sup>50</sup>

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<sup>39</sup> Center for Gender and Refugee Studies, “Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges” (Feb. 2015); [http://cgrs.uchastings.edu/sites/default/files/Childhood\\_Migration\\_HumanRights\\_FullBook\\_English.pdf](http://cgrs.uchastings.edu/sites/default/files/Childhood_Migration_HumanRights_FullBook_English.pdf) (accessed Aug. 23, 2016).

<sup>40</sup> See U.S. Government Accountability Office, “Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras” at 4.

<sup>41</sup> U.N. Economic Commission for Latin America and the Caribbean Briefing Paper, “Social Panorama of Latin America” at 17-18 (2015); [http://repositorio.cepal.org/bitstream/handle/11362/39964/1/S1600226\\_en.pdf](http://repositorio.cepal.org/bitstream/handle/11362/39964/1/S1600226_en.pdf) (accessed Aug. 23, 2016).

<sup>42</sup> See U.S. Government Accountability Office, “Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras” at 5-6.

<sup>43</sup> See, e.g., UNHCR Report, “Children on the Run” at 9 (Mar. 2014).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> See, e.g., “Review of the President’s Emergency Supplemental Request” *before the Senate Committee on Appropriations*, 113th Cong. 2nd Sess. (2014) (statement of DHS Secretary Johnson); <http://www.dhs.gov/news/2014/07/10/statement-secretary-homeland-security-jeh-johnson-senate-committee-appropriations> (accessed Mar. 1, 2016).

<sup>47</sup> Amnesty International Webpage, “Most Dangerous Journey: What Central American Migrants Face When They Try to Cross the Border” (Feb. 20, 2014); <http://blog.amnestyusa.org/americas/most-dangerous-journey-what-central-american-migrants-face-when-they-try-to-cross-the-border/> (accessed Aug. 22, 2016).

<sup>48</sup> International Crisis Group Report, “Easy Prey: Criminal Violence and Central American Migration” at 14.

<sup>49</sup> See, e.g., Congressional Research Service, “Unaccompanied Children from Central America: Foreign Policy Considerations” at 27.

<sup>50</sup> See Inter-American Commission on Human Rights Report, “The Human Rights Situation in Mexico” at 87 (Dec. 31, 2015); <http://www.oas.org/en/iachr/reports/pdfs/Mexico2016-en.pdf> (accessed Aug. 23, 2016).

Even children who do not fall victim to crimes like abduction or trafficking often are stopped prior to reaching the United States.<sup>51</sup> Under its “Southern Border” plan introduced in July 2014 with the support of the U.S. government, the Mexican government significantly strengthened its immigration enforcement activities, including sharply increased apprehensions on its own southern border with Guatemala and along established migration routes.<sup>52</sup> This has resulted in dramatically higher apprehension of Northern Triangle nationals in Mexico, from 102,000 in FY 2014 to 167,000 in FY 2015,<sup>53</sup> including the apprehension — and subsequent removal — of over 30,000 minors.<sup>54</sup>

To date, the escalation of immigration enforcement in Mexico has outpaced its capacity for humanitarian protection, compromising the proper screening of children from Northern Triangle countries and consequently limiting access to humanitarian relief for those fleeing persecution.<sup>55</sup> Stakeholders report the Instituto Nacional de Migración (National Institute of Migration), which is responsible for immigration enforcement in Mexico, lacks adequate screening capacity and consistent protocols for identifying children with *bona fide* humanitarian protection claims.<sup>56</sup> Meanwhile, the Mexican Commission for Refugee Assistance, which adjudicates asylum applications, is severely understaffed, having at the time of the Ombudsman’s in-country assessment only 15 asylum officers nationwide as of May 2016.<sup>57</sup> Moreover, despite Mexican law requiring prompt transfer of unaccompanied children into shelters, these minors are often reportedly placed in detention centers occupied by adults.<sup>58</sup> In view of such constraints, children with legitimate protection claims may find it challenging to obtain relief in Mexico.

At the same time, recent efforts have signaled Mexico’s willingness to enhance its humanitarian protection system. In 2015, Mexico granted humanitarian visas to approximately 1,150 Northern Triangle nationals, compared to only 483 such visas issued in 2014.<sup>59</sup> Also, in the July 2016 San Jose Action Statement, a product of the UNHCR Roundtable on Protections Needs in the Northern Triangle of Central America,<sup>60</sup> Mexico committed to “[i]ncreasing the capacity of the international protection system in Mexico . . . through strengthening the presence of the Mexican Commission for Refugee Aid (COMAR) throughout the country, with UNHCR’s support.”<sup>61</sup>

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<sup>51</sup> See, e.g., Congressional Research Service, “Mexico: Background and U.S. Relations” at 22 (Mar. 30, 2016); <https://www.fas.org/sgp/crs/row/R42917.pdf> (accessed Aug. 23, 2016).

<sup>52</sup> See Congressional Research Service, “Mexico: Background and U.S. Relations” at 22.

<sup>53</sup> Congressional Research Service, “Unaccompanied Children from Central America: Foreign Policy Considerations” at 9.

<sup>54</sup> Congressional Research Service, “Unaccompanied Children from Central America: Foreign Policy Considerations” at 27.

<sup>55</sup> Information provided by stakeholders.

<sup>56</sup> *Id.*

<sup>57</sup> Information provided by stakeholders; see also Congressional Research Service, “Unaccompanied Children from Central America: Foreign Policy Considerations” at 28.

<sup>58</sup> See, e.g., Georgetown Law Human Rights Institute, “The Cost of Stemming The Tide, How Immigration Enforcement Practices in Southern Mexico Limit Migrant Children’s Access To International Protection” at 28-31 (Apr. 13, 2015); [https://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/HRI-Fact-Finding-Report-Stemming-the-Tide-Web-PDF\\_English.pdf](https://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/fact-finding/upload/HRI-Fact-Finding-Report-Stemming-the-Tide-Web-PDF_English.pdf) (accessed Aug. 23, 2016).

<sup>59</sup> Congressional Research Service, “Mexico’s Recent Immigration Enforcement Efforts” (Mar. 9, 2016); [http://www.centerforhumanrights.org/PFS\\_Petition/Ex18\\_CRS\\_PFS\\_Report030916.pdf](http://www.centerforhumanrights.org/PFS_Petition/Ex18_CRS_PFS_Report030916.pdf) (accessed Oct. 20, 2016).

<sup>60</sup> Addressed in the *CAM in Context* section of this Recommendation.

<sup>61</sup> UNHCR, “San Jose Action Statement” at 6-7 (Jul. 7, 2016); <http://www.refworld.org/docid/57a8a4854.html> (accessed Oct. 6, 2016) (emphasis in original). Prior to these developments, Mexico enacted legislation in 2010

The U.S. government, Northern Triangle governments, and intergovernmental organizations have noted the humanitarian dimensions of the situation in the Northern Triangle and the plight of unaccompanied children fleeing the region. DHS Secretary Jeh C. Johnson has referred to conditions in El Salvador, Guatemala, and Honduras as a “humanitarian crisis.”<sup>62</sup> The governments of these nations have proclaimed their youth exodus, specifically, an “immigration crisis.”<sup>63</sup> IOM echoed this judgment, describing the displacement of thousands of minors from the region as a “child migration crisis.”<sup>64</sup> There is widespread recognition that the threats facing these children — whether organized criminal actors targeting them in their home countries or the dangers present during their journey north — represent an urgent humanitarian challenge.

## ESTABLISHMENT OF CAM

CAM constitutes a significant component of the U.S. government’s response to the above-described humanitarian challenge. USCIS and DOS established CAM in December 2014 “...to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States.”<sup>65</sup> Under this program, “qualifying parents” who live in the United States and who have “qualifying children” living in the Northern Triangle may initiate an application process through which these children may seek to relocate to the United States as either refugees or parolees.<sup>66</sup>

This makes CAM the most recent in a decades-long tradition of U.S. refugee programs offering parole to some applicants.<sup>67</sup> From 1988 through 2011, for example, the legacy Immigration and

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establishing a form of “complementary protection,” defined by UNHCR as “protections which states afford people who are at risk of serious human rights violations in their country of origin, but who do not qualify as ‘refugees’ under the 1951 Refugee Convention ...” See UNHCR Webpage, “New Issues in Refugee Research” at 1 (May 2012); <http://www.unhcr.org/4fc872719.pdf> (accessed Dec. 7, 2016).

<sup>62</sup> DHS Webpage, “Statement by Secretary Jeh C. Johnson on Southwest Border Security and Immigration Enforcement Priorities” (Jul. 7, 2016); <https://www.dhs.gov/news/2016/07/07/statement-secretary-johnson-southwest-border-security-and-immigration-enforcement> (accessed Aug. 23, 2016).

<sup>63</sup> El Salvador, Guatemala, and Honduras, “Plan of the Alliance for Prosperity in The Northern Triangle: A Road Map” at *i* (Sep. 2014); <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=39224238> (accessed Aug. 23, 2016).

<sup>64</sup> IOM Webpage, “US Supports IOM Aid to Returned Migrant Children, Families in Honduras” (Feb. 20, 2015); <https://www.iom.int/news/us-supports-iom-aid-returned-migrant-children-families-honduras> (accessed Aug. 23, 2016).

<sup>65</sup> DOS Webpage, “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/j/prm/releases/factsheets/2014/234067.htm> (accessed Oct. 20, 2016).

<sup>66</sup> See USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016); <https://www.uscis.gov/CAM> (accessed Dec. 13, 2016).

<sup>67</sup> See “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 U.S. Senate Committee on the Judiciary, 114th Cong. 2nd Sess. 3 (2015) (written statement of Joseph Langlois, Associate Director, Refuge, Asylum And International Operations Directorate, United States Citizenship and Immigration Services); <https://www.uscis.gov/tools/resources-congress/presentations-and-reports/eroding-law-and-diverting-taxpayer-resources-examination-administrations-central-senate-committee-judiciary-april-2015-uscis-associate-director-joseph-langlois> (accessed Aug. 23, 2016).

Naturalization Service (INS) and, subsequently, USCIS extended parole to certain applicants from the former Soviet Union found not to qualify for refugee status.<sup>68</sup> Likewise, from 1989 to 1999, INS provided parole to various Vietnamese applicants who did not qualify for refugee status through the Orderly Departure Program.<sup>69</sup> As of December 16, 2016, over 960 vulnerable children and family members have already relocated to safety in the United States through CAM's parole option.<sup>70</sup> This dual refugee/parole framework strengthens the program's effectiveness as an orderly and legal alternative to hazardous journeys to and across the U.S. border.

As CAM is an in-country processing program,<sup>71</sup> qualifying children generally undergo the entire application process, including the prescreening interview, DNA testing, and USCIS interview, in their home countries. Only upon the successful completion of the application process, which mandates thorough security vetting, can these children relocate through CAM to the United States.<sup>72</sup>

A more thorough description of the CAM eligibility criteria and application process, including program mechanisms for protecting the safety of particularly vulnerable qualifying children, is found in *Appendix I*.<sup>73</sup>

## **CAM IN CONTEXT: U.S. AND REGIONAL RESPONSE TO THE NORTHERN TRIANGLE MIGRATION CRISIS**

CAM is a vital lawful alternative to the dangerous journey to U.S. southern border made by many Northern Triangle children. Yet it is only one part of a larger set of programs and policies — some of which the United States and foreign governments have begun to develop but have not yet implemented — necessary to address the Northern Triangle's displacement crisis. These programs and policies lie outside the scope of this Recommendation. However, to illustrate efforts beyond CAM to address this crisis and to highlight opportunities for greater U.S. policy alignment to fully achieve the nation's protection objectives for deserving Northern Triangle nationals, this section briefly examines three areas: 1) the announced Protection Transfer Arrangement and related in-country refugee referral system for Northern Triangle nationals; 2) the growing regional response to the crisis; and 3) relevant U.S. domestic policies and programs.

### **1) Announced refugee processing programs in Central America**

Although CAM focuses on the protection of vulnerable minors in the region, the recent surge in departures from the Northern Triangle to the United States has not been confined to children.

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Information provided by USCIS (Dec. 19, 2016).

<sup>71</sup> See DOS Webpage, "Proposed Refugee Admissions for Fiscal Year 2016" (Oct. 1, 2015); <http://www.state.gov/j/prm/releases/docsforcongress/247770.htm> (accessed Aug. 23, 2016).

<sup>72</sup> See DOS Webpages, "In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras With Parents Lawfully Present in the United States" (Nov. 14, 2014);

"U.S. Refugee Admissions Program Central American Minors Flowchart" (Jan. 22, 2015).

<sup>73</sup> As the remainder of this Recommendation references information provided in *Appendix I*, readers unfamiliar with program criteria and procedures may wish to read it before proceeding.

Adults have also fled in vast numbers.<sup>74</sup> The volume of individuals apprehended at the U.S. southwest border as part of family units — that is, parents or guardians traveling together with their children — soared from 14,855 total individuals in FY 2013 to 70,407 individuals from the Northern Triangle alone in FY 2016.<sup>75</sup>

In light of such large-scale movement of people with potential protection needs extending beyond CAM’s mandate, in July 2016 the U.S. government noted the following:

“...what we have seen is that our current efforts to date have been insufficient to address the number of people who may have legitimate refugee claims, and there are insufficient pathways for those people to present their claims for adjudication.”<sup>76</sup>

In the same statement, the U.S. government announced new developments concerning its refugee processing operations in Central America.<sup>77</sup> First, under a Protection Transfer Arrangement (PTA) with Costa Rica and in conjunction with UNHCR and IOM, “Costa Rica will serve as a temporary host site for [Northern Triangle] applicants awaiting refugee processing and onward resettlement to the United States or another third country.”<sup>78</sup> Applicants must undergo pre-screening in their countries of origin before gaining eligibility to relocate to Costa Rica through the PTA.<sup>79</sup> Assistant Secretary for PRM Anne Richards noted that “[t]he PTA being set up in Costa Rica is aiming to host 200 individuals at a time for a period of six months.”<sup>80</sup> Second, for Northern Triangle cases “not requiring immediate transfer to Costa Rica,” the U.S. government will implement an “in-country referral program” through which additional Northern Triangle applicants may seek safe relocation to the United States as refugees.<sup>81</sup>

The Ombudsman welcomes and will monitor the establishment of these programs, which will extend needed protection to at-risk Northern Triangle nationals. In addition, in anticipation of the full implementation and continued growth of existing and announced U.S. refugee programs in Central America, the Ombudsman emphasizes the need for increasing the U.S. refugee admissions ceiling for the Latin America and Caribbean region, set at only 5,000 for FY 2017,<sup>82</sup> in future.

## 2) Regional response to the Northern Triangle migration crisis

The United States is not alone in the Western Hemisphere in experiencing a significant wave of asylum seekers. UNHCR indicates that the number of documented asylum applications by

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<sup>74</sup> See, e.g., CBP Webpage, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016” (Oct. 18, 2016); <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (accessed Dec. 13, 2016); UNHCR, “Regional Response to the Northern Triangle of Central America Situation” at 19 (Jun. 2016); <http://reporting.unhcr.org/sites/default/files/UNHCR%20-%20NTCA%20Situation%20Supplementary%20Appeal%20-%20June%202016.pdf> (accessed Aug. 24, 2016).

<sup>75</sup> *Id.*

<sup>76</sup> “On-The-Record White House Press Call on Central American Refugee Processing” (Jul. 26, 2016) (on file with the Ombudsman).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> White House Webpage, Presidential Determination -- Refugee Admissions for Fiscal Year 2017 (Sep. 28, 2016); <https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-determination-refugee-admissions-fiscal-year-2017> (accessed Oct. 19, 2016).

Northern Triangle citizens in 2015 represented an increase of more than 881% from 2005.<sup>83</sup> For example, in 2015, there were 164% more asylum seekers in Mexico than in 2013.<sup>84</sup> Costa Rica took in 176% more asylum claims in 2015 than two years prior.<sup>85</sup> Belize's asylum application receipt volume in 2015 was 1000% greater than the previous year's total.<sup>86</sup> Likewise, Panama and Nicaragua also have recently seen marked increases in asylum requests.<sup>87</sup> These influxes of displaced Northern Triangle citizens seeking humanitarian protection reveal a regional phenomenon that requires a cooperative regional response which must include leading efforts by the United States.

Upon reflection of the regional scope of these outflows, UNHCR convened a "Roundtable on Protection Needs in the Northern Triangle of Central America" in July 2016 in Costa Rica<sup>88</sup> to examine and formulate a "regional framework" for addressing the humanitarian challenges this displacement presents.<sup>89</sup> Roundtable participants included nongovernmental organizations, intergovernmental organizations such as the World Bank and Inter-American Development Bank, and senior government representatives from the United States, Mexico, Canada, El Salvador, Guatemala, Honduras, Belize, Costa Rica, Nicaragua, and Panama.<sup>90</sup>

In his opening remarks at the Roundtable, UNHCR's High Commissioner noted that "[f]orced displacement is an increasingly determining factor in the regional migration from and within the Northern Triangle of Central America. It is a regional situation requiring a regional response."<sup>91</sup> In the San Jose Action Statement produced by participating governments in connection with this Roundtable, they recognized "the need for comprehensive actions to enhance protection and respond to the most urgent needs of asylum seekers, refugees, internally displaced persons (IDPs), migrants and returnees with protection needs as well as other affected populations in the Northern Triangle of Central America..." and that measures taken by these nations "need to be

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<sup>83</sup> UNHCR Discussion Paper, "Call to Action: Protection Needs in the Northern Triangle of Central America, UNHCR, Discussion Paper (Draft), *A Proposal for a Strategic Regional Response*" at 4; <https://s3.amazonaws.com/unhcrsharedmedia/2016/2016-07-06-NTCA-roundtable/CalltoActionDiscussionPaper12June2016cleanfinal-draft.docx> (accessed Aug. 24, 2016).

<sup>84</sup> UNHCR Webpage, "UNHCR calls for urgent action as Central America asylum claims soar" (Apr. 5, 2016) <http://www.unhcr.org/en-us/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html> (accessed Aug. 24, 2016).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> UNHCR Webpage, "High-Level Roundtable 6-7 July 2016: 'Call to Action: Protection Needs in the Northern Triangle of Central America'" (Jun. 30, 2016); <http://www.unhcr.org/news/press/2016/6/5775200d4/high-level-roundtable-6-7-july-2016-call-action-protection-needs-northern.html> (accessed Aug. 24, 2016).

<sup>89</sup> UNHCR Discussion Paper, "Call to Action: Protection Needs in the Northern Triangle of Central America, UNHCR, Discussion Paper (Draft), *A Proposal for a Strategic Regional Response*" at 12.

<sup>90</sup> UNHCR Webpages, "High-Level Roundtable 6-7 July 2016: 'Call to Action: Protection Needs in the Northern Triangle of Central America'" (Jun. 30, 2016); "A Call to Action: Protection in the Northern Triangle of Central America – Proposal for a regional response – Concept Paper" at 3; <http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2016/10645> (accessed Aug. 24, 2016).

<sup>91</sup> UNHCR Webpage, "Opening Remarks" at 3 (Jul. 6, 2016); <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2016/10691> (accessed Aug. 24, 2016).

reinforced by cooperation at regional and international levels with the support of relevant states, the UN system ... as well as civil society organizations ...”<sup>92</sup>

Thus, just as CAM is one component of a larger protection strategy being developed by the United States, that response in turn is one part of a growing regional approach to this humanitarian crisis.

### 3) U.S. domestic policies and programs relevant to Central American populations

Stakeholders have expressed concern not only over elements of CAM’s implementation abroad, but also over certain domestic U.S. protection policies that impact Northern Triangle populations. Key among these is DHS’ continued practice of family detention, under which ICE temporarily holds certain mothers and children in “family residential centers” in the United States.<sup>93</sup> The DHS Advisory Committee on Family Residential Centers, appointed by DHS Secretary Johnson, has observed in its “Consolidated Draft Subcommittees’ Recommendations Report” that “the vast majority of families...subjected to family detention are fleeing the Northern Triangle countries of Guatemala, Honduras, and El Salvador.”<sup>94</sup> Stakeholders contend that the harmful psychological toll of detention conditions undermines the capacity of traumatized Northern Triangle family members to properly present their asylum claims and obtain protection.<sup>95</sup> In its draft report, the Advisory Committee cited a host of concerns with the practice of family detention, concluding that “DHS should discontinue the general use of family detention, reserving it for rare cases...following an individualized assessment of the need to detain because of danger or flight risk that cannot be mitigated by conditions of release.”<sup>96</sup>

Temporary Protected Status (TPS), which already serves as a vital protection for over 200,000 Salvadorans and Hondurans in the United States (who received this relief following natural disasters in their home countries),<sup>97</sup> also features in stakeholder dialogue concerning protection mechanisms for Northern Triangle nationals. Stakeholders have called for a new TPS designation for El Salvador, Honduras, and Guatemala as an additional prong of the U.S. government’s response to the region’s humanitarian crisis.<sup>98</sup> At the same time, there is concern

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<sup>92</sup> UNHCR, San Jose Action Statement (Jul. 7, 2016); <http://www.refworld.org/docid/57a8a4854.html> (accessed Oct. 6, 2016).

<sup>93</sup> See generally DHS Advisory Committee on Family Residential Centers, ACFRC Consolidated Draft Subcommittees’ Recommendation Report, “Report of the DHS Advisory Committee on Family Residential Centers” (Sep. 30, 2016); <https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf> (accessed Oct. 6, 2016).

<sup>94</sup> See DHS Advisory Committee on Family Residential Centers, [ACFRC Consolidated Draft Subcommittees’ Recommendation Report](#), “Report of the DHS Advisory Committee on Family Residential Centers” at 6.

<sup>95</sup> See, e.g., CARA Family Detention Pro Bono Project Letter, “Re: Ongoing Concerns Regarding the Detention of Fast-Track Removal of Children and Mothers Experiencing Symptoms of Trauma” at 2 (Mar. 28, 2016); <http://www.aila.org/advo-media/press-releases/2016/cara-crcl-complaint-concerns-regarding-detention> (accessed Oct. 6, 2016).

<sup>96</sup> See DHS Advisory Committee on Family Residential Centers, ACFRC Consolidated Draft Subcommittees’ Recommendation Report, “Report of the DHS Advisory Committee on Family Residential Centers” at 2.

<sup>97</sup> See Congressional Research Service, “Temporary Protected Status: Current Immigration Policy and Issues” at 4, 8-9 (Feb. 18, 2016); <https://fas.org/sgp/crs/homesecc/RS20844.pdf> (accessed Aug. 28, 2016).

<sup>98</sup> See, e.g., Refugees International, “Northern Triangle Temporary Protected Status National Letter” (Jan. 25, 2016); <http://www.refugeesinternational.org/advocacy-letters-1/2016/2/1/northern-triangle-temporary-protected-status-national-letter> (accessed Oct. 19, 2016).

that TPS does not lead to legal permanent residence, leaving individuals under this status without key legal safeguards accorded to permanent residents.<sup>99</sup>

Finally, a substantial backlog of pending asylum cases has developed in both the U.S. immigration courts and at USCIS asylum offices, meaning that Northern Triangle nationals seeking asylum in the United States often must wait years before attending a USCIS asylum interview or individual hearing before an immigration judge.<sup>100</sup> During these lengthy waits, asylum seekers frequently remain separated from family members who remain outside the United States and suffer mental health consequences related to the delays.<sup>101</sup>

While this Recommendation aims to identify measures that would make CAM more effective, CAM alone cannot meet the scale and scope of the crisis.

## **POSITIVE DEVELOPMENTS IN CAM**

The Ombudsman commends a number of positive developments in the CAM program that under USCIS and DOS' administration have bolstered CAM's reach, efficiency, and protection protocol:

### **1. Expansion of eligibility criteria for in-Country family members of qualifying children**

As noted in *Appendix I*, in November 2016 the U.S. government began implementing an expansion in the categories of family members of qualifying children eligible to participate in CAM.<sup>102</sup> This makes CAM available to a broader group of individuals who need protection and will more effectively unify the families of qualifying children. Though this development does not address certain segments of vulnerable children in the Northern Triangle that remain ineligible for CAM, the Ombudsman welcomes this expansion of CAM's protection radius.

### **2. Increase in CAM receipts**

DOS has experienced a significant increase in receipts of Form DS-7699, *Affidavit of Relationship (AOR) for Minors Who Are Nationals of El Salvador, Guatemala, and Honduras* (CAM-AOR) since the program's establishment. By December 12, 2016, the total number of filed CAM-AORs amounted to 9,916 cases.<sup>103</sup> Although challenges persist in educating the

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<sup>99</sup> See Claire Bergeron, "Temporary Protected Status after 25 Years: Addressing the Challenge of Long-Term 'Temporary' Residents and Strengthening a Centerpiece of US Humanitarian Protection" JMHS Volume 2 Number 1 (2014): 22-43, at 30-32; [jmh.s.cmsny.org/index.php/jmhs/article/download/23/17](http://jmh.s.cmsny.org/index.php/jmhs/article/download/23/17) (accessed Oct. 6, 2016).

<sup>100</sup> See Ombudsman's Annual Report 2016, at 13-17 (describing the factors that have contributed to the worsening asylum backlog including high volumes of requests for credible and reasonable fear determinations and a substantial rise in new affirmative asylum applications); see generally Human Rights First, "In the Balance: Backlogs Delay Protection in the U.S. Asylum and Immigration Court Systems" (Apr. 16, 2016); <http://www.humanrightsfirst.org/sites/default/files/HRF-In-The-Balance.pdf> (accessed Oct. 6, 2016).

<sup>101</sup> See Ombudsman's Annual Report 2015, at 60-61; see Human Rights First, "In the Balance: Backlogs Delay Protection in the U.S. Asylum and Immigration Court Systems" at 10-14.

<sup>102</sup> DOS Webpage, "Expansion of the Central American Minors (CAM) Program" (Nov. 15, 2016); <http://www.state.gov/j/prm/ra/cam/index.htm> (accessed Dec. 13, 2016).

<sup>103</sup> Information provided by USCIS (Dec. 19, 2016).

community about eligibility for the CAM of their eligibility for the program,<sup>104</sup> the growth in these receipts indicates increased awareness of the program.

### **3. Rise in volume of RSC pre-screenings and USCIS interviews of CAM cases**

The RSC in Latin America and USCIS have increased the volume of CAM case pre-screenings and USCIS interviews. In the first quarter of FY 2016, USCIS conducted interviews in 508 CAM cases, which represented virtually all prescreened cases at that time.<sup>105</sup> In contrast, during the third quarter of FY 2016, USCIS interviewed 2,009 CAM cases — which necessarily also were prescreened by the RSC — representing a nearly 400% increase from two quarters prior.<sup>106</sup> Moreover, USCIS projected it would continue to increase CAM interviews, conducting 1,986 interviews in the fourth quarter of FY 2016 and 1,963 in the first quarter of FY 2017.<sup>107</sup> USCIS anticipated that it would interview 80% of CAM applicants by the close of the second quarter of FY 2017.<sup>108</sup> Although higher volumes of RSC pre-screenings and USCIS interviews are still needed to shorten the CAM processing timeframe given the dangers facing qualifying children applying for protection while in their home country, the Ombudsman commends the increase in interviews.

### **4. concurrent performance of certain CAM application processing stages**

DOS and USCIS are now initiating and conducting certain stages of the CAM application process, such as RAVU and DNA testing, concurrently rather than sequentially.<sup>109</sup> Once USCIS has completed RAVU, a case may proceed to the USCIS interview prior to the receipt of DNA test results.<sup>110</sup> USCIS can then make conditional decisions contingent on DNA verification.<sup>111</sup> Such concurrent processing marks a significant enhancement to program efficiency. Because DNA tests must still confirm the claimed biological relationships before USCIS issues final approvals, this enhancement does not compromise program integrity.

### **5. Institution of Best Interests Assessments**

The RSC's use of "Best Interests Assessments" for certain qualifying children<sup>112</sup> represents another positive program development. Best Interests Assessments provide the program with a valuable mechanism for helping safeguard particularly vulnerable qualifying children. While many qualifying children may need enhanced resources over and above these assessments, Best Interests Assessments have the potential to address some of the key risk factors confronting these minors.

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<sup>104</sup> Information provided by stakeholders.

<sup>105</sup> Information provided by USCIS (Apr. 14 and Nov. 21, 2016).

<sup>106</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>107</sup> *Id.*

<sup>108</sup> Information provided by USCIS (Dec. 19, 2016).

<sup>109</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Information provided by DOS (May 2, 2016); Information provided by RSC (May 17 and Aug. 3, 2016).

## KEY ISSUES OF CONCERN REGARDING CAM

The Ombudsman recognizes CAM as an effective protection measure for eligible Northern Triangle youth to travel to the United States to be reunited with family. However, certain programmatic issues remain and are discussed below. Given CAM's interagency structure, some of those issues are necessarily outside of USCIS' purview.

### 1. Lengthy processing times

As of August 22, 2016, the average processing time for a CAM case — from the date of the CAM-AOR's receipt by the resettlement agency to the date of arrival of CAM applicants in the United States — is 410 days for refugees and 402 days for parolees.<sup>113</sup> CAM processing times are approximately twice as fast as average U.S. refugee case processing times worldwide,<sup>114</sup> almost all of which are being processed in third countries. However, CAM processing times have grown as the program has expanded.<sup>115</sup>

It is important to note that the processing time measure cited here encompasses delays related to a variety of actors and factors, including financial hardships endured by qualifying parents, who may require extended time to gather the funds necessary to pay DNA testing costs or, in the case of parolees, to cover the costs of travel to the United States. Moreover, stakeholders acknowledge that the CAM timeframe remains significantly faster than for similar refugee programs.<sup>116</sup>

Notwithstanding these considerations, processing times are overly long. Because CAM is an in-country processing program and applications are processed in a region beset by violence, qualifying children continue to be subject to substantial risks while awaiting resolution of their cases.<sup>117</sup> Indeed, some qualifying parents have shared that their children receive threats on a daily basis.<sup>118</sup>

For many qualifying children, the above-cited timeframe does not represent the full waiting period. This is because, as a result of insufficient funding for resettlement agencies working on CAM cases, various agencies have reported lengthy waiting periods before potential qualifying parents are able to submit CAM-AORs.<sup>119</sup> The longest waiting period reported by stakeholders to the Ombudsman is 12 months.<sup>120</sup> This raises the prospect of an end-to-end timeframe, taking into account both affiliate office backlogs and CAM processing times, of over two years for some potentially eligible children.

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<sup>113</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>114</sup> Ombudsman Annual Conference 2016, "Regional Refugee Resettlement Issues and the Central American Minors Program Panel" (Dec. 6, 2016).

<sup>115</sup> As of March 21, 2016, the average processing time, averaging parolee and refugee arrivals together, was 331 days. Information provided by USCIS (Apr. 14, 2016).

<sup>116</sup> Information provided by stakeholders.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

## **2. Need for enhanced protection mechanisms for particularly vulnerable qualifying children**

The special safety procedures described in *Appendix I* are vital to the protection of certain particularly vulnerable qualifying children. Two of these procedures — case expedites and shelter referrals — need enhancements to offer sufficient protection to CAM applicants.

Some stakeholders have noted the absence of clear, specific protocols guiding the submission of CAM expedite requests.<sup>121</sup> In 2011, PRM published a Fact Sheet with guidance on expedited processing for refugee cases generally.<sup>122</sup> This document, however, does not include information specific to CAM and the program’s in-country processing system, with its heightened need for efficiency in removing the qualifying individual(s) from sources of danger. Stakeholders also have observed a lack of uniform notification regarding the outcomes of expedite requests.<sup>123</sup> The lack of clear protocols and follow-up communication can leave stakeholders without a firm understanding of: 1) how to appropriately seek expedition of deserving CAM cases; 2) whether expedite requests have been granted; and 3) the impact of the expedite, in terms of processing speed, on the case.

Moreover, though the RSC refers certain vulnerable qualifying children to in-country government-operated shelters, to date this referral mechanism reportedly has proven unsuccessful. Stakeholders have expressed concern that shelters in El Salvador, the country where the substantial majority of pending qualifying children live, are unable to house minors for the duration of the CAM application process.<sup>124</sup> In light of the minors’ urgent protection needs, the absence of a broadly-employed, effective safe shelter system leaves a sizable gap in CAM’s safety protocol.

## **3. Restrictive eligibility criteria**

Stakeholders have expressed concern that CAM eligibility criteria are too limiting, leaving other vulnerable Northern Triangle children, as well as their family members, without access to the program.<sup>125</sup> The recent expansion of eligibility criteria<sup>126</sup> helps address this. However, other minors who face persecution and other dangerous conditions in the Northern Triangle still cannot access CAM, prompting stakeholders to advocate for additional expansions to the program.<sup>127</sup>

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<sup>121</sup> *Id.*

<sup>122</sup> DOS Webpage, “Expedited Protection and Resettlement of Refugees” (Oct. 24, 2011);

<sup>123</sup> Information provided by stakeholders.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> Under this expansion, certain in-country caretakers, biological parents of qualifying children who are not married to the Qualifying Parents, and children of qualifying parents — irrespective of age and marital status — are able to participate in CAM. See DOS Webpage, “Expansion of the Central American Minors (CAM) Program” (Nov. 15, 2016).

<sup>127</sup> As of March 3, 2016, approximately 89% of qualifying parents were Salvadoran or Honduran TPS holders. Information provided by USCIS (Apr. 14, 2016). However, TPS is available only to those Salvadorans and Hondurans who, among other requirements, have been continuously physically present in the United States since March 9, 2001 and January 5, 1999, respectively. See USCIS Webpages, “Temporary Protected Status Designated Country: El Salvador” (Sep. 9, 2016); <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador> (accessed Dec. 13, 2016); “Temporary Protected Status Designated Country: Honduras” (Aug. 11, 2016); <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-honduras> (accessed Aug. 28, 2016). The population of Salvadoran and

#### 4. Costs associated with DNA testing

CAM participants receive reimbursement of DNA testing fees after test results confirm the validity of claimed familial relationships.<sup>128</sup> However, the upfront costs for DNA testing, which can range upwards of \$500 or \$600 per tested relationship,<sup>129</sup> are prohibitive for some families.<sup>130</sup> Other families may need significant time to collect the required money — an effort that can delay an already time-sensitive CAM application process.<sup>131</sup> While the benefits of DNA testing to the program are apparent, these costs and delays impede CAM access and delay case completion.

#### 5. Uncertainty regarding CAM eligibility, application process, and case status

Despite growing program participation and an array of helpful public resources,<sup>132</sup> stakeholders continue to report that many potential and actual qualifying parents remain unaware, under-informed and confused about CAM eligibility requirements, the application process, and the status of pending CAM cases.<sup>133</sup>

USCIS and DOS have hosted a variety of public engagements on CAM, including nationwide English and Spanish-language teleconferences and a roundtable event hosted by USCIS Director León Rodríguez.<sup>134</sup> In May 2016, USCIS' Customer Service and Public Engagement Directorate traveled to the Northern Triangle to learn more about opportunities to improve community education and program participation. In addition, USCIS, DOS, and the RSC have created materials to help the public better understand the program, including Frequently Asked Questions;<sup>135</sup> a USCIS webpage on CAM;<sup>136</sup> an additional USCIS webpage for applicants conditionally approved for parole through CAM;<sup>137</sup> and an RSC-produced pamphlet to help qualifying children grasp the CAM application process.<sup>138</sup>

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Honduran TPS holders in the United States is steadily shrinking. From approximately 2007 to 2016, for instance, the estimated number of Honduran TPS holders dropped by roughly 25%. See Congressional Research Service, “Temporary Protected Status: Current Immigration Policy and Issues” at 5 (Jan. 27, 2006); <http://trac.syr.edu/immigration/library/P332.pdf> (accessed Aug. 28, 2016); “Temporary Protected Status: Current Immigration Policy and Issues” at 4 (Feb. 18, 2016); <https://fas.org/sgp/crs/homesec/RS20844.pdf> (accessed Aug. 28, 2016). The dominant pool of Qualifying Parents is therefore undergoing an ongoing incremental contraction.<sup>128</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions” at 6 (Nov. 2016); <http://www.wrapsnet.org/s/CAM-Frequently-Asked-Questions-November-2016.docx> (accessed Dec. 13, 2016).

<sup>129</sup> Information provided by stakeholders.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> See, e.g., DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions” (Nov. 2016).

<sup>133</sup> Information provided by stakeholders.

<sup>134</sup> See Engagement Invitation: Roundtable with USCIS Director León Rodríguez (on file with the Ombudsman).

<sup>135</sup> DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions” (Nov. 16).

<sup>136</sup> USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM)” (Nov. 15, 2016).

<sup>137</sup> USCIS Webpage, “Central American Minors (CAM) Refugee/Parole Program: Information for Conditionally Approved Applicants” (Aug. 31, 2016); <https://www.uscis.gov/humanitarian/humanitarian-parole/central-american-minors-cam-refugee> (accessed Oct. 20, 2016).

<sup>138</sup> Information provided by RSC (May 17, 2016).

Despite these significant efforts, stakeholders report that confusion persists over program eligibility criteria.<sup>139</sup> For example, a misconception that only TPS holders may become qualifying parents has taken root among some potential applicants.<sup>140</sup> Resettlement agency affiliate offices are unable to easily correct these misunderstandings and educate local populations about the program because they often lack the resources to offer comprehensive CA-related services, including community education about the program.<sup>141</sup>

Stakeholders also express concern that many qualifying parents and qualifying children are uncertain about the CAM application process and the status of their cases.<sup>142</sup> CAM is more complex, and features more processing stages, than many other immigration programs. However, despite the availability of outreach materials, a comprehensive guide that explains each of these stages in detail is not currently available.

Moreover, RSC Latin America does not have a website containing a “Check Your Case Status” feature for pending applicants, though the website for the RSC for the Middle East and North Africa (also operated by IOM) offers that feature.<sup>143</sup> Therefore, CAM applicants and their qualifying relatives cannot independently ascertain their case status. Phone numbers and email addresses are available, however, through which applicants may contact the RSC.<sup>144</sup>

Stakeholders have called attention, in particular, to a frequent lack of awareness of case status among qualifying parents whose children were denied refugee status but approved for parole.<sup>145</sup> The RSC indicated to the Ombudsman that IOM representatives in the United States contact qualifying parents directly with such updates.<sup>146</sup> USCIS also recently posted a webpage containing information relevant to children conditionally approved for parole through CAM.<sup>147</sup> However, stakeholders emphasize that many qualifying parents remain uninformed and confused about the status of their children’s cases.<sup>148</sup> Status information for parolees is necessary, among other things, to make needed travel arrangements to the United States.<sup>149</sup>

Finally, neither USCIS nor DOS publish current processing times for CAM cases, some of which involve children subject to ongoing threats while in-country processing takes place. USCIS publishes “normal processing times” for many other application types.<sup>150</sup> Generally, however, those applications remain exclusively within USCIS’ jurisdiction. CAM cases, like other refugee cases, undergo processing not only by USCIS, but also DOS, which oversees program functions

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<sup>139</sup> Information provided by stakeholders.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> IOM Webpage, “Resettlement Support Center: Middle East and North Africa;” <https://www.jordan.iom.int/refinfo/> (accessed Aug. 24, 2016).

<sup>144</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>145</sup> Information provided by stakeholders.

<sup>146</sup> Information provided by RSC (May 17, 2016).

<sup>147</sup> USCIS Webpage, “Central American Minors (CAM) Refugee/Parole Program: Information for Conditionally Approved Applicants” (Aug. 31, 2016).

<sup>148</sup> Information provided by stakeholders.

<sup>149</sup> *Id.*

<sup>150</sup> See USCIS Webpage, “USCIS Processing Time Information;” <https://egov.uscis.gov/cris/processTimesDisplayInit.do> (accessed Dec. 7, 2016).

including intake, prescreening, and “out-processing” events such as medical exams and travel.<sup>151</sup> Furthermore, factors external to USCIS and DOS, such as delays in qualifying parents’ payment of DNA testing fees, impact CAM processing times.<sup>152</sup> For these reasons, the “normal processing times” calculations that USCIS employs for other applications are inapplicable to CAM cases. Nonetheless, relevant CAM processing times are measurable. As noted, as of August 22, 2016, the average processing time for a CAM application — from the date of the CAM-AOR’s receipt by the resettlement agency to the date of the CAM applicant’s arrival in the United States — is 410 days for refugees and 402 days for parolees.<sup>153</sup> Still, USCIS and DOS do not regularly publish and update these times. This information would allow qualifying children and their family members to much better project the length of their wait, take steps to safeguard their security, and prepare for the outcome of their cases.

Owing in part to these information gaps, qualifying parents frequently contact overburdened resettlement agency affiliate offices to request clarification concerning the CAM application process and to seek updates on their cases, which drains already stretched resources.<sup>154</sup>

## **6. Insufficient funding for resettlement agencies’ CAM-related activities**

As noted in *Appendix I*, resettlement agencies serve an integral role in the CAM application process. They coordinate the filings of CAM-AORs, manage CAM cases subsequent to those filings, educate local populations on the program, and facilitate reception and placement services to CAM refugees arriving in the United States.<sup>155</sup>

For each refugee relocated to the United States, DOS provides the coordinating resettlement agency with a one time, per-capita “reception and placement” grant.<sup>156</sup> DOS also provides some funding to resettlement agency headquarters that is distinct from the per-capita grants. Most of the per-capita grants go to the temporary provision of basic needs support for the refugee.<sup>157</sup> A smaller portion of the grant may help meet the associated administrative costs borne by the resettlement agency affiliate.<sup>158</sup> DOS has long employed this per-refugee reimbursement model throughout its refugee program portfolio.<sup>159</sup>

CAM differs from most other refugee programs in that approved applicants relocate to the United States as either a refugee or as parolees.<sup>160</sup> Indeed, parolees have comprised a majority of

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<sup>151</sup> See DOS Webpage, “U.S. Refugee Admissions Program Central American Minors Flowchart” (Jan. 22, 2015); information provided by USCIS (Nov. 21, 2016).

<sup>152</sup> Information provided by stakeholders.

<sup>153</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>154</sup> Information provided by stakeholders.

<sup>155</sup> *Id.*

<sup>156</sup> See DOS Webpages, “The Reception and Placement Program;”

<http://www.state.gov/j/prm/ra/receptionplacement/> (accessed Aug. 24, 2016); “Increase to the Refugee Reception and Placement Per Capita Grant” (Jan. 25, 2010); <http://www.state.gov/r/pa/prs/ps/2010/01/135800.htm> (accessed Aug. 24, 2016).

<sup>157</sup> See, e.g., DOS Webpage, “Increase to the Refugee Reception and Placement Per Capita Grant” (Jan. 25, 2010); <http://www.state.gov/r/pa/prs/ps/2010/01/135800.htm> (accessed Aug. 24, 2016).

<sup>158</sup> See, e.g., DOS Webpage, “Increase to the Refugee Reception and Placement Per Capita Grant” (Jan. 25, 2010).

<sup>159</sup> Information provided by DOS (May 2, 2016).

<sup>160</sup> See USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016).

noted CAM arrivals to date.<sup>161</sup> Resettlement agencies receive no per-capita reimbursement from DOS, USCIS, or other federal agency for parolees.<sup>162</sup> This leaves resettlement agencies without reimbursements to help cover the underlying administrative costs essential to effectively process CAM applications.<sup>163</sup> Qualifying relatives may only file a CAM application through a resettlement agency authorized by DOS.

While certain resettlement agencies receive funding from other sources, such as private donors, to support CAM-related services, other agencies do not.<sup>164</sup> The lack of reimbursement for CAM parolee processing, combined with insufficient alternative funding streams, has created substantial resource constraints that impair many affiliates' capacity to adequately administer their CAM operations.<sup>165</sup>

At the same time that these resettlement agencies experience demands on their resources in connection with CAM, the sharp increase in the U.S. refugee admissions ceiling from 70,000 in FY 2015 to 110,000 in FY 2017<sup>166</sup> places resource strain on the government agencies responsible for carrying out those admissions, e.g., DOS and USCIS. DOS has emphasized the importance of receiving sufficient appropriations to fund its resettlement efforts.<sup>167</sup>

One key consequence of the CAM funding shortfall among resettlement agencies is a substantial CAM backlog in certain affiliate offices.<sup>168</sup> Stakeholders have reported that at some of those offices, potential qualifying parents must wait as long as 12 months simply to obtain an initial consultation.<sup>169</sup> This consultation is a necessary precursor to filing a CAM-AOR. During those lengthy wait times, potential qualifying children may suffer ongoing threats of harm in the Northern Triangle or even age out of eligibility for the program.<sup>170</sup> This funding gap also restricts affiliates' ability to engage in public outreach to educate local populations about the program.<sup>171</sup>

## **7. Lack of access to counsel during CAM interviews**

Currently, the majority of CAM applicants are granted parole rather than refugee status after a USCIS interview.<sup>172</sup> Given the differences in relief available to CAM applicants, the impact on

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<sup>161</sup> Information provided by USCIS (Dec. 19, 2016) (By December 12, 2016, 849 individuals were admitted into the United States as refugees through CAM. By December 16, 2016, 969 individuals had arrived through the program as parolees).

<sup>162</sup> Information provided by stakeholders.

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> DOS Webpage, "Proposed Refugee Admissions for Fiscal Year 2017" (Sep. 15, 2016); <http://www.state.gov/j/prm/releases/docsforcongress/261956.htm> (Oct. 20, 2016).

<sup>167</sup> Roll Call, "Lawmakers Must Do More to Respond to Refugee Crisis, State Department Says" (Oct. 21, 2015); [http://www.rollcall.com/news/lawmakers\\_must\\_do\\_more\\_to\\_respond\\_to\\_refugee\\_crisis\\_state\\_department\\_says-244332-1.html#sthash.5sx911Y.dpuf](http://www.rollcall.com/news/lawmakers_must_do_more_to_respond_to_refugee_crisis_state_department_says-244332-1.html#sthash.5sx911Y.dpuf) (accessed Oct. 6, 2016).

<sup>168</sup> Information provided by stakeholders.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> As of August 22, of CAM applicants for which statistical information was available, 63% had been recommended for parole, 25% of CAM applicants were approved or conditionally approved for refugee status, less than 1% were denied, and the remaining applicants were held for further review. Information provided by USCIS (Sep. 28, 2016). Although both statuses ultimately offer protection in the United States, the difference in benefits is

long-term protections those distinctions make, and the complexity of the findings made by interviewing officers, it is critically important the child present the strongest case possible. Access to counsel would help ensure the child most effectively presents relevant facts supporting a refugee claim.

At this time, children who seek refugee status through CAM have no access to counsel during their refugee interviews. This is consistent with USCIS' longstanding, worldwide policy for refugee applicants.<sup>173</sup> Thus, a child must describe the harm or fear of harm upon which the refugee claims is based in an interview with a USCIS officer without an attorney present. Though these interviews are designed to be detailed and non-adversarial and officers are trained to elicit relevant testimony, stakeholders have reported that even well-trained adjudicators<sup>174</sup> and the testimony of a parent or guardian who may be present at the interview<sup>175</sup> do not provide an adequate substitute for legal counsel.

In some cases, without the help of counsel, children participate in refugee interviews without a clear understanding of the legal analysis that will take place in response to their statements. Stakeholders have noted, for example, violence has become so commonplace for children from Northern Triangle countries that some children do not perceive certain acts of violence as noteworthy, and therefore, despite pointed questions from adjudicators,<sup>176</sup> might not share

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significant. As discussed in more detail in *Appendix I*, children entering the United States as refugees have access to refugee assistance and community-based programs, and after meeting certain eligibility criteria may apply to become permanent residents and eventually United States citizens. By contrast, parolees are not eligible for refugee assistance and other services and have no path to permanent status.

<sup>173</sup> See USCIS Memorandum, "Representation and Appearances and Interview Techniques; Revisions to AFM Chapters 12 and 15; AFM Update AD 11-42" at 1-2 (May 23, 2012); <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2012/May/AFMs5-23-12.pdf> (accessed Dec. 13, 2016) ("In the refugee processing context, among other differences in interviewing procedures, refugee applicants do not have the right to representation as such applicants are deemed to be applicants for admission").

<sup>174</sup> USCIS provided some information to the CIS Ombudsman's Office regarding the extensive training received by asylum and refugee officers who conduct CAM interviews. In addition to the basic training required of all USCIS officers, refugee officers receive 5 weeks of specialized training that includes comprehensive instruction on all aspects of the job, including refugee law, interviewing techniques, credibility analysis, and country conditions research. Before deploying overseas, officers also receive a 3 day pre-departure training, which focuses on adjudications on CAM circuit rides. This training includes information on the types of refugee claims they are likely to encounter and detailed country of origin information. Officers conducting interviews for CAM circuit rides also receive specialized training on interviewing minors from a qualified professional familiar with these populations. Within USCIS, RAD coordinates closely with the Asylum Division and Office of Chief Counsel to provide guidance on how to elicit testimony relevant to making a refugee determination for children from these countries. Information provided by USCIS (Nov. 21, 2016). See also RAIO Combined Training Course, "Interviewing – Introduction to the Non-Adversarial Interview" Part 3.2 (June 6, 2013) (refugee officers are required to provide basic information to the interviewee that includes the 1) the purpose of the interview and the interview process; 2) the roles and responsibilities of all persons involved in the interview; and 3) what the interviewee can expect to happen after the interview).

<sup>175</sup> The policy guidance given to CAM teams by RAD is that the parent/guardian should be interviewed on the applicant's behalf if the decision is parole and the guardian is present. Information provided by USCIS (Sep. 28, 2016). See also DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions" at 2 (Nov. 16); (accessed Dec. 19, 2016) <http://www.wrapsnet.org/s/CAM-Frequently-Asked-Questions-November-2016.docx> ("A parent, guardian, or trusted adult may be present at interviews to provide testimony for a child who is unable to speak for him/herself").

<sup>176</sup> Officers do not use a template or questionnaire when conducting CAM interviews. Information provided by USCIS (Sep. 28, 2016). During pre-departure briefings, however, RAD suggests lines of questioning for CAM

experiences relevant to a refugee claim with a USCIS adjudicator.<sup>177</sup> In the CAM context, where the refugee applicant is a child who may have experienced traumatizing levels of violence, stakeholders have emphasized the particularly acute need for access to counsel to assist children in presenting their claims.<sup>178</sup> In particular, children who are survivors of violence are especially vulnerable. Because of their age, even if they do not suffer recognizable mental health consequences as a result of their victimization, without assistance from attorneys, they find the interview process challenging.<sup>179</sup>

Counsel is not permitted in CAM interviews (or other refugee interviews) despite the general regulatory right to representation in “an examination” before USCIS.<sup>180</sup> USCIS takes the legal position that this regulation does not apply to an “applicant for admission” and that refugee applicants are “applicants for admission.”<sup>181</sup> USCIS has taken this position since 1992 when the legacy INS General Counsel reasoned refugee applicants fell within the regulatory exception to the right to counsel because they were “applicants for admission.”<sup>182</sup> This was a reversal of INS’s position, set forth in earlier policy documents, in support of attorney access in refugee interviews, emphasizing that a refugee interview is an “examination” under the regulation and similar to other types of interviews where representation was “accorded as of right.”<sup>183</sup>

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cases and highlights mandatory topics that should be addressed during an interview. *Id.* In addition, a circuit ride team leader may suggest questions to officers and individual officers may develop their own lines of questioning based on the particular facts of a case. *Id.* During the interviews, adjudicators systematically ask children about harm or violence they have experienced, observed, heard about, or fear. Information provided by USCIS (Nov. 21, 2016). Adjudicators request detail and ask children about their experiences in a variety of settings including their home, school, and work. *Id.*

<sup>177</sup> Information provided by stakeholders.

<sup>178</sup> *Id.*

<sup>179</sup> See Letter from Kids in Need of Defense et al. to DHS Secretary Johnson et al. (May 4, 2016);

[https://www.aclu.org/sites/default/files/field\\_document/16\\_5\\_4\\_refugee\\_access\\_to\\_counsel\\_sign-on\\_letter\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/16_5_4_refugee_access_to_counsel_sign-on_letter_final.pdf) (accessed Dec. 13, 2016) (urging DHS to permit counsel to attend refugee interviews, in part because “[c]hildren on their own ... find both the process and the refugee interview particularly challenging and confusing...”).

<sup>180</sup> See 8 C.F.R. § 292.5(b). The regulation states in its entirety:

Right to representation. Whenever an examination is provided for in this chapter, the person involved shall have the right to be represented by an attorney or representative who shall be permitted to examine or cross-examine such person and witnesses, to introduce evidence, to make objections which shall be stated succinctly and entered on the record, and to submit briefs. Provided, that nothing in this paragraph shall be construed to provide any applicant for admission in either primary or secondary inspection the right to representation, unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody.

<sup>181</sup> Legacy INS Memorandum, “Representation of an Applicant for Admission to the United States as a Refugee During an Eligibility Hearing” (Nov. 9, 1992);

[https://www.americanimmigrationcouncil.org/sites/default/files/foia\\_documents/accesstocounsel\\_uscis\\_1-31-13.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/foia_documents/accesstocounsel_uscis_1-31-13.pdf) (accessed Dec. 13, 2016).

<sup>182</sup> Legacy INS Memorandum, “Representation of an Applicant for Admission to the United States as a Refugee During an Eligibility Hearing” (Nov. 9, 1992);

[https://www.americanimmigrationcouncil.org/sites/default/files/foia\\_documents/accesstocounsel\\_uscis\\_1-31-13.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/foia_documents/accesstocounsel_uscis_1-31-13.pdf) (accessed Dec. 13, 2016).

<sup>183</sup> See Legacy INS Memorandum, “Representation in Section 207 Processing” (Jan. 14, 1986);

[https://www.americanimmigrationcouncil.org/sites/default/files/foia\\_documents/accesstocounsel\\_uscis\\_3-20-13.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/foia_documents/accesstocounsel_uscis_3-20-13.pdf) (accessed Dec. 13, 2016) (citing, e.g., regulatory provisions applicable to third and sixth preference immigrant visa petitions and adjustment of status).

USCIS' current interpretation barring access to counsel is in conflict with the plain language of 8 C.F.R. § 292.5(b). The regulation states that a person involved in an examination by USCIS has the right to be represented unless that person is an “applicant for admission *in either primary or secondary inspection* ...”<sup>184</sup> USCIS chooses to interpret this phrase to mean “no applicant for admission -- even one who is in secondary inspection ... has a right to representation ...”<sup>185</sup> In other words, USCIS treats the qualifying phrase “in either primary or secondary inspection” not as language limiting the group of individuals who have a right to representation, but merely as examples of the types of proceedings to which an applicant for admission may be subject. Although refugee applicants clearly are not “in either primary or secondary inspection” when they are interviewed, USCIS continues to bar their access to counsel.

In addition to a regulatory right, a statutory right to counsel exists pursuant to section 555(b) of the Administrative Procedure Act (APA). This provision states “[a] person compelled to appear before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by [an]other qualified representative.”<sup>186</sup> A refugee must appear before USCIS for an interview in order to be granted refugee status: “[e]ach applicant 14 years old or older *shall* appear in person before an immigration officer for inquiry under oath to determine his or her eligibility for admission as a refugee.”<sup>187</sup> The term “shall” in this context, where there is no waiver or other exception to the regulatory requirement that a child appear in person, means a child is required — or compelled — to comply with the interview requirement, or his or her case will not be considered.<sup>188</sup>

The heightened needs of children also should be taken into consideration. Children who have access to counsel are better prepared for interviews, better understand the process in which they are participating and are better able to provide relevant information to the adjudicator.<sup>189</sup> There is widespread agreement individuals — both children and adults — who are represented in immigration court proceedings in the United States fare much better than those who are

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<sup>184</sup> 8 C.F.R. § 292.5(b) (emphasis added).

<sup>185</sup> Legacy INS Memorandum, “Representation of an Applicant for Admission to the United States as a Refugee During an Eligibility Hearing” (Nov. 9, 1992), [https://www.americanimmigrationcouncil.org/sites/default/files/foia\\_documents/accesstocounsel\\_uscis\\_1-31-13.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/foia_documents/accesstocounsel_uscis_1-31-13.pdf) (accessed Dec. 13, 2016).

<sup>186</sup> Administrative Procedure Act (APA), Pub. L. 79–404; 5 U.S.C. § 555(b).

<sup>187</sup> 8 C.F.R. § 207.2(a) (emphasis added).

<sup>188</sup> See USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016); <https://www.uscis.gov/CAM> (accessed Dec. 12, 2016) (“Eligibility for refugee status is determined on a case-by-case basis through an interview with a specially-trained USCIS officer”).

<sup>189</sup> Information provided by stakeholders; see also Letter from William C. Hubbard, President, American Bar Association to DHS Secretary Johnson et al., “Re: Department of Homeland Security policy of banning counsel from refugee interviews” at 6 (Jul. 24, 2015); [http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015july24\\_counselrefugeeapplicants.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015july24_counselrefugeeapplicants.authcheckdam.pdf) (access Dec. 15, 2016) (describing how the process is more “efficient and just” in circumstances where counsel has been present in Iraqi and Afghan refugee interviews); see also Amy C. Harfeld, *Symposium: The Right to Counsel Landscape after Passage of the ABA Model Act – Implications for Reform*, 36 *Nova L. Rev.* 325, 326 (2012) (describing the varied support from child advocates, attorneys and state courts for the right to counsel for children in dependency hearings).

unrepresented.<sup>190</sup> Even while it opposes government-appointed counsel for children in removal proceedings, the U.S. government has recognized the benefits of representation for immigrant children in proceedings.<sup>191</sup> Though refugee interviews, unlike proceedings in immigration court, are non-adversarial, the agency also has recognized the importance of counsel in non-adversarial USCIS interviews outside of the refugee context.<sup>192</sup>

Consistent with stateside policies recognizing the benefit of legal representation for minors in both adversarial and non-adversarial proceedings, a child seeking refugee status through the CAM program should not be prevented from appearing at a USCIS interview with counsel to present his or her strongest refugee claim.

Acknowledging the legitimacy of some of these concerns, as a matter of policy, USCIS is evaluating the prospect of legal representation of children in CAM refugee interviews.<sup>193</sup> USCIS has stated, however, that it must also consider other potential trade-offs related to permitting counsel at interviews, including the additional administrative burden on PRM's RSC and a possible loss of efficiency resulting from longer interviews and fewer interviews conducted by each USCIS officer, or fewer prescreening interviews by each RSC caseworker, per day.<sup>194</sup> The Ombudsman concurs in a review of the interplay of these competing concerns; for example, longer interviews may not necessarily be the norm, as interviewees with counsel are far likelier to be less fearful, more prepared and more forthcoming with facts relevant to establishing eligibility.

In addition, to best ensure children who need protection receive it, it is critical that RAIO continue to evaluate new bases for refugee grants as new fact scenarios develop in CAM cases. For instance, because some of the children's cases will involve persecution based on membership

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<sup>190</sup> Ingrid Eagly, Esq. & Steven Shafer, Esq. American Immigration Council Report, "Access to Counsel in Immigration Court" at 2 (Sep. 2016); [https://www.americanimmigrationcouncil.org/sites/default/files/research/access\\_to\\_counsel\\_in\\_immigration\\_court.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf) at 1-2 (accessed Dec. 13, 2016) (analyzing data from over 1.2 million deportation cases decided between 2007 and 2012 to find that represented immigrants were more successful than unrepresented immigrants in removal proceedings; for example, "[r]epresented immigrants who were never detained were nearly five times more likely than their unrepresented counterparts to obtain relief if they sought it. . ."); U.S. Government Accountability Office Report, "Asylum: Variation Exists in Outcomes Across Immigration Courts and Judges" GAO-08-940 (Nov. 2016); <http://www.gao.gov/products/GAO-17-72> (accessed Dec. 19, 2016).

<sup>191</sup> Department of Justice Press Release, "Justice Department and CNCS Announce \$1.8 Million in Grants to Enhance Immigration Court Proceedings and Provide Assistance to Unaccompanied Children" (Sep. 12, 2014); <https://www.justice.gov/opa/pr/justice-department-and-cnccs-announce-18-million-grants-enhance-immigration-court-proceedings> (announcing the Justice Americorps initiative – a program supporting 100 lawyers and paralegals who represent children in removal proceedings).

<sup>192</sup> USCIS Memorandum, "Representation and Appearances and Interview Techniques; Revisions to *Adjudicator's Field Manual (AFM)* Chapters 12 and 15; *AFM* Update AD11-42" at 1 (May 23, 2012); <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2012/May/AFMs5-23-12.pdf> (accessed Dec. 12, 2016) (acknowledging the "meaningful role of attorneys and other representatives in the interview process . . ."). In addition, unaccompanied children are to be provided access to counsel "to the greatest extent practicable . . ." See 8 U.S.C. § 1232(c)(5) ("The Secretary of Health and Human Services (HHS) shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children . . . have counsel to represent them in legal proceedings . . .").

<sup>193</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>194</sup> *Id.*

in a particular social group,<sup>195</sup> USCIS must continue to explore and recognize particular social groups that reflect current country conditions and evolving characterizations of persecutors and victims in Northern Triangle countries.<sup>196</sup> It is also increasingly vital that USCIS acknowledge the strength of political opinion claims from children from Northern Triangle countries.<sup>197</sup> The power and influence of gangs have increased dramatically in Northern Triangle countries in recent years. Experts describe gangs that have reached a level of “politicization, sophistication, and international reach to qualify them as ‘third generation’ gangs ... [that] function as de facto governments....”<sup>198</sup> These gangs have extensive resources, control large amounts of territory and wield control over the lives of community members.<sup>199</sup> To the extent these gangs function as *de facto* governments, opposition to their activities, whether expressed or imputed, may be categorized as a political opinion for purposes of a refugee claim.<sup>200</sup>

To better understand the CAM application adjudication trends, including the types of claims that do not result in refugee grants, the Ombudsman will continue to gather information about the profiles of the children that have come to the United States and to monitor USCIS’ decision-making process.

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<sup>195</sup> Information provided by USCIS (May 26, 2016).

<sup>196</sup> *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 251 (BIA 2014) (earlier Board decisions should not be interpreted as “a blanket rejection of all factual scenarios involving gangs”); *Pirir-Boc v. Holder*, 750 F.3d 1077, 1083 (9th Cir. 2014) (BIA could not reject a particular social group of individuals in Guatemala “taking concrete steps to oppose gang membership and gang authority” only because “it had previously found a similar group in a different society to lack social distinction or particularity,” finding that “[s]ocial group determinations are made on a case-by-case basis”) (citations omitted).

<sup>197</sup> Children might express a political opinion, despite not having a formal affiliation with a political party or organization that opposes gangs, and may not even characterize their beliefs as “political.” See Deborah Anker and Palmer Lawrence, “‘Third Generation’ Gangs, Warfare in Central America, and Refugee Law’s Political Opinion Ground,” 14-10 Immigr. Briefings 1 at 4 (Oct. 2014).

<sup>198</sup> Deborah Anker and Palmer Lawrence, “Third Generation” Gangs, Warfare in Central America, and Refugee Law’s Political Opinion Ground, 14-10 Immigr. Briefings 1, at 1 (Oct. 2014) (describing how the Mara Salvatrucha (MS-13) “rules entire municipalities in countries such as El Salvador”).

<sup>199</sup> UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador* at 12, 28 (Mar. 15, 2016); <http://www.refworld.org/docid/56e706e94.html> (accessed Oct. 21, 2016) (“In the particular context of El Salvador, where gangs are reported to exercise high levels of social control over all aspects of life of the members of population in the areas under the gangs’ control ... it would frequently be appropriate for applications for international protection from applicants who flee gang-related forms of persecution to be analysed in relation to the ground of (imputed) political opinion.”); UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Honduras* at 44 (Jul. 27, 2016); <http://www.refworld.org/docid/579767434.html> (accessed Oct. 21, 2016) (imputed political opinion may be a basis for gang-related forms of persecution in Honduras); see generally, International Crisis Group Report, *Guatemala: Squeezed Between Crime and Impunity* at 12 (Jun. 22, 2010); <http://www.refworld.org/docid/4c2847a72.html> (accessed Oct. 21, 2016) (describing, inter alia, how street gangs control daily life and have “crippled many communities”).

<sup>200</sup> See, e.g., *Regalado-Escobar v. Holder*, 717 F.3d 724, 730 (9th Cir. 2013) (BIA erred when it did not recognize opposition to violent activities conducted by the National Liberation Front for Farabundo Marti (FMLN) might constitute a political opinion); *Martinez-Buendia v. Holder*, 616 F.3d 711, 717 (7th Cir. 2010) (persecution based on political opinion when a humanitarian worker refused recruiting attempts by the Fuerzas Armadas Revolucionarias de Colombia (“FARC”); but see *Matter of S-E-G-*, 24 I&N Dec. 579, 588 (BIA 2008) (no political opinion basis for asylum where respondents failed to show, inter alia, “political motive” in resistance to gang recruitment); *Mayorga-Vidal v. Holder*, 675 F.3d 9, 18 (1st Cir. 2012) (finding no political opinion grounds for asylum where young Salvadoran men did not present evidence anti-gang opinions were expressed to gang members or anti-gang opinion was publicly known).

## **8. Barriers for CAM parolees, such as travel costs, lack of resettlement assistance, and adjustment of status limitations**

Stakeholders have voiced concern regarding various barriers faced by CAM parolees including the costs borne by qualifying parents for their children's travel to the United States.<sup>201</sup> DOS provides loans to CAM refugees to cover these costs through a program administered by IOM, consistent with worldwide refugee operations, but not parolees.<sup>202</sup> Stakeholders have indicated that this travel expense, particularly in combination with other program expenses like DNA testing fees, can have the effect of delaying qualifying children's arrival to safety in the United States while the qualifying parent obtains the necessary funds.<sup>203</sup>

Stakeholders have further expressed concern about the immediate and long-term welfare of CAM parolees who relocate to the United States.<sup>204</sup> While all CAM applicants come to join family members, those who are parolees, unlike refugees, do not receive PRM-funded reception and placement benefits, such as assistance with school registration and job training.<sup>205</sup>

Moreover, while refugees can apply for permanent residence in the United States after one year,<sup>206</sup> parole in and of itself does not lead to a permanent immigration status in the United States.<sup>207</sup> Parolees are eligible to apply for work authorization and renewal of their parole status,<sup>208</sup> but the lack of a pathway to permanent residence raises the prospect that these minors will have limited status indefinitely.

## **RECOMMENDATIONS TO USCIS**

In view of the above-noted concerns, and with the aim of strengthening this important program's efficiency, safety protocol, accessibility, and transparency, the Ombudsman makes the below recommendations to USCIS. As noted, while these recommendations are directed exclusively to USCIS, the Ombudsman acknowledges DOS' integral role in relevant program areas. Their

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<sup>201</sup> Information provided by stakeholders.

<sup>202</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM): Frequently Asked Questions" at 5 (Nov. 2016); <http://www.wrapsnet.org/s/CAM-Frequently-Asked-Questions-November-2016.docx> (accessed Dec. 13, 2016).

<sup>203</sup> Information provided by stakeholders.

<sup>204</sup> *Id.*

<sup>205</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM): Frequently Asked Questions" at 5 (Nov. 2016); <http://www.wrapsnet.org/s/CAM-Frequently-Asked-Questions-November-2016.docx> (accessed Dec. 13, 2016).

<sup>206</sup> See USCIS Webpage, "Green Card Through Refugee or Asylee Status" (Oct. 29, 2015); <https://www.uscis.gov/green-card/green-card-through-refugee-or-asylee-status> (accessed Aug. 24, 2016).

<sup>207</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM): Frequently Asked Questions" at 5 (Nov. 2016).

<sup>208</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM): Frequently Asked Questions" at 5 (Nov. 2016); USCIS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)" (Nov. 15, 2016); <https://www.uscis.gov/CAM> (accessed Dec. 13, 2016).

shared operational authority over CAM requires USCIS and DOS to cooperate in the adoption of certain Ombudsman recommendations.

### ***Recommendation #1***

USCIS, in coordination with DOS, should further increase the volume of USCIS interviews and associated RAVU processing of CAM cases.

*Addresses:*

*Key Issue of Concern #1 – Lengthy processing times*

*Key Issue of Concern #2 – Need for enhanced protection mechanisms for particularly vulnerable qualifying children*

As referenced in the *Positive Developments in CAM* section of this Recommendation, USCIS and DOS have already significantly enhanced the volume of CAM interviews. Moreover, CAM processing times remain considerably faster than for other refugee programs.<sup>209</sup> Despite USCIS and DOS' efforts, however, CAM processing times remain too long in view of the severe risks facing many CAM-eligible youth. In light of these risks, the expectation of larger numbers of CAM-AOR receipts, and the recently announced program expansion, the Ombudsman recommends that USCIS, in coordination with DOS, increase the volume of USCIS interviews and associated RAVU processing of CAM cases.

The Ombudsman acknowledges that this recommendation comes during a period of substantial demand on RAD and RAIO generally, as well as on PRM. The 64% increase in the refugee admissions ceiling over the past two years — from 70,000 in FY 2015 to 85,000 in FY 2016 and 110,000 in FY 2017<sup>210</sup> — has imposed steep operational challenges and resource strain. For example, the Asylum Division estimated in February 2016 that it would place 200 Asylum Officers on approximately 2-month assignments to RAD to help address its increased caseload.<sup>211</sup> Nonetheless, the countervailing weight of the time-sensitivity of CAM cases and vulnerability of qualifying children makes this recommendation necessary.

The Ombudsman further acknowledges that DOS controls the pace of pre-screenings of the CAM applicants that USCIS interviews.<sup>212</sup> DOS also has authority over the RSC facilities where these interviews occur, and where space limitations can constrain prescreening and interview volume.<sup>213</sup> In the *Further Actions Needed* section below, this Recommendation observes that augmentation of RSC staff, coupled with any required enhancements relating to the RSC facilities themselves, is necessary to increase the volume of pre-screenings of CAM applicants. Taken together, a larger volume of CAM pre-screenings, RAVU, and USCIS interviews will help shorten the overall CAM processing timeframe. Shorter timeframes will lessen the safety risks to qualifying children and allow USCIS and DOS to more effectively expedite cases.

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<sup>209</sup> “Ombudsman Annual Conference 2016, “Regional Refugee Resettlement Issues and the Central American Minors Program Panel” (Sep. 28, 2016).

<sup>210</sup> DOS Webpage, “Proposed Refugee Admissions for Fiscal Year 2017” (Sep. 15, 2016).

<sup>211</sup> See USCIS Asylum Division Quarterly Stakeholder Meeting Notes at 2 (Feb. 5, 2016).

<sup>212</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>213</sup> *Id.*

## ***Recommendation #2***

USCIS should permit access to counsel in CAM interviews.

*Addresses:*

*Key Issue of Concern #5 – Uncertainty regarding CAM eligibility, application process, and case status*

*Key Issue of Concern #7 – Lack of access to counsel during CAM interviews*

Qualifying children who are interviewed by USCIS have a regulatory right to counsel pursuant to the plain language of 8 C.F.R. 292.5(b) and a statutory right to counsel under the APA. They are vulnerable children living in extraordinarily dangerous circumstances where decisions regarding their cases have profound consequences for their safety and well-being.

A process, including a pilot program, to permit access to counsel in USCIS CAM interviews may provide a child with a better opportunity to present the most relevant and important facts to an interviewing officer as well as provide reassurance to a child who is attempting to navigate a complicated immigration process.

## ***Recommendation #3***

USCIS, in coordination with DOS, should publish a plain-language, comprehensive CAM Information Guide.

*Addresses:*

*Key Issue of Concern #5 – Uncertainty regarding CAM eligibility, application process, and case status*

An Information Guide would consolidate explanations of CAM eligibility requirements, application stages, anticipated program costs, and other information helpful to program stakeholders. To maximize comprehension and value, the guide would be available in multiple languages, make substantial use of visual representations, and cater to readers with a range of educational levels. Moreover, for stakeholders needing it, USCIS could format the guide, or key portions thereof, into audio recordings accessible through mobile phones and other devices so that literacy is unnecessary.

The creation and wide dissemination of this Information Guide would significantly alleviate uncertainty among relevant populations regarding their eligibility for the program, while improving current program participants' understanding of the complex CAM process. In turn, the Information Guide would reduce the volume of CAM inquiries directed to resettlement agencies and the RSC, preserving resources.

## ***Recommendation #4***

USCIS, in coordination with DOS, should publish and regularly update current CAM processing times.

*Addresses:*

*Key Issue of Concern #5 – Uncertainty regarding CAM eligibility, application process, and case status*

The publication of current CAM case processing times would provide a better understanding of the timeframe for cases that are acutely time-sensitive.<sup>214</sup> The Ombudsman recognizes that CAM cases, unlike various application types for which USCIS posts “normal processing times,” are a shared DOS and USCIS responsibility. Further, the “normal processing times” metrics that USCIS employs for other applications are not applicable to CAM. Nonetheless, processing times appropriate to CAM are already calculated.<sup>215</sup> USCIS, with the cooperation of DOS, could publish and update those processing times regularly. This would help CAM applicants take measures to protect their safety while their cases remain pending and prepare for potential post-arrival arrangements in the United States.

## **FURTHER ACTIONS NEEDED**

In addition to the above recommendations to USCIS, the Ombudsman urges USCIS’ attention to and support for additional steps to better meet the program’s objective. The suggestions described below are not formal recommendations to USCIS, nor do they call for a USCIS response. Rather, they are actions relating to program areas predominantly within DOS’ authority that would in some cases influence USCIS functions or require USCIS’ cooperation. They are included in this Recommendation to encourage and inform interagency dialogue and collaboration in these issues.

***Further Action Needed #1:*** Augmentation of RSC Latin America staff

*Addresses:*

*Key Issue of Concern #1 – Lengthy processing times*

*Key Issue of Concern #2 – Need for enhanced protection mechanisms for particularly vulnerable qualifying children*

*Key Issue of Concern #5 – Uncertainty regarding CAM eligibility, application process, and case status*

DOS, in connection with the announced CAM eligibility expansion, in-country referral program, and PTA, noted that “...we can expand the staffing and the resources necessary, working through our partner there, the International Organization for Migration.”<sup>216</sup> The Ombudsman welcomes these staff and resource additions. However, even without this expansion of CAM criteria or these new programs, the RSC will require additional staff, along with any associated

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<sup>214</sup> Information provided by stakeholders.

<sup>215</sup> “Ombudsman Annual Conference 2016, “Regional Refugee Resettlement Issues and the Central American Minors Program Panel” (Sep. 28, 2016).

<sup>216</sup> “On-The-Record White House Press Call on Central American Refugee Processing” (Jul. 26, 2016).

enhancements to space availability at the RSC facilities, to optimally process its growing CAM caseload. Additional staff at the RSCs will augment capacity to pre-screen and prepare CAM cases in lockstep with the higher volume of USCIS interviews and associated RAVU processing of CAM cases, and to shortening the overlong CAM processing timeframe generally. Additional staff also would help the RSC perform other program functions more expeditiously, including conducting Best Interests Assessments and fielding case inquiries submitted by qualifying children.

**Further Action Needed #2:** Enhancement of safety mechanisms for particularly vulnerable qualifying children through improvements in expedite and safe shelter protocols

*Addresses:*

*Key Issue of Concern #2 – Need for enhanced protection mechanisms for particularly vulnerable qualifying children*

Clear, specific CAM expedite request procedures, particularly to the resettlement agencies that submit the majority of such requests, would bring transparency and common understanding to this critical protection mechanism, resulting in better use of the expedite process. Such information would go beyond the guidance provided by DOS Department in 2011,<sup>217</sup> prior to the establishment of CAM, regarding expedited processing of refugee cases generally. Also, a uniform response process through which requesters receive timely and clear updates about their requests and any associated impacts on case processing would resolve confusion over request outcomes. Altogether, these improvements would make the CAM expedite mechanism a more effective resource for vulnerable qualifying children.

Further, a reevaluation of the current CAM shelter referral mechanism and the development of a more robust safe shelter protocol would make program participants substantially safer.<sup>218</sup> An effective safe shelter model, while requiring significant efforts and coordination, is critical to the success of the program’s protection system.

**Further Action Needed #3:** Establishment of RSC Latin America website offering “Check Case Status” feature and improvement of notification protocols relating to approved CAM parolees.

*Addresses:*

*Key Issue of Concern #5 – Uncertainty regarding CAM eligibility, application process, and case status*

A dedicated website, the equivalent of which IOM has already made available for the RSC in North Africa and the Middle East,<sup>219</sup> would allow CAM applicants to immediately and confidentially determine case status without needing to contact or arrange an appointment with a

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<sup>217</sup> DOS Webpage, “Expedited Protection and Resettlement of Refugees” (Oct. 24, 2011); <http://www.state.gov/j/prm/releases/factsheets/2011/181021.htm> (accessed Dec. 7, 2016).

<sup>218</sup> By “safe shelter,” the Ombudsman refers generally to facilities affording temporary and effective security. This Recommendation does not examine different safe shelter models, address the relative efficacy of those models, or endorse any specific model.

<sup>219</sup> IOM Webpage, “Resettlement Support Center: Middle East and North Africa;” <https://www.jordan.iom.int/refinfo/> (accessed Aug. 24, 2016).

resettlement agency affiliate office or the RSC. This resource would set more realistic expectations and alleviate ongoing uncertainty regarding case developments, as well as reduce the volume of inquiries made to resettlement agencies and the RSC concerning application statuses, enabling those agencies to concentrate their limited resources more fully on case processing and related functions.

Stakeholders have indicated that, in particular, qualifying parents of CAM applicants approved for parole are often uninformed of their children's case statuses.<sup>220</sup> A reexamination of the current notification protocols for CAM parolees, coupled with consideration of more effective practices, is needed. One possible option is the provision by the RSC of continuing case status notifications to resettlement agencies regarding pending cases. However, program partners must ensure, whether through signed privacy waivers or alternative measures, that this practice would comply with relevant confidentiality provisions and other applicable laws.

The adoption of the above recommendations and completion of these further actions would significantly enhance this program's effectiveness.

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<sup>220</sup> Information provided by stakeholders.

## APPENDIX I: CAM ELIGIBILITY CRITERIA AND APPLICANT PROCESS

For children in the Northern Triangle to be eligible for CAM as qualifying children, they must be:<sup>221</sup>

- 1) Under 21;
- 2) Unmarried;
- 3) A national of and residing in El Salvador, Guatemala, or Honduras; and
- 4) Have at least one “qualifying parent”

A qualifying parent must be 18 years or older and lawfully present in the United States under one of the below categories:<sup>222</sup>

- 1) Temporary Protected Status
- 2) Lawful Permanent Resident
- 3) Parolee
- 4) Withholding of Removal
- 5) Deferred Action
- 6) Deferred Enforced Departure

In addition, certain family members of the qualifying child may also be eligible for CAM, including:<sup>223</sup>

- 1) Unmarried children of qualifying children
- 2) Certain parents who live with qualifying children in El Salvador, Guatemala, or Honduras and who are legally married to the qualifying parents. Such in-country parents must independently demonstrate refugee claims to acquire refugee status through CAM
- 3) Certain unmarried children of parents who live with qualifying children in El Salvador, Guatemala, or Honduras, when those parents are legally married to the qualifying parents

On July 26, 2016, the U.S. government announced an expansion of CAM eligibility criteria under which additional categories of family members of qualifying children would be eligible to participate in CAM.<sup>224</sup> On November 15, 2016, DOS began accepting Forms DS-7699, *Affidavit of Relationship (AOR) for Minors Who Are Nationals of El Salvador, Guatemala, and Honduras* (CAM-AORs) listing these relatives.<sup>225</sup> In certain instances, this expansion can apply retroactively.<sup>226</sup> The additional categories of family members are:<sup>227</sup>

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<sup>221</sup> See USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016); <https://www.uscis.gov/CAM> (accessed Dec. 12, 2016).

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> See “On-The-Record White House Press Call on Central American Refugee Processing” (Jul. 26, 2016) (on file with the Ombudsman).

<sup>225</sup> See USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016).

<sup>226</sup> DOS Webpage, “Expansion of the Central American Minors (CAM) Program” (Nov. 15, 2016); <http://www.state.gov/r/pa/prs/ps/2016/11/264332.htm> (accessed Dec. 13, 2016) (a qualifying parent who filed a CAM-AOR between December 1, 2014 and November 30, 2016 and who seeks access for any of the expanded

- 4) Certain in-country biological parents of qualifying children who are not legally married to the qualifying parents
- 5) Certain in-country “caregivers” of qualifying children who are related to the qualifying parent or qualifying child
- 6) Certain in-country children of qualifying parents, irrespective of the children’s age and marital status

To obtain refugee status through CAM, each member of these expanded relative categories must establish independent refugee claims.<sup>228</sup> On an individual case basis, USCIS considers unmarried in-country biological parents and caregivers for parole.<sup>229</sup> When USCIS denies refugee status to in-country children of qualifying parents who are married and/or age 21 years or older, those children may seek parole by filing Form I-131, Application For Travel Document with USCIS.<sup>230</sup>

The CAM application process involves numerous stages, many of which are outlined below:

### ***1) CAM-AOR Filing***

As an initial step, the qualifying parent files Form DS-7699, *Affidavit of Relationship (AOR) for Minors Who Are Nationals of El Salvador, Guatemala, and Honduras* (CAM-AOR) in the United States through an affiliate office of a domestic resettlement agency.<sup>231</sup>

Domestic resettlement agencies are nongovernmental organizations that have cooperative agreements with PRM to facilitate the resettlement of refugees into the United States.<sup>232</sup> There are over 300 offices located throughout the United States that are affiliated with these resettlement agencies.<sup>233</sup> To initiate the CAM application process, qualifying parents must file the CAM-AOR through and under the guidance of one of these affiliate offices.<sup>234</sup> Parents are the only relatives who may file the CAM-AOR.<sup>235</sup> The affiliate office sends the CAM-AOR to the associated resettlement agency’s headquarters. The

relative categories must file an amended AOS before September 30, 2017; certain limitations may apply to the categories of qualifying relatives eligible to receive access retroactively).

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

<sup>230</sup> *Id.*

<sup>231</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions” at 1-2 (Nov. 2016); <http://www.wrapsnet.org/s/CAM-Frequently-Asked-Questions-November-2016.docx> (accessed Dec. 14, 2016).

<sup>232</sup> See DOS Webpage, “The Reception and Placement Program;” <http://www.state.gov/j/prm/ra/receptionplacement/> (accessed Dec. 13, 2016).

<sup>233</sup> See DOS Webpage, “Department of State, Bureau of Population, Refugees, and Migration Office of Admissions - Refugee Processing Center Affiliate Directory” (Nov. 28, 2016); <https://static1.squarespace.com/static/580e4274e58c624696efadc6/t/583c95959de4bb5951736960/1480365461934/Public+Affiliate+Directory+11-28-16.pdf> (accessed Dec. 13, 2016).

<sup>234</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions” at 1-3 (Nov. 2016).

<sup>235</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions” at 1-3 (Nov. 2016).

resettlement agency's headquarters then submits the form to DOS' Refugee Processing Center.<sup>236</sup>

In addition to assisting with these CAM-AOR filings, resettlement agencies and their affiliates are responsible for such key program functions as outreach to relevant local populations concerning CAM, continued coordination of the CAM-AOR application process following the initial filings, responding to questions and concerns from qualifying parents, and the administration of resettlement benefits for qualifying children who relocate to the United States as refugees through CAM.<sup>237</sup>

## 2) *The Pre-Screening Interview*

The Refugee Processing Center, upon accepting the CAM-AOR, sends this form to the RSC in Latin America.<sup>238</sup> PRM funds and directs nine such RSCs located around the world.<sup>239</sup> They are typically nongovernmental or intergovernmental organizations that perform a range of administrative functions associated with refugee processing abroad.<sup>240</sup> The IOM manages the RSC in Latin America.<sup>241</sup> In May 2016, IOM indicated that its CAM RSC would be relocating from Quito, Ecuador to San Salvador, El Salvador.<sup>242</sup>

The RSC schedules a prescreening interview with the qualifying child, during which an RSC caseworker collects biographical and case information that, among other uses, aids USCIS during ensuing stages of the application process.<sup>243</sup>

## 3) *DNA Testing, RAVU Processing, and Security Checks*

After the prescreening interview, the DNA testing process, RAVU processing, and security checks begin and proceed concurrently.<sup>244</sup>

**DNA Testing** — The qualifying parent and all biological qualifying children claimed on the CAM-AOR must undergo DNA testing to confirm the claimed familial relationships.<sup>245</sup> The qualifying parent pays upfront for these DNA tests, which can range upwards of \$500 or \$600 (U.S).<sup>246</sup> No waivers of the testing fees are available.<sup>247</sup>

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<sup>236</sup> Information provided by stakeholders.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.*

<sup>239</sup> See DOS Webpage, "U.S. Refugee Admissions Program;" <http://www.state.gov/j/prm/ra/admissions/> (accessed Dec. 13, 2016).

<sup>240</sup> *Id.*

<sup>241</sup> Information provided by RSC (May 17, 2016).

<sup>242</sup> *Id.*

<sup>243</sup> See DOS Webpage, "U.S. Refugee Admissions Program Central American Minors Flowchart" (Jan. 22, 2015); DOS Webpage, "U.S. Refugee Admissions Program."

<sup>244</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>245</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions" at 5 (Nov. 2016).

<sup>246</sup> Information provided by stakeholders.

<sup>247</sup> Information provided by stakeholders; information provided by DOS (May 5, 2016).

If the tests confirm all claimed and tested biological relationships, DOS reimburses the qualifying parent for the testing costs.<sup>248</sup>

**RAVU** — RAVU verifies the relationship of the qualifying parent to claimed qualifying children and, if applicable, an in-country parent.<sup>249</sup> RAVU also confirms the qualifying parent’s eligibility to file the CAM-AOR.<sup>250</sup>

**Security Checks** — USCIS conducts rigorous security vetting of CAM applicants. “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.”<sup>251</sup> Across all refugee programs “[r]efugee applicants are subject to intensive biographic and biometric security checks. Through close coordination with the federal law enforcement and intelligence communities, these checks are continually reviewed and enhanced....”<sup>252</sup>

Moreover, as part of its adjudication of both refugee and parole status, addressed below, USCIS assesses “the credibility [of CAM applicants] and evaluates whether the applicant’s testimony is consistent with known country conditions and all available evidence.”<sup>253</sup> Interviewing officers receive training on inadmissibility grounds, fraud prevention, and security issue identification for use during adjudications.<sup>254</sup>

#### 4) *USCIS Interview*

After completion of RAVU, USCIS conducts interviews of qualifying children “... to determine who will be admitted as a refugee or offered parole to the U.S....”<sup>255</sup>

Permanent Refugee Officers or other USCIS officers temporarily assigned perform these interviews.

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<sup>248</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions” at 5-6 (Nov. 2016).

<sup>249</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>250</sup> *Id.*

<sup>251</sup> See *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 U.S. Senate Committee on the Judiciary, 114th Cong. 2nd Sess. 3 (2015) (written statement of Joseph Langlois, Associate Director, Refuge, Asylum And International Operations Directorate, United States Citizenship and Immigration Services).

<sup>252</sup> USCIS Webpage, “Refugee Processing and Security Screening” (Dec. 3, 2015); <https://www.uscis.gov/refugeescreening> (accessed Dec. 13, 2016).

<sup>253</sup> See *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 U.S. Senate Committee on the Judiciary, 114th Cong. 2nd Sess. 3 (2015) (written statement of Joseph Langlois, Associate Director, Refuge, Asylum And International Operations Directorate, United States Citizenship and Immigration Services).

<sup>254</sup> Information provided by USCIS (May 18, 2016); USCIS Webpage, “Refugee Processing and Security Screening” (Dec. 3, 2015); <https://www.uscis.gov/refugeescreening> (accessed Dec. 13, 2016).

<sup>255</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors* – CAM): Frequently Asked Questions” at 4 (Nov. 2016).

CAM cases for which DNA test results have not been received may advance to the interview stage as long as RAVU has been completed.<sup>256</sup> In cases where USCIS conducts interviews prior to the receipt of DNA test results, USCIS issues conditional decisions and provides the RSC with decision letters.<sup>257</sup> The RSC, however, does not share these letters with applicants until DNA test results verify biological relationships.<sup>258</sup>

#### 5) *Adjudication of Refugee Status*

After completion of the interview, USCIS determines whether the child qualifies for refugee status.<sup>259</sup> To qualify for refugee status, the individual must demonstrate, among other requirements, persecution or fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group, as well as admissibility into the United States.<sup>260</sup> Children denied refugee status cannot appeal the decision but may submit a Request for Review (RFR) of the decision.<sup>261</sup>

#### 6) *Adjudication of Parole Status if Refugee Status Denied*

When USCIS denies the qualifying child refugee status, USCIS determines on a “case-by-case basis” whether the qualifying child qualifies for parole for “urgent humanitarian reasons or significant public benefit.”<sup>262</sup> A separate parole application is not required.<sup>263</sup>

#### 7) *Post-Approval Stages*

Qualifying children approved by USCIS for refugee or parole status must complete additional steps before receiving authorization to relocate to the United States through CAM.<sup>264</sup> The elements of this post-approval process depend on which status is granted.<sup>265</sup>

- **Qualifying Children Approved For Refugee Status**

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<sup>256</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> See DOS Webpage, “U.S. Refugee Admissions Program Central American Minors Flowchart” (Jan. 22, 2015).

<sup>260</sup> USCIS Webpage, “Refugees” (May 25, 2016); <https://www.uscis.gov/humanitarian/refugees-asylum/refugees> (accessed Dec. 13, 2016).

<sup>261</sup> See USCIS Webpage, “Request for Review Tip Sheet” (Apr. 9, 2014); <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/request-review-tip-sheet> (accessed Dec. 13, 2016). The RFR must contain “[a] detailed explanation of a significant error made by the adjudicating officer,” “[n]ew information that would merit a change in the decision,” or both. Generally, the RFR must be postmarked or received by USCIS within 90 days of the date of the denial notice.

<sup>262</sup> USCIS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM)” (Nov. 15, 2016).

<sup>263</sup> *Id.*

<sup>264</sup> See DOS Webpage, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM): Frequently Asked Questions” at 4-5 (Nov. 2016).

<sup>265</sup> *Id.*

Qualifying children approved for refugee status through CAM must undergo a medical exam as well as a cultural orientation designed to help prepare them for integration into the United States.<sup>266</sup>

IOM provides the child with a loan covering the costs of the child's travel to the United States.<sup>267</sup> Once in the United States, the child, like other refugees, is the beneficiary of a "Reception and Placement per capita grant" furnished by PRM to the coordinating resettlement agency in the form of a "per-capita" reimbursement.<sup>268</sup> Much of this grant goes directly to the temporary support of the arriving refugee's basic needs, such as housing, clothing, and school registration, if applicable.<sup>269</sup> Refugees also may receive other temporary benefits.<sup>270</sup> Refugees are eligible to apply for permanent residence one year after their lawful admission into the United States.<sup>271</sup>

- **Qualifying Children Approved for Parole**

Qualifying children denied refugee status but approved for parole must pay for their own mandatory medical exams as well as their travel to the United States through a USCIS-sanctioned process.<sup>272</sup> Parolees who relocate to the United States through CAM do not receive PRM-funded reception and placement benefits.<sup>273</sup> They also are not eligible to apply for permanent residence based on the grant of parole.<sup>274</sup>

### *Special Procedures for Particularly Vulnerable Qualifying Children*

For certain cases involving particularly vulnerable qualifying children, the CAM program affords special procedures aimed at protecting those children's safety and welfare during the application process, separate from the CAM refugee and parole assessments.<sup>275</sup> These procedures include case expedites, Best Interests Assessments, and shelter referrals.

- 1) **Case Expedites.** DOS and USCIS "expedite," that is, process on an accelerated basis, certain CAM cases presenting exigent circumstances.<sup>276</sup> Generally, it is resettlement agencies that request expedites, though qualifying children or their guardians also may

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<sup>266</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions" at 4 (Nov. 2016).

<sup>267</sup> See IOM Webpage, "United States of America" (Feb. 2016); <https://www.iom.int/countries/united-states-america#rtl> (accessed Dec. 13, 2016).

<sup>268</sup> See DOS Webpage, "Increase to the Refugee Reception and Placement Per Capita Grant" (Jan. 25, 2016); <http://www.state.gov/r/pa/prs/ps/2010/01/135800.html> (accessed Dec. 13, 2016).

<sup>269</sup> See DOS Webpages, "The Reception and Placement Program;" <http://www.state.gov/j/prm/ra/receptionplacement/> (accessed Dec. 13, 2016); "Increase to the Refugee Reception and Placement Per Capita Grant" (Jan. 25, 2010); <http://www.state.gov/r/pa/prs/ps/2010/01/135800.htm> (accessed Dec. 13, 2016).

<sup>270</sup> See DOS Webpage, "The Reception and Placement Program."

<sup>271</sup> See USCIS Webpage, "Green Card Through Refugee or Asylee Status" (October 29, 2015); <https://www.uscis.gov/green-card/green-card-through-refugee-or-asylee-status> (accessed Dec. 14, 2016).

<sup>272</sup> See DOS Webpage, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (*Central American Minors – CAM*): Frequently Asked Questions" at 5 (Nov. 2016).

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> Information received from DOS (May 2, 2016); information received from RSC (May 17, 2016).

<sup>276</sup> Information provided by DOS (May 2, 2016).

provide information directly to the RSC that results in an expedite.<sup>277</sup> DOS categorizes CAM case expedites; “urgent” cases often feature extenuating factors like sexual abuse, domestic violence, or medical requirements.<sup>278</sup>

- 2) **Best Interests Assessments.** The RSC administers Best Interests Assessments in connection with CAM cases on an “as-needed basis.”<sup>279</sup> The RSC may perform these assessments, for example, in instances where qualifying children are homeless, suffer child abuse, or do not wish to disclose pregnancy to their parents.<sup>280</sup> The purpose of the assessment is to analyze the child’s best interests and recommend actions that could include counseling, medical assistance, or “alternative care arrangements.”<sup>281</sup> The RSC’s Child Protection Officer coordinates these assessments.<sup>282</sup>
  
- 3) **In-country Shelter Referrals.** The RSC recommends and supplies contact information for in-country government-operated shelters to qualifying children deemed “in need of protection.”<sup>283</sup> However, stakeholders have indicated that shelters in El Salvador — the country of nationality of most qualifying children — cannot provide shelter to applicants for the duration of the CAM application process.<sup>284</sup> DOS and the RSC have indicated that, to date, children have largely declined to reside in recommended shelters.<sup>285</sup> The RSC does not maintain statistics on the rates of qualifying children who use recommended shelters, nor are referred minors or shelters required to report use of the shelters to the RSC.<sup>286</sup> The RSC has indicated that although around 50% of its CAM caseload involves applicants ages 18 and older, some shelters admit only minors under the age of 18, meaning that a substantial portion of program applicants would lack eligibility to stay at those shelters.<sup>287</sup>

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<sup>277</sup> Information provided by DOS (May 2, 2016); information provided by RSC (May 17, 2016).

<sup>278</sup> Information provided by DOS (May 2, 2016).

<sup>279</sup> Information provided by RSC (May 17, 2016).

<sup>280</sup> Information provided by RSC (May 17 and Aug. 3, 2016).

<sup>281</sup> Information provided by RSC (Aug. 3, 2016).

<sup>282</sup> *Id.*

<sup>283</sup> *Id.*

<sup>284</sup> Information provided by stakeholders.

<sup>285</sup> Information provided by DOS (May 2, 2016); information provided by RSC (May 17 and Aug. 3, 2016).

<sup>286</sup> Information provided by RSC (Aug. 3, 2016).

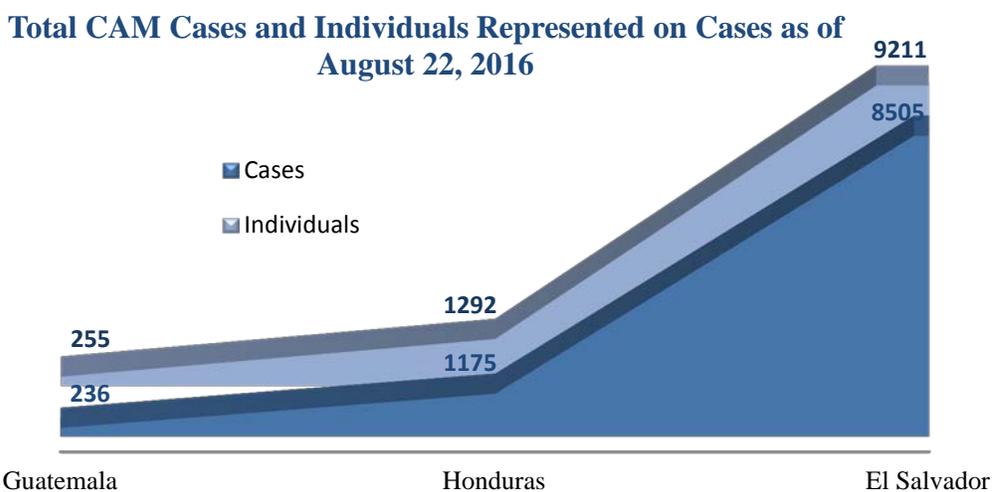
<sup>287</sup> *Id.*

## APPENDIX II: CAM PROGRAM DATA AND OUTCOMES

The information below provides data on CAM program receipts, applicant composition, and case outcomes to date.

### 1) CAM Cases

CAM-AORs filed as of December 12, 2016 amounted to approximately 9,916 cases representing 10,758 individuals.<sup>288</sup> The latter figure includes both qualifying children and their eligible family members. The overwhelming majority of these individuals — approximately 86% — were from El Salvador.<sup>289</sup> Roughly 12% were from Honduras, and about 2% from Guatemala.<sup>290</sup>



Source: Information provided by USCIS (Sep. 28, 2016).

### 2) Breakdown by CAM Applicant Type

Through August 1, 2016, approximately 84% of CAM applicants were qualifying children, approximately 10% in-country parents, and 6% derivative children.<sup>291</sup>

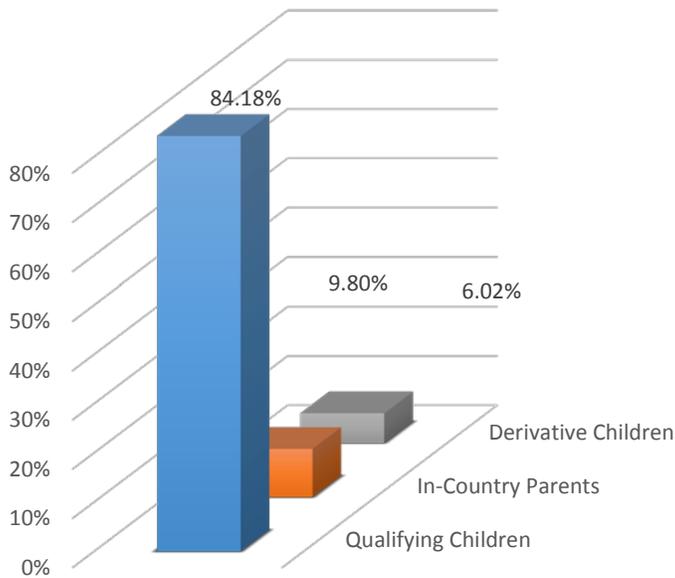
<sup>288</sup> Information provided by USCIS (Dec. 12, 2016).

<sup>289</sup> Information provided by USCIS (Dec. 12, 2016).

<sup>290</sup> Information provided by USCIS (Dec. 12, 2016).

<sup>291</sup> Information provided by USCIS (Sep. 28, 2016).

### CAM Applicants by Type as of August 1, 2016

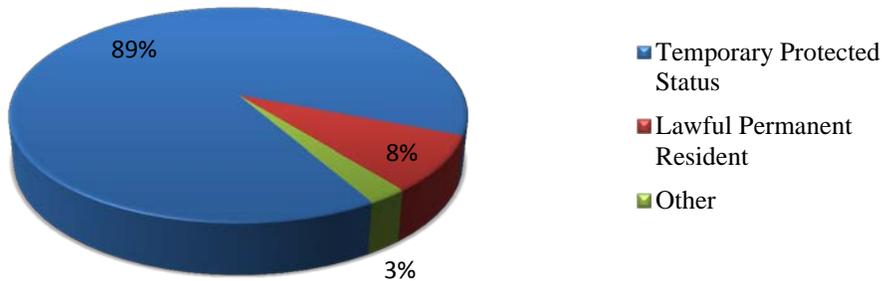


Source: Information provided by USCIS (Sep. 28, 2016).

### 3) Immigration Status of Qualifying Parent

Temporary Protected Status, by a dominant margin, is the most common immigration status of qualifying parents.<sup>292</sup>

### Immigration Status of Qualifying Parents as of March 2, 2016

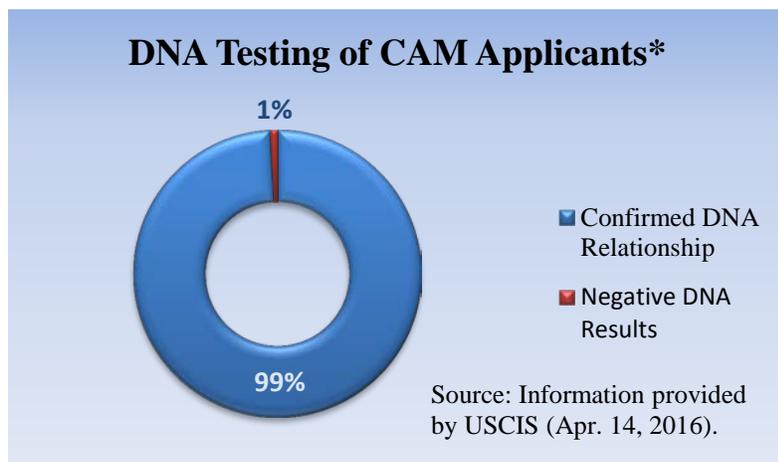


Source: Information provided by USCIS (Apr. 14, 2016).

<sup>292</sup> Information provided by USCIS (Apr. 14, 2016).

#### 4) CAM DNA Tests

Of CAM DNA tests, 99% have confirmed the claimed biological relationships.<sup>293</sup>



#### 5) CAM Adjudication Outcomes

As of August 22, 2016, of all CAM cases for which adjudication statistics were available — 3,253 interviews representing 3,416 individuals — USCIS had:

- Approved or conditionally approved for refugee status 802 cases representing 873 individuals, or about 25% of the cases<sup>294</sup>
- Recommended for parole 2,086 cases representing 2,151 individuals, or approximately 63% of the cases<sup>295</sup>
- Denied less than 1% of the cases<sup>296</sup>
- Held the remainder of the cases for “additional review”<sup>297</sup>

Since the receipt of information from USCIS through September 28, 2016, USCIS completed an additional 1,952 CAM interviews representing 2,335 individuals. This nearly doubles USCIS’ total to 5,205 CAM interviews representing 5,588 individuals.<sup>298</sup> USCIS projects that it will interview 80% of CAM applicants by the end of the second quarter of FY 2017.<sup>299</sup>

<sup>293</sup> Information provided by USCIS (Apr. 14, 2016).

<sup>294</sup> Information provided by USCIS (Sep. 28, 2016).

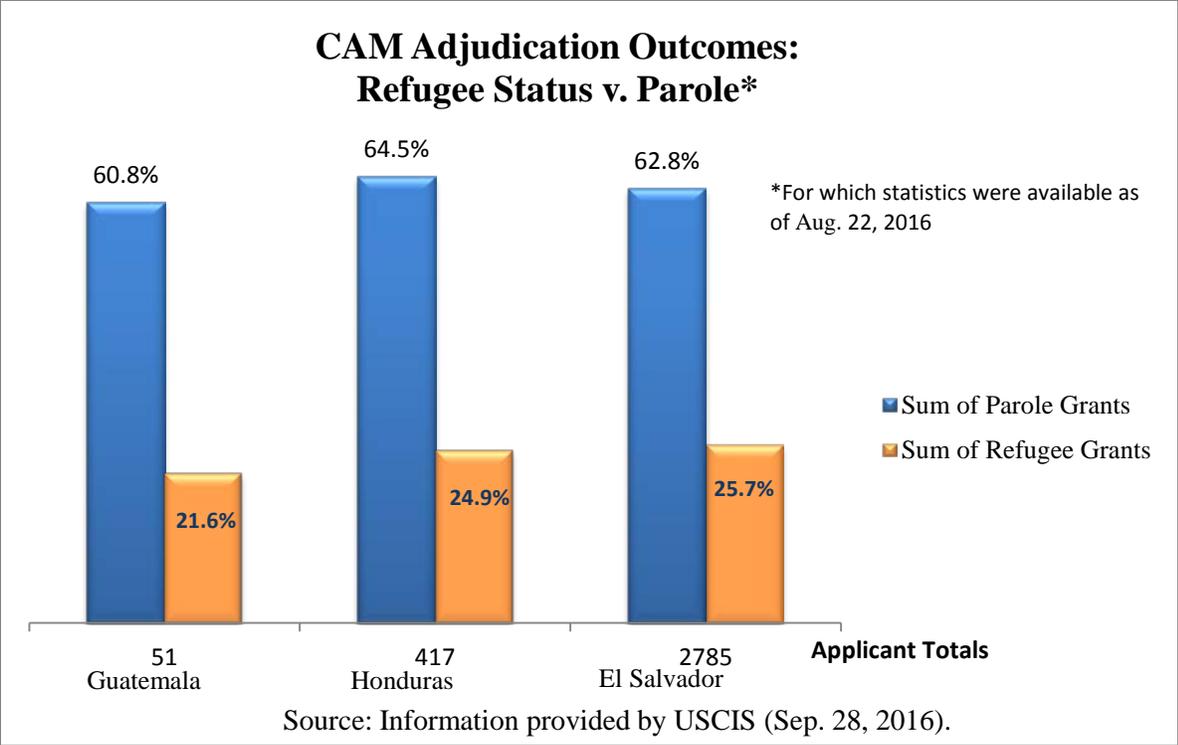
<sup>295</sup> *Id.*

<sup>296</sup> Information provided by USCIS (Sep. 28, 2016).

<sup>297</sup> *Id.*

<sup>298</sup> Information provided by USCIS (Nov. 21, 2016).

<sup>299</sup> Information provided by USCIS (Dec. 19, 2016),



**6) Arrivals in the United States through CAM**

As of December 12, 2016, 849 individuals had gained admission into the United States as refugees through CAM. By December 16, 2016, 969 individuals had arrived as parolees. In total, the program has enabled over 1800 children and family members to relocate to the United States.

## ACRONYM KEY

CAM	Central American Minors Refugee/Parole Program
CAM-AOR	Form DS-7699, <i>Affidavit of Relationship (AOR) for Minors Who Are Nationals of El Salvador, Guatemala, and Honduras</i>
CBP	Customs and Border Protection
DHS	Department of Homeland Security
DOS	Department of State
GAO	Government Accountability Office
ICE	Immigration and Customs Enforcement
INS	Legacy Immigration and Naturalization Service
IOM	International Organization for Migration
PRM	Bureau of Population, Refugees, and Migration
PTA	Protection Transfer Arrangement
RAD	Refugee Affairs Division
RAVU	Refugee Access Verification Unit
RSC	Resettlement Support Center
TPS	Temporary Protected Status
UAC	Unaccompanied Alien Children
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USCIS	United States Citizenship and Immigration Services