



August 19, 2015

The Honorable Jeh Johnson
Secretary of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, N.W.
Washington, DC 20528

Dear Secretary Johnson,

The Central American Minors Refugee/Parole Program ("CAM"), initiated by the Obama Administration in late 2014, is a key part of the Administration's effort to address the on-going humanitarian crisis of unaccompanied children seeking protection from Central America. Now that this important program is underway in earnest and we are starting to see how it is developing, we write to share several major concerns regarding the criteria and implementation of the program, and to ask for your immediate attention to address and resolve these problems so that it fulfills its potential.

Primary among our concerns is that the program may not serve its intended purpose of protecting Central American children and providing a safe, orderly route to the U.S., so that they are not forced to risk life and limb to reach our borders. Our specific concerns relate to: (i) the eligibility criteria for CAM, (ii) the application of the refugee definition to CAM applicants, (iii) the safety of children facing imminent danger in their country of origin during the CAM process, (iv) children navigating the CAM process without the support of counsel or a trusted adult to guide them, and (v) the long-term implications of the humanitarian parole option.

Kids in Need of Defense (KIND) is a leading national organization for the protection of unaccompanied children in the U.S. immigration system. KIND works closely with the U.S. Government to advance the protection of vulnerable children in both refugee and immigration settings. KIND also works on a regional basis through our Guatemalan Child Return and Reintegration Program, research on sexual and gender-based violence faced by migrant children in countries of origin and transit, and multiple regional partnerships and dialogues. We have been involved with the CAM program from the outset and are in touch with all parties, including the Department of State and its implementing partner (the International Organization for Migration), USCIS, resettlement agencies in the U.S., and many of the families seeking to reunite with their children. Below we share concerns based on our observations of the program thus far.

Eligibility criteria: We are concerned that the CAM program as currently designed is too narrow to reach many of the children in need of urgent protection – and that this in part explains the low application rates so far. The program requires parents to have one of the following legal

KIDS IN NEED OF DEFENSE (KIND)

Headquarters -1300 L St. NW, Suite 1100, Washington, DC 20005, Phone: 202-824-8680; Fax: 202-824-0702
www.supportkind.org

statuses: permanent residence, temporary protected status (TPS), parole, deferred action, deferred enforced departure, or withholding of removal. KIND regularly receives inquiries from our partners in the region regarding Guatemalan, Honduran, and Salvadoran children who are in need of protection and are separated from parents in the U.S., parents who are available to care for them. Many of these children in need, however, are ineligible for CAM because their parents do not have the requisite legal status to apply. Guatemalan children, in particular, are excluded from the program because Guatemala has not been designated for TPS (in contrast to Honduras and El Salvador). The exclusion of Guatemalan children—who may be at grave risk of trafficking or domestic abuse and who are seeking to reunite with parents in the U.S.—presents a significant safety and humanitarian risk that we know is of profound concern to U.S. policy makers. Given the dearth of applications filed and the many children excluded from the program as a result of the eligibility criteria for parents, we urge the Administration to revise and expand the criteria for parents to maximize protection for Central American children.

In addition, the CAM eligibility requirements exclude relatives other than parents who are lawfully in the United States and may actually serve in the place of the parents, such as grandparents, adult siblings, and aunts and uncles. Sadly, many families are unable to participate in the CAM program because a child's parents are not alive or are otherwise unable to care for the child, even though the child's safety is at risk. We request that the Administration expand the eligibility criteria to qualify these additional close family relatives to seek reunification with children.

Another source of concern is the requirement that children must reside in Guatemala, Honduras, or El Salvador in order to apply for CAM. This requirement excludes many of the very children the CAM program should protect. Notably, KIND's NGO partners in Mexico have contacted us about Guatemalan, Honduran, and Salvadoran children in Mexico, either in detention or temporarily residing in Mexico, and who have a parent lawfully residing in the U.S. Many of these children have fled their home country due to protection concerns. Mexico deporting them back to their countries of origin—usually without the benefit of access to an asylum review prior to removal—does not solve the problem. Rather, deportation from Mexico simply places these children at risk of re-migration (with all the real risks of trafficking and child abuse that accompany that) since conditions that forced them to flee have not changed. The Administration should immediately remedy this problem by accepting applications on behalf of children located in Mexico who are otherwise eligible for CAM. This correction will directly address the underlying concerns for which CAM was created and will protect the lives, safety, and well-being of numerous children.

Assessing children's refugee claims: We are concerned that the refugee definition is being applied to children in the CAM program in a manner that fails to recognize the urgent and distinct protection needs of many children. The United Nations High Commissioner for Refugees (UNHCR) found that nearly 58% of children from the Northern Triangle countries migrating to the U.S. need international protection.¹ Newspapers from the three countries daily include stories of women and girls murdered with impunity, children slain by gangs, domestic abuse, and other life threatening conditions. It is within this context of well-documented, alarmingly

¹ *Children on the Run, Unaccompanied Children Leaving Central American and Mexico and the Need for International Protection*, United Nations High Commissioner for Refugees (2014).

dangerous conditions for children that the Administration designated Central American children as a group of special concern to the U.S. and announced in-country refugee processing to protect them. This special designation and the fact that the applicants are unaccompanied children who are navigating the refugee process alone (and may have special challenges articulating their experiences) warrant a particularly careful and sensitive analysis of their claims. DHS reviewers should judiciously consider country conditions keeping in mind relevant conditions, and should apply the liberal “benefit of the doubt” principle² when analyzing CAM claims from these three countries, especially given the dangers children are facing in their countries, from which family members in the U.S. can protect them.

Emergency transit center: We are also deeply concerned about children in imminent danger with no emergency transit center option facilitated by the U.S. Government, as would be present in analogous urgent situations. When a child is experiencing persecution and needs to leave a situation of imminent risk in his or her home or community, the child will simply not be able to wait safely for completion of the CAM process. The requirement that children be interviewed (or attend appointments) multiple times in capital cities can also expose children to additional risks associated with internal travel. An emergency transit center should be established on an urgent basis in a third country such as Costa Rica, in cooperation with UNHCR.

Enhanced asylum and resettlement options: The Administration should support the capacity of all governments in the region to screen children for international protection needs and to adjudicate their claims for asylum. It should also support expanded resettlement options for children. KIND has received numerous inquiries by NGOs and individuals regarding Central American children who are in Mexico and in need of protection and family reunification. Some of these children have family members in the United States available to care for and protect them. The Administration should ask UNHCR to initiate refugee status determinations and resettlement referrals of Central American children in Mexico who are in need of international protection and family reunification. The U.S. should also work with UNHCR to encourage resettlement of Guatemalan, Honduran, and Salvadoran children to other countries in the region.

Pro bono resources for children with CAM claims: Perhaps most importantly from the perspective for the success of the program, even if the improvements noted above are implemented quickly, children in need of protection are now going through this complex process *on their own*. There is no UNHCR protection officer or child protection officer (and no NGO implementing partner staff) following the child’s case and supporting and counseling that child, as would normally be the case in the global resettlement program. We recommend that the

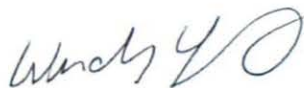
² USCIS and UNHCR recognize the need to apply the “liberal benefit of the doubt” principle to children’s protection claims. See e.g., Office of Int’l Affairs, Immigration and Naturalization Serv., DOJ, Guidelines for Children’s Asylum Claims (1998) at 19-20; Asylum Division, U.S. Citizenship and Immigration Services, Asylum Officer Basic Training Course, Guidelines for Children’s Asylum Claims (2009) at 36-40; United Nations High Commissioner for Refugees, Guidelines on International Protection: Child Asylum Claims Under Articles 1(a)(2) and 1(f) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees 3 (2009) at 6-7.

children be specifically referred to sources of pro bono support. To facilitate this, we are working with a major U.S. law firm towards creating a network of pro bono attorneys from reputable law firms in the three countries to support children with pending CAM claims to ensure that (i) they are safe, and (ii) they understand the process, which will be both unfamiliar and confusing to them. This, of course, would be at no cost to the child or the U.S. Government, and in fact would help the children understand the program and navigate it more efficiently and effectively, something that is likely to be spotty at best under present circumstances. We ask for *full* DHS cooperation in helping connect the children with this pro bono lawyer network and are prepared to assist in making the connections.

Humanitarian parole lacks path to permanency: Finally, we are concerned that children presented with the humanitarian parole option simply will not understand how humanitarian parole works, including the fact that it does not constitute a permanent solution once they have arrived in the U.S. The presence of a pro bono attorney, together with very clear explanations by DHS, will make it far more likely that the child will understand humanitarian parole. This could also help to ensure that if humanitarian parole is the status granted that the child consults with counsel once in the United States to explore their legal options and possibly apply for a form of immigration relief that offers a safe, stable, and permanent solution.

We share the Administration's goals of making this a safe and effective program to protect children facing persecution in Central America by creating an orderly immigration program. We ask that the above concerns be addressed promptly so that the program can meet the objectives established by the Administration. We are happy to work with DHS and the Department of State to develop concrete solutions to these concerns.

Sincerely,



Wendy Young
President

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KIDS IN NEED OF DEFENSE (KIND)

Headquarters -1300 L St. NW, Suite 1100, Washington, DC 20005, Phone: 202-824-8680; Fax: 202-824-0702
www.supportkind.org



1300 L St. NW
Suite 1100
Washington, DC 20005

CAPITAL DISTRICT 200/208

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The Honorable Jeh Johnson
Secretary of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, N.W.
Washington, DC 20528

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U.S. Citizenship
and Immigration
Services

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Wendy Young
Kids in Need of Defense (KIND)
1300 L Street, NW, Suite 1100
Washington, DC 20005

Dear Ms. Young:

Thank you for your August 19, 2015 letter. Secretary Johnson requested that I respond on his behalf.

Your letter offers several suggestions for expanding the eligibility criteria to give access to a greater number of individuals through the Central American Minors Refugee/Parole (CAM) program. U.S. Citizenship and Immigration Services (USCIS) understands the desire to expand the program's eligibility criteria; however, questions and suggestions about access to the program fall under the purview of the Department of State (DOS). We are happy to share your concerns with DOS, and encourage you to do the same directly.

We appreciate your concerns regarding the immigration statuses and relationships that enable individuals to seek access to the CAM program. USCIS must balance the interests of family reunification with proper verification of claimed biological relationships. At this time, the Administration believes that family reunification involving individuals lawfully present in the United States—to include individuals with deferred action, Temporary Protected Status, and withholding of removal—with their relatives should be the program's top priority. Currently, there are no plans to expand the scope of eligibility based on family relationships, but we always welcome your recommendations for future consideration.

Your letter also expresses concern about how the refugee definition is applied in the CAM program. We assure you that refugee officers receive the highest quality of training on conducting CAM interviews and the applicable legal standards governing the refugee definition. Indeed, in addition to the basic training required of all USCIS officers, refugee officers receive five weeks of specialized training that includes legal and country condition training, and interviewing techniques including those pertaining to interviewing children.

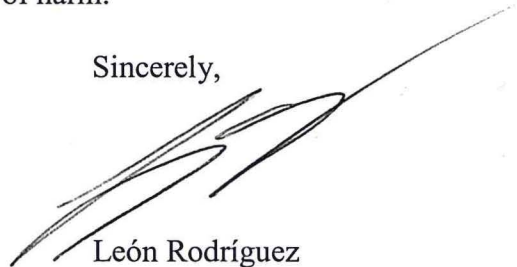
The United States Refugee Admissions Program (USRAP) endeavors to cut down processing time within the CAM program, given the concerns you duly noted regarding children in imminent danger. Children who are in immediate danger are strongly encouraged to provide this information to a DOS Resettlement Support Center (RSC) staff member. The RSC has a Child Protection Officer on staff whose responsibilities include ensuring the well-being of child applicants. DOS works with RSC to identify certain trusted shelters in the region, and, in the

appropriate cases, is able to provide the child and his or her caregiver with information on available shelters where they can turn for temporary assistance. We also note that while in some cases, the program may be able to expedite certain steps in the process. There are numerous required elements of the refugee processing protocol that must be satisfied in each case, including in-person interviews, security checks, and medical clearances.

Finally, you express concern about whether children are able to understand the parole aspect of the program and recommend pro bono attorneys be permitted at interviews. USCIS currently has no plans to depart from worldwide refugee processing procedures, which do not allow presence of counsel at refugee interviews outside of the statutory provision for certain Iraqi applicants. However, USCIS does explain the parole portion of the program to applicants. Prior to the interview, a USCIS officer provides a brief explanation of the possible decision outcomes to applicants and their caregivers. Furthermore, applicants who are denied refugee status, but are conditionally approved for parole, receive a "tip sheet" explaining parole procedures and requirements. USCIS welcomes Kids In Need of Defense's thoughts and assistance on further educating applicants regarding CAM parole.

We appreciate your suggestions and commitment to the protection of children while ensuring that the program offers a real alternative to children who may have legitimate claims to refugee status or are otherwise at risk of harm.

Sincerely,

A handwritten signature in black ink, appearing to read 'LR', is written over the printed name and title.

León Rodríguez
Director