



## Improving the Protection and Fair Treatment of Unaccompanied Children

September 2016

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Headquarters: 1300 L St. NW – Suite 1100 – Washington, DC - 20005  
Phone: 202-824-8680 E-Mail: [info@supportkind.org](mailto:info@supportkind.org) [www.supportkind.org](http://www.supportkind.org)



## Vision Statement

KIND serves as the leading organization for the protection of children who enter the U.S. immigration system alone and strives to ensure that no such child appears in immigration court without representation. We achieve fundamental fairness through high-quality legal representation and by advancing the child's best interests, safety, and well-being.

KIND was founded by the Microsoft Corporation and UNHCR Special Envoy Angelina Jolie, and is the leading national organization that works to ensure that no refugee or immigrant child faces immigration court alone. We do this in partnership with over 335 law firms, corporate legal departments, law schools, and bar associations, which provide pro bono representation to unaccompanied children referred to KIND for assistance in their deportation proceedings. KIND has received nearly 13,000 child referrals since we opened our doors in 2009 and trained over 14,000 pro bono attorneys. KIND also helps children who are returning to their home countries through deportation or voluntary departure to do so safely and to reintegrate into their home communities. KIND also advocates to change law, policy, and practices to improve the protection of unaccompanied children in the United States, and is working to build a stronger regional protection framework throughout Central America and Mexico. We educate policymakers, the media, and the broader public about the violence that is driving children out of the Northern Triangle and their need for protection. For more information, please visit [www.supportkind.org](http://www.supportkind.org)

**The Way Forward: Fair and Humane Treatment of Unaccompanied Children**, September 2016. Authors: Jennifer Podkul and Megan McKenna; Contributors: Wendy Young, Cory Smith, and Lisa Frydman. Layout and design: Alexandra Pender. All children's names have been changed to protect their identity.

### **Yessica and Yulia's Story**

*Yessica and Yulia are 12- and 10-year-old girls from El Salvador. Gangs in El Salvador had harassed their family for years and murdered a number of their family members. Yessica and Yulia's family moved to a new area, which was controlled by the MS-13 (MS) gang. They had previously lived in 18th Street gang territory. MS gang members shot and killed the girls' father. After the family reported the murder to the police, the gang retaliated by threatening to kill the family if the complaint was not withdrawn. The girls and their family moved away; the girls' grandmother stayed. Two days after their father's murderer was sentenced, their grandmother was killed. MS found out where Yessica and Yulia's family had moved and threatened their uncles at gun point. MS then tortured and killed one of the girls' uncles. Afraid that the same or similar fate would befall Yessica and Yulia, their family helped them flee El Salvador and reunite with their mother in the United States.*

### **Record Increases in Child Arrivals**

Unaccompanied children continue to come to the United States from Central America in significant and rising numbers due to continued violence and danger in their home countries, much of it perpetrated by gangs, narco-traffickers, and other criminal groups. Child arrivals from El Salvador, Honduras, and Guatemala—collectively known as the Northern Triangle of Central America—began to increase noticeably from previous years in October 2011 and rose significantly each year from that time forward, to a historic peak in 2014.

Since 2014, more than 160,000 unaccompanied children have arrived seeking protection in the United States.<sup>1</sup> Although fewer children came in Fiscal Year 2015 due to increased interdiction and deportation of unaccompanied children by Mexico with support from the United States, the numbers began to rise again in August 2015. The number of children seeking protection in the United States in 2016 will be higher than 2015, and will be close to 2014 arrivals.<sup>2</sup>

This large flow of children from Central America seeking protection in the United States is not surprising. The root causes of these children's flight have not been resolved. They face unprecedented violence in their home countries. El Salvador, Honduras, and Guatemala are among the top five most violent countries in the world due to gang and other organized criminal violence.<sup>3</sup> El Salvador recently unseated Honduras as the most murderous country in the Western Hemisphere and is facing violence not seen since the end of its civil war.<sup>4</sup> El Salvador, Guatemala, and Honduras rank first, third, and seventh, respectively, for rates of female homicides globally.<sup>5</sup> The governments of these countries are unable or unwilling to control this pervasive violence. KIND regularly receives referrals of children in need of attorneys to represent them in immigration court who have endured horrific abuse; KIND has seen a rise in young children, both boys and girls, who

have been raped or sexually assaulted, often more than once. Others have been abducted, witnessed family members murdered, or been threatened themselves with murder.

The UN High Commissioner for Refugees (UNHCR) found in 2014 that 58 percent of the unaccompanied children interviewed for its report *Children on the Run* would have valid claims to international protection, meriting further evaluation of their cases because their primary motivation for coming to the United States was to escape violence in their home countries.<sup>6</sup>

The United States is not alone in receiving high numbers of vulnerable children. Since 2008, Mexico, Belize, Costa Rica, Nicaragua, and Panama have seen the number of asylum applications from citizens fleeing the Northern Triangle grow nearly 13 times the number in 2008.<sup>7</sup> Just as in other refugee situations around the world, Central Americans typically flee to countries where they have familial or other connections. Not only are thousands of unaccompanied children traveling on their own, but high numbers of young mothers are also migrating with their young children in search of protection.<sup>8</sup>

## Screening at the Border

A large number of unaccompanied children are apprehended by the Department of Homeland Security Customs and Border Protection (CBP) soon after they cross the border into the United States. They arrive hungry, dehydrated, and scared after having traveled hundreds or thousands of miles without a caretaker. Some have become sick during the journey, while others have been beaten, raped, denied food, and/or abandoned by smugglers and human traffickers facilitating their journey to the United States.

For many, CBP is the first point of contact with the U.S. immigration system. CBP is charged with determining whether children have permission to enter the country legally and if they are unaccompanied. If an unaccompanied child is from a country other than Mexico or Canada, the United States requires that the child be placed into the custody and care of the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR) within 72 hours.<sup>9</sup> While in ORR custody, the child is screened for protection concerns by social workers and attorneys with child welfare experience.

The treatment of unaccompanied children from Mexico and Canada, because they are from countries contiguous to the United States, differs significantly from all other nationalities, including children from Central America. Mexican and Canadian children can be repatriated directly from the border if it is determined they are not being trafficked or at risk for human trafficking, do not fear persecution upon return, or are able to make an independent decision to withdraw their request for admission to the United States. If none of these triggers are met, the child is quickly repatriated.

Several studies have found that it is likely that many children subjected to such cursory screening may not express their fears or reasons for coming to the United States to a uniformed officer of whom they are likely fearful and do not necessarily trust.<sup>10</sup> In addition, CBP agents and officers do not have the child welfare expertise necessary to determine children's protection needs. These studies have also shown that CBP has completely failed to properly screen unaccompanied children from Mexico for protection concerns, which means that many Mexican children who may be in need of and eligible for U.S. protection were returned to likely harm.<sup>11</sup>

The historic numbers of child arrivals in 2014 led to a number of legislative proposals in Congress that would grant CBP authority to deport all unaccompanied children directly from the border, which would have denied children arriving alone an opportunity to consult with a lawyer or appear before a judge to raise a defense against deportation, thus ending a longstanding practice and a vital protection codified in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. Advocates strongly opposed these bills, arguing that no unaccompanied child should be screened for protection concerns at the time of, or soon after, their apprehension at the border given their unique vulnerability and the complexity of their cases.<sup>12</sup> They noted that children typically survive harrowing journeys and need time to recover and receive appropriate care before they can properly answer questions that would potentially result in their immediate deportation back to the life threatening conditions they escaped.

### KIND Recommendations

- Only a specially trained official with child welfare experience and expertise should conduct screening of all unaccompanied children at the border and provide specialized care. Hiring officials with appropriate child welfare expertise will not only improve conditions for children, it will ensure that other officers and agents have the time to devote to law enforcement duties more in line with their expertise.
- Cursory and expedited border screenings that are applied to contiguous country nationals should not be extended to children from other regions. It is critical that all unaccompanied children get access to full hearings grounded in due process, including representation by counsel.

### Shelter

Initially in 2014, when the number of children apprehended at the border began to increase dramatically, ORR did not have enough space to accommodate the rising numbers. As a result, large numbers of children were held in cramped CBP facilities for weeks at a time, contravening the law and minimum child welfare standards.

To remove the children from CBP facilities, ORR established several emergency facilities on military bases to temporarily house large numbers of children. While there was a desperate need for more

bed space capacity, and these facilities were preferable to prolonged stays in CBP border stations, many children held in these emergency facilities experienced an egregious protection gap. As ORR prioritized freeing up bed space as rapidly as possible, numerous children were released from ORR facilities and reunified with a sponsor before receiving a Know Your Rights (KYR) presentation about their rights and responsibilities under U.S. immigration law,<sup>13</sup> or were not screened for eligibility for relief.

In addition, many children were not referred to sources of pro bono legal representation in their post-release destination sites, and were unaware that assistance was available to guide them through the immigration court process. As a result, once a child was reunified, many had no information about how to comply with immigration court requirements or what services were available to them. Many ended up lost in the system.

ORR increased its capacity in 2015 to 7,800 beds available to house recently arrived unaccompanied children. In 2016, the agency increased its number of available beds to nearly 8,400.<sup>14</sup> Although a significant number of unaccompanied children have come to the United States in 2016, ORR has said it is prepared and is likely to have adequate bed space through a combination of regular and emergency facilities to accommodate the high numbers.

### KIND Recommendations

- Congress should appropriate a contingency fund with additional funds to enable ORR to access emergency funding if ORR's caseload increases dramatically over the current base program funding level.
- The national network funded by ORR to coordinate expert legal services organizations to provide KYRs and legal screenings to unaccompanied children in ORR facilities should always be tapped in an emergency to ensure that children in every ORR emergency facility receive KYRs and legal screenings.<sup>15</sup> While in ORR custody, it is essential that every child—regardless of where they are detained or for how long, whether in a permanent shelter or emergency facility—receives a KYR, a legal screening, and a referral to legal services to ensure that they receive fair hearings grounded in due process.
- Nongovernmental organizations (NGOs) with expertise in working with refugee children should be consulted when emergency facilities are being considered to ensure that the facilities are appropriately designed and equipped to meet recognized child welfare standards and comply with federal standards and state and local licensing requirements. Such facilities should be located in or close to urban centers where legal and social services are readily available.

## Access to Counsel

Unaccompanied immigrant and refugee children who are facing deportation proceedings, regardless of age, are not appointed attorneys to represent them in the complex immigration court process. Children are unable to navigate the U.S. immigration system without an attorney or raise a defense against a government attorney who is arguing for the child to be deported. Without the provision of representation, the United States risks sending large numbers of children back to grave harm, and even death.<sup>16</sup>

Children with attorneys are five times more likely to be successful in their claim for U.S. protection than those without.<sup>17</sup> Conversely, only one in 10 children without attorneys gains U.S. protection.<sup>18</sup> In addition, children with attorneys are more likely to appear in immigration court. In FY 2015, children who were represented by counsel had an over 94 percent appearance rate.<sup>19</sup>

Counsel also helps reduce waste of valuable judicial resources. When children are unrepresented, proceedings are often delayed as immigration judges give the child more time to find an attorney. Attorneys can screen children for relief, reduce the amount of unneeded court time, and help ensure that hearings are conducted more efficiently. Attorneys also help reduce fraud by unauthorized representatives, often known as notarios,<sup>20</sup> who take advantage of desperate families, particularly those who are trying to find an attorney for their child in the limited time allotted before the child must appear in court.

The U.S. government's efforts to increase resources available through ORR and the Department of Justice (DOJ) to support direct representation at no cost to the child<sup>21</sup> and the facilitation of private sector pro bono counsel to unaccompanied children in proceedings has helped increase representation rates, but they have not been sufficient to prevent tens of thousands of these children from having to appear in court without attorneys.

Restrictions on these programs impede their effectiveness. The attorney positions are either for direct representation or to facilitate private sector pro bono representation; a position cannot combine the two. A number of constraints are also placed on the types of cases an organization can accept. This has led to inconsistent services across the country, and limits on the ability to deploy attorney time and resources where they are most needed.

Before October 2011, when child arrivals began increasing significantly, more than half of unaccompanied children did not have attorneys in immigration court. During the height of the historic arrivals in 2014, only 15 percent of children were represented by counsel.<sup>22</sup> As of July 2016, about half of unaccompanied children in removal proceedings do not have attorneys.

The private sector has done an extraordinary job of working with NGOs that have expertise in immigration legal services to provide pro bono representation to unaccompanied children. Public-

private partnership models, such as the one used by KIND, are effective and cost-efficient. KIND has trained more than 14,000 private sector lawyers to represent unaccompanied children in immigration court, and leveraged more than \$124 million in pro bono hours from 2009 - 2015.

To address the lack of counsel, Senate Minority Leader Harry Reid introduced in February 2016 the *Fair Day in Court for Kids Act of 2016* (S. 2540),<sup>23</sup> while Representative Zoe Lofgren introduced companion legislation in the House of Representatives (H.R. 4646),<sup>24</sup> to mandate counsel for unaccompanied children in removal proceedings.

Attorneys representing children in immigration court are obligated to advocate for the child's express wishes. There are times when the child's wishes conflict with their best interests. Therefore, in addition to legal services, unaccompanied children need assistance promoting their best interests. In cases in which a child lacks the capacity to express her interests, where best interests and expressed interests differ (e.g., the child despairs of spending another month in detention and asks to return to her country where she may be killed), or when concerns regarding the child's attorney are raised (e.g., unethical behavior), child advocates are vital. The child advocate can convey important information to an adjudicator about the child's best interests and any safety concerns. Particularly for young children, advocates can make recommendations about conditions of detention, release, custody, placement, and issues of safe repatriation. When a child is unrepresented, a child advocate can help the child find an attorney to take the case. Many children require both an attorney and an advocate to ensure a fair and safe outcome in their case.

### KIND Recommendations

- The Administration should maximize resources and allow government-funded attorneys the flexibility to provide a mix of private sector pro bono facilitation and direct representation.
- NGOs must be supported to train and mentor volunteer attorneys to ensure that children receive high quality representation.
- Congress should immediately appropriate at least \$80 million to ORR to increase the pro bono legal services initiative, supporting the expansion of legal representation for both released and detained unaccompanied children. This level of funding, however, would not ensure that all children receive representation.
- Congress should pass and fully fund the *Fair Day in Court for Kids Act*.
- Congress should continue to appropriate funds to HHS to provide child advocates when appropriate.

## Expedited Court Procedures and Impact on Due Process

In July 2014, DOJ created “priority dockets” at the immigration courts to expedite the removal proceedings of thousands of recent arrivals, namely unaccompanied children and women and children fleeing violence in Central America and Mexico.<sup>25</sup>

DOJ’s Executive Office for Immigration Review (EOIR) directed master calendar hearings for unaccompanied children to be held within 21 days of the court’s receipt of the child’s Notice to Appear in immigration court.<sup>26</sup> This was the first time in history that children were singled out for disparate treatment in the adjudication of their cases by the immigration courts.

These so-called “rocket dockets” were deeply problematic. Children often could not find attorneys in time for their hearing. In other instances, desperate families hired a notario so the child would have someone with them in immigration court. Hearing notices at times reached the child only after the hearing date due to bureaucratic errors or changes of address. In other cases, by the time the child received the notice, the court date was imminent and the child lacked sufficient time to obtain counsel. Children fortunate enough to find attorneys often did not have adequate time to prepare their case, or did not have time to establish the necessary trust in the attorney to be able to share the deeply traumatic experiences that would serve as the basis of their claim. As a result of a combination of these factors, thousands of children were ordered removed in absentia.<sup>27</sup>

Although the time restrictions placed by DOJ on unaccompanied children’s cases were subsequently extended to 90 days, the continued prioritization of these cases remains problematic for protection concerns. In addition, expediting these children’s cases as a deterrent to prevent large numbers of children coming to the United States is ineffective policy and undermines U.S. leadership in the protection of the most vulnerable.

To compound the representation issues, EOIR has a historic and continually growing backlog of cases, which pre-dates the increased child arrivals and is largely attributable to the lack of resources to support an adequate number of immigration judges and support staff.<sup>28</sup> Funding for 55 additional immigration judge teams passed Congress with bipartisan support in the Fiscal Year 2016 omnibus appropriations bill and will help, but many more are needed.

### KIND Recommendations

- Revert to “first in-first out” method of scheduling court dockets based on date of Notice to Appear, not age, country of origin, or UAC status.

- DHS and EOIR should postpone hearings of children who do not have representation and only proceed with hearings for cases in which the child is represented by counsel, and after adequate time to prepare the case is provided.
- EOIR should direct the immigration courts to grant, *sua sponte*, continuances to non-appearing children who are not represented by counsel rather than entering in absentia orders of removal. DHS should support the continuance of these cases.
- In FY 2017, \$75 million should be appropriated in the Commerce, Science, Justice, and related agencies spending bill for 75 additional immigration judge teams to address understaffing that has led to backlogs and long delays.
- The 55 immigration judge teams funded in the FY 2016 omnibus appropriations bill should be brought on board rapidly to address the current crisis. Hiring procedures should be streamlined to support this timely expansion.

## Adjudication of Children's Immigration and Asylum Cases

Children who arrive in the United States and are placed in removal proceedings may be eligible for asylum or several forms of complementary forms of protection under U.S. law, including but not limited to Special Immigrant Juvenile Status (SIJS) for children who have been abused, abandoned, or neglected, T (trafficking) visas, and/or U visas (for victims of crimes). The adjudication of children's immigration cases is particularly challenging and must take into account a child's developmental stage, any trauma she/he may have experienced, and cultural background. For example, indigenous children, girls, and LGBTI youth may be particularly reluctant to share their experiences with their attorneys and government authorities.

### Kenny's Story

*Kenny fled El Salvador when he was 14 years old after years of sexual abuse and discrimination for being perceived in his community as gay. Schoolmates picked on him starting when he was 7 for appearing gay. He was also targeted in his home. Kenny was sexually and physically abused by several male members of his extended family. When his caregiver learned of these abuses she told Kenny to stop being gay. School teachers told him the same thing as groups of students were teasing and threatening him in the classroom. Kenny fled to the United States. When he was apprehended by CBP and later screened by ORR, he was too scared to disclose the years of abuse and his sexual orientation. It wasn't until Kenny was referred to KIND and met several times with his pro bono attorneys that he felt comfortable enough to share his entire story. Kenny was granted asylum.*

No one government entity is tasked with reviewing children's protection claims. The TVPRA of 2008 created certain procedural protections for unaccompanied children.<sup>29</sup> As such, children's

cases may be considered in three different adjudication systems: the immigration courts, U.S. Citizenship and Immigration Services (USCIS), and state courts.

All children from noncontiguous countries that are apprehended at U.S. borders are placed in removal proceedings before the immigration court, but due to a provision of the TVPRA, although their removal case is still pending before a judge, instead of having to initially defend their asylum claim in an adversarial court hearing as an adult would be required to do, an unaccompanied child's case will first be heard by an asylum officer at USCIS.<sup>30</sup> Only if the asylum officer is unable to grant the child's claim, will a child then present their case before a judge.

USCIS also retains jurisdiction over the adjudication of any visa petition, including T, U, and SIJS. In addition, if the child is applying for SIJS, the child will be subject to a third adjudication process. State courts have jurisdiction over the issuance of the predicate orders that are a prerequisite for applying for SIJS; the courts must find that a child has been abused, abandoned, or neglected and that it is not in their best interests to be returned to their home country.

In mid-2016, the Department of State notified DHS that it had reached the statutory ceiling on the number of visas allocated to the SIJS program for five countries, including Guatemala, El Salvador, and Honduras.<sup>31</sup> This meant hundreds of children who have been deemed eligible for this important protection could not adjust their status and receive permission to live in the United States—despite a positive adjudication of their case. Children unable to gain lawful permanent status are left in limbo and vulnerable to exploitation while they wait for visas to become available. The visa shortage will only worsen as the numbers of children continue to rise. SIJS, once an important safety net for abused and neglected children, is no longer a reliable form of protection.

### **SIJS: Pamela and Alex's Story**

*Pamela and Alex's mother came to the United States from Honduras when the children were 8 and 5 years old to escape constant brutal beatings and multiple death threats from Pamela and Alex's father. After their mother left for the United States, Pamela and Alex lived with their maternal grandmother. Their father, who did not provide any support, frequently came to the house to threaten and terrorize his children. When Pamela was 14 and Alex was 11, their grandmother became ill and could no longer care for them. Fearing for their safety and with no one to take care of them in Honduras, Pamela and Alex traveled to the United States and were able to reunite with their mother. They received SIJS.*

Although generally the forms of protection available under U.S. immigration law have historically protected many children in need of safety and permanence, there are other children who either cannot navigate these complex, disjointed systems and fall between the cracks, or are not eligible for the existing forms of protection, but cannot return safely to their home country. In SIJS cases, a number of state courts have become hostile to hearing cases involving immigrant children,

erroneously believing that they are being asked to adjudicate an immigration case. This has limited the ability of children whose cases are in these state courts to access protection under SIJS.

In addition, many child asylum claims do not fit the traditional analysis that adjudicators are accustomed to hearing, such as children seeking protection in the United States from gang violence and intra-family abuse, and making protection claims that are novel under U.S. case law. Although UNHCR has weighed in on how these kinds of claims fit the refugee definition, U.S. adjudicators are still reluctant to interpret them accordingly under U.S. law.<sup>32</sup> Approval rates for these kinds of cases vary greatly across the country. Some jurisdictions have high approval rates, such as San Francisco, while others are notably low, such as Atlanta.<sup>33</sup>

### KIND Recommendations

- DHS should establish a well-trained, specialized corps of adjudicators, to ensure that the best interests of the child is a primary factor in deciding a child's immigration case, and that these adjudicators are specially trained in the most common types of protection claims children make.
- Congress should create a "Best Interest Status" that would be available after all other forms of relief that permit a child to remain in the United States are denied. A child seeking this status would have to demonstrate that repatriation is not in the child's best interest.
- In cases in which children do not qualify for immigration relief but who appear to be returning to danger or circumstances harmful to their welfare, ICE should exercise prosecutorial discretion to defer removal.
- Any new paradigm to handle the increased numbers of unaccompanied children must support the opportunity to meaningfully apply for any of the forms of relief for which each adjudicatory body has authority.
- Additional resources should be dedicated to support ongoing training of both immigration judges and asylum officers on how to apply child-sensitive techniques in hearings and interviews and how children's asylum claims fit within the refugee definition.
- The Administration should implement a deferred action status for children with approved SIJS applications who are unable to adjust until a visa becomes available. The deferred action would not only protect a child from removal, but it would provide them access to a work permit necessary for integration in their community.

## Return and Reintegration

Given their unique vulnerability, and the pervasive violence in Central America, unaccompanied children should not be deported from the United States unless they have had access to full, fair, and objective consideration of their claims to relief through procedures that comport with due process. This includes representation by competent, trained attorneys.

If appropriate assistance has been provided throughout the child's case, and all appeal rights have been exhausted, unaccompanied children may be removed to their countries of origin, as long as certain conditions are met. Consistent with domestic and international child welfare standards, ideally, no child would be repatriated to their country unless repatriation is in their best interests.

### **Child with asylum claim prevented from repatriation to danger**

*When she first met with her attorney, a 14-year-old indigenous girl from Guatemalan did not disclose that an older man in her village had been stalking and harassing her, telling her she had to marry him. She had no one to protect her from his threats. She did not feel safe to disclose her experiences to the attorney who screened her while in ORR custody out of shame, even though she was terrified to return to Guatemala. As a result, she was advised to take voluntary departure because no relief had been identified. She was referred to KIND's Guatemalan Child Return and Reintegration Project. She shared her full story with KIND, which advised her that she could potentially qualify for immigration relief, and encouraged her to disclose the information she had shared with her attorney. She did, and is currently being represented on an asylum claim.*

Children who are removed to their home countries need comprehensive return and reintegration services to help them through the return process, upon arrival in their home country, and for a period of time following return to their communities. In practice, children who are provided a modest level of assistance are much more likely to be able to remain home safely and sustainably and are significantly less likely to re-migrate.

### **KIND Recommendations**

- Any enforcement actions, including raids,<sup>34</sup> taken against a child who entered the United States as an unaccompanied child should not be executed until an attorney has had an opportunity to consult with the child and ascertain whether all options for relief from removal have been explored prior to removal.
- A Best Interest Determination (BID) should be made by a panel of experts, which would include findings for the courts and DHS on whether or not removal is safe for a particular child.<sup>35</sup>
- If repatriation is the only option, a child should be able to request voluntary departure regardless of whether he or she has sought immigration relief. Children who receive removal orders should first be asked to appear for deportation, rather than immediately

picked up in traumatic raids.

- All children to be repatriated should be given information about the repatriation process and their rights throughout the repatriation process using age appropriate language and materials.<sup>36</sup>
- ICE should coordinate removals with organizations with expertise in child migration and child welfare providing support to the family in the home country. Child welfare professionals should accompany children on return flights to their countries of origin, rather than immigration agents.
- Return and reintegration services must be provided to returning children, including reception and assistance with family reunification upon return, and transportation back to the home community.

## Refugee Processing in Central America

The Central American Minors (CAM) in-country refugee processing program was launched in December 2014 in recognition of the extreme levels of violence directed at children in the Northern Triangle countries. CAM was designed to provide an avenue to protection and lawful admission to the United States for certain Central American children so that those in danger would not be forced to risk their lives trying to reach the United States.

From December 2014 to mid-July 2016, CAM received more than 9,500 applications. Only 563 children, however, have actually been relocated to the United States under the program.<sup>37</sup> Of these, the majority received humanitarian parole, which does not provide a path to permanency or access to benefits; the rest came as refugees.<sup>38</sup> These numbers are far from achieving the program's goals to provide a safe, legal alternative for Central American children in need of international protection to embarking on the dangerous journey to the United States and reducing the number of unaccompanied children arriving along the southern border.

The recent expansion of CAM to include siblings of qualified children over 21, parents who are in-country with the qualified child, and caregivers who are in-country with the child and who are related to the parent who has lawful status in the United States<sup>39</sup> is another step in the right direction, but still leaves out many in desperate need of protection.

For example, children can still only apply for CAM if they have a parent with lawful status in the United States. This greatly limits the number of extremely vulnerable children able to access U.S. protection and prioritizes parents' legal status over children's protection needs.

As CAM stands, Carlos, below, would not be able to apply because his only relative in the United States is his sister.

### **Carlos's Story**

*Carlos, 11, from El Salvador, was abandoned by his father who was then killed by a gang. His mother raised him and cared for him but the gang started threatening the family and murdered her. Carlos and his sister fled to Guatemala to stay with extended family. The family in Guatemala did not want to take care of him because they were scared that he would attract the attention of the gangs and threaten the safety of the family. Carlos was sent back to El Salvador before receiving more threats from the gang and fleeing to the United States to live with another sister.*

Another limitation of CAM is that interviews of children are held only in the capital cities of each country. It can be unsafe for children to travel the long distances necessary because their movements may be monitored by gangs who may be targeting them, and because the journey itself may be dangerous for a child alone, particularly if the child must travel very early in the morning or very late at night.

Moreover, cases on average take 9-12 months to be processed. While there is a mechanism to expedite cases involving grave and immediate potential danger, expedited cases still take months to proceed.

In addition, the NGOs which assist the parents with the application in the United States have long wait lists. This is in large part because the organizations are only paid by the U.S. government if the child is granted refugee status. Since the vast majority of the children receive humanitarian parole, the organizations are not paid for much of their work and cannot afford to hire additional staff to assist the parents with the application process.

CAM's reach has also been limited by the lack of information about the program within the Central American community. Targeted outreach to legal and social service providers working with the Central American community could go a long way to educating Central Americans about the program

## **Legal Assistance Needed**

### ***Jairo and Wilmer's Story***

*Honduran brothers Jairo and Wilmer endured years of psychological and physical abuse and neglect by their mother and her family. The boys internalized and normalized the violence, because it was all they knew. Painful as their mother's rejection and abuse was, the boys loved her deeply and longed for her affection. Prior to working with pro bono counsel assigned through KIND's CAM pro bono initiative, the boys did not disclose the abuse during their prescreening refugee interview with the International Organization for Migration because they did not want to get their mother in trouble and did not realize how inappropriate and dangerous the violence*

*directed towards them was. Pro bono counsel gained the confidence of the boys, learned about the abuse, prepared the brothers to talk about it, and drafted declarations for the brothers in support of their claims. The brothers were granted refugee status under CAM and will soon reunite with their father in the United States.*

Pro bono support services are critical for children going through CAM. These children face a similarly complex system as those applying for protection in the United States and need the help of pro bono attorneys. Currently, children have no right to counsel during their overseas refugee admissions interviews. As a result, children mostly do not understand the purpose of interviews or the type of information that is important to share to demonstrate eligibility for refugee status and their need for protection. An attorney familiar with the child's history and the legal requirements to establish refugee status can help the child disclose violence they have encountered and share the relevant facts of their case.

KIND, working with the law firm of Arnold & Porter LLP, has developed a pro bono model in Central America for children with pending CAM claims in a partnership between pro bono law firms in Central America and civil society organizations. The model builds upon the U.S. pro bono representation model for immigrant and refugee children seeking protection in the United States. Experts in U.S. immigration law and children's cases provide training and mentoring to in-country attorneys to support children through the CAM process and strengthen their claims for refugee status.

Attorneys work directly with children to help them understand the CAM process, gather relevant evidence, and prepare for the refugee interview. Civil society organizations in these countries work with the law firms and the children to refer them to social or other services, including identifying children who need emergency shelter. U.S.-based law firms can represent children entering the United States on humanitarian parole to explore potential paths to permanency.

### **KIND Recommendations**

- CAM should be expanded to include children who have a close adult relative in the United States.
- All efforts should be made to process CAM claims more expeditiously so that qualifying children can gain safety as quickly as possible. To prevent children from undertaking long and potentially unsafe journeys to the capital city, International Organization for Migration and DHS officers should travel to key locations throughout the country to conduct interviews. Children in need of immediate protection during the CAM process should be eligible for evacuation to Costa Rica, under the Protection Transfer Agreement (PTA) between Costa Rica and UNHCR (see section below for information on the PTA).
- Children forced to flee their country of origin who have not yet entered the United States should be eligible for CAM if they otherwise meet the requirements. Salvadoran children

who have fled to Mexico, Belize, or Nicaragua, for example, should be eligible for CAM despite being outside of their country of origin.

- USCIS should create a pilot to provide counsel for children in the CAM program.
- To expand CAM's reach, resettlement agencies should be provided funding to complete CAM-Affidavit of Relationships applications.
- USCIS's Office of Public Engagement should dedicate additional resources to ongoing, targeted outreach about CAM in the Central American community.

## New Refugee Resettlement Program

The United States in July 2016 announced an expansion of refugee resettlement in Northern Triangle countries. The program, the Protection Transfer Agreement (PTA), is being launched in El Salvador, with the goal to expand the program to Honduras and Guatemala.

Costa Rica has agreed to initially host up to 200 individuals at a time who have been identified by UNHCR as strong candidates for refugee status, have been pre-screened by the United States in their home country, and deemed in need of immediate protection. Specifically, NGOs in El Salvador which are trained by UNHCR will identify those with protection concerns. UNHCR will interview them and inform the United States only of the strongest claims with the most immediate safety needs. The United States will then pre-screen these individuals to determine who to refer to the PTA. Those referred will be transferred to Costa Rica, where they will undergo refugee processing with the aim of being resettled in the United States or a third country.

The United States is also establishing an in-country referral program for those who do not need immediate transfer to Costa Rica. This will enable vulnerable people to apply for U.S. refugee protection after they are screened by U.S. government officials in their home country. This will allow adults and children who do not qualify for CAM to be considered for refugee processing and enter the United States as a refugee.

While these programs provide expanded protection to many refugees, they should not be seen in any way as replacing access to protection for those who arrive in the United States or Mexico.

### KIND Recommendations

- These new resettlement opportunities should be expanded into Honduras and Guatemala as soon as feasible.
- Civil society organizations that work with children, internally displaced individuals, and migrants should be trained to refer cases directly to the U.S. government for in-country

processing. This would expand the number of individuals with protection concerns who are able to access resettlement.

- The U.S. government should continue to work with UNHCR and countries in the region to expand the capacity of the Protection Transfer Agreement and other transit mechanisms for refugees who cannot be processed safely in their countries of origin.

## **Little Protection in Mexico**

Limited access to asylum or other complementary legal status in Mexico has also been a large protection gap for children fleeing Central America.<sup>40</sup> Despite Mexico's extremely generous laws, the government has inadequate infrastructure to ensure that those who seek to remain in Mexico can do so safely. Children are not informed of their right to ask for protection in Mexico, and even if they do request it, they are detained for the duration of the adjudication in substandard facilities to which civil society organizations are given little access to inform children about their rights and provide legal representation. Moreover, Mexico does not have enough officers to adjudicate the number of claims being made, and officers lack training on how to interview children and survivors of trauma.

### **KIND Recommendations**

- The United States should continue to support, through financial and training assistance, Mexico's capacity to fully comply with a Mexican law passed in 2015 requiring that migrant children be placed in the custody of Mexico's child welfare system (DIF), rather than in the custody of Mexican migration officials (INM).
- In addition to placing children in the custody of DIF, existing alternative to detention programs should be expanded to care for a greater number of migrant children in Mexico in collaboration with NGOs with child welfare experience.
- The United States should provide funding to Mexico to hire and train additional asylum adjudicators on the procedural best practices for interviewing children and trauma survivors.<sup>41</sup>
- The United States should provide funding to UNHCR to support its capacity to train Mexican asylum adjudicators on refugee law and claims.
- The United States should encourage Mexico to ensure access by civil society to municipal, state, and federal DIF facilities, as well as INM facilities where children are held.
- U.S. funding to Mexico should not be used to interdict asylum seekers.

## Lack of Recognition of Gang and Sexual Violence Claims

### Abigail's Story

*Abigail was born in El Salvador to an extremely abusive father. Abigail's mother separated from her father when she was 6 years old and moved them into her grandparents' house. When Abigail was 15 years old she started being targeted by the 18<sup>th</sup> Street gang who wanted her to be their girlfriend. When she refused, gang members started threatening her and her family. Soon after, gang members kidnapped, drugged, and raped Abigail. As soon as she was released, Abigail made plans to leave El Salvador. Once in the United States, Abigail learned that the gang members continued to harass and threaten her brother after she left. Abigail's asylum application was granted and she is now living safely in the United States.*

Adjudicators processing claims through the refugee resettlement program (including CAM) or claims presented after arrival in the United States largely fail to recognize that those fleeing gangs or other organized criminal violence from which their governments are unwilling or unable to protect them can qualify for refugee status under an appropriate interpretation of the international and U.S. refugee definition. For example, precedent regarding claims involving targeting of family members, witnesses, women, and persecution due to political or religious conviction are relevant to the Central American gang persecution context.

In addition, the wide range of sexual and gender-based violence (SGBV) that many unaccompanied children have survived and their unique protection needs are often not understood by adjudicators who may have received little training about the prevalence and severity of SGBV in Central America and the near total lack of protection against this violence.<sup>42</sup>

### KIND Recommendations

- DHS should establish binding guidance for adjudicators that provides under well-established precedent, many different types of claims involving threats or harm by gangs and other organized criminal syndicates that can form the basis of a claim for refugee status, particularly given the unique vulnerabilities of children in this context and the absence of government protection.
- EOIR and USCIS should formally adopt the 2015 and 2016 UNHCR guidelines<sup>43</sup> on the consideration of gang-related refugee claims from El Salvador and Honduras as guidance for adjudication of asylum and other claims for protection.
- Adjudicators should receive extensive and ongoing training on interview techniques by those with experience working with unaccompanied children generally and Central American children specifically, as well as training by experts on conditions in each of the

Northern Triangle countries.

- An SGBV module focused on interview techniques for child SGBV survivors should be included as part of training for adjudicators.

## **U.S. Assistance to Central America**

In Fiscal Year 2016, Congress appropriated \$750 million in assistance to El Salvador, Honduras, and Guatemala to address the root causes of migration from the region.<sup>44</sup> This funding, which received bipartisan support, is a meaningful first step to improving safety in the region and ensuring that children do not have to leave their homes in pursuit of protection. To be effective, a significant amount of funding must be channeled to violence prevention and response and human development.

A substantial part of funding is intended to combat gangs, narco-trafficking, and other criminal enterprises, as well as corruption. Critical mechanisms such as CICIG (International Commission Against Impunity in Guatemala)<sup>45</sup> focus on high level corruption and impunity, but local level corruption and impunity, such as in local police forces and local justice systems, remains largely unaddressed.

Civil society organizations in El Salvador, Honduras, and Guatemala should be active participants in developing, implementing, and monitoring U.S. assistance.

### **KIND Recommendations**

- U.S. funding to the region must address the root causes of migration and include support to governments to combat the epidemic violence generated by gangs, narco-trafficking, and other criminal elements.<sup>46</sup>
- Funding for U.S. development programs must include support for child welfare and education systems in Honduras, El Salvador, and Guatemala, including programs for rural communities and ensuring vocational training programs are tied to workforce needs.
- U.S. funding for programs that expand economic opportunity must include programming that focuses on youth and girls and addresses the different needs of urban and rural youth.
- U.S. funding for development programming should be dedicated to scaling up effective programs that address youth violence prevention and assist youth who are renouncing gang membership.<sup>47</sup>
- U.S. funding for development aid must include preventing sexual and gender-based violence in countries of origin and transit.

- Police, prosecutors, and judges should be regularly trained on sexual and gender-based violence.
- The United States should require the participation of civil society organizations in the development, implementation, and monitoring of programs resulting from U.S. assistance.

## Conclusion

The historic numbers of children fleeing their homes and seeking protection in the United States has often been referred to as a “surge.” This term suggests the large numbers of children arriving at our borders is a temporary event and uncontrollable. Until the root causes of their flight are addressed, these children will continue to come in significant numbers seeking protection. In fact, this may be the new normal for years to come.

The United States government has the capacity to shelter, screen, and when appropriate, provide permanent legal protection to these vulnerable children in a safe, orderly, and timely manner, and in a way that prioritizes protection over enforcement. The United States, a global leader in humanitarian protection, can do more to ensure no child suffers further unnecessary harm, has access to due process, and is not sent back to a place where the child’s life is in danger. Following the recommendations outlined in this report, the United States can continue to lead by example on the humane and fair treatment of children seeking safety, and in a way that is consistent with our laws and longstanding history of protecting the most vulnerable.

## ENDNOTES

<sup>1</sup> Custom and Border Protection (CBP), "Southwest Border Unaccompanied Alien Children Apprehensions," (through August 2016) <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016>.

<sup>2</sup> According to Customs and Border Protection, from so far in FY 2016 (October 2015 - August 2016), 54,052 unaccompanied children have arrived. In FY 2015, 39,970 came; in FY 2014, the number was 68,541.

<sup>3</sup> InSight Crime, "InSight Crime's 2015 Latin America Homicide Roundup," by David Gagne, January 14, 2016. <http://www.insightcrime.org/news-analysis/insight-crime-homicide-round-up-2015-latin-america-caribbean>

<sup>4</sup> USA Today, "El Salvador: World's New Murder Capital," by Alan Gomez, January 8, 2016.

<http://www.usatoday.com/story/news/world/2016/01/07/el-salvador-homicide-rate-honduras-guatemala-illegal-immigration-to-united-states/78358042/>

<sup>5</sup> Small Arms Survey Yearbook, <http://www.smallarmssurvey.org/publications/by-type/yearbook/small-arms-survey-2012.html>. See also, "Femicide in Latin America," April 2013,

<http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#edn1>

<sup>6</sup> UN High Commissioner for Refugees (UNHCR), *Children on the Run*, March 2014,

<http://www.unhcr.org/56fc266f4.html>

<sup>7</sup> UNHCR, Women on the Run, 2015, <http://www.unhcr.org/en-us/publications/operations/5630f24c6/women-run.html>

<sup>8</sup> CBP, "Family Unit Apprehensions Encountered by Fiscal Year,"

<https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016>

<sup>9</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Section 235(b)(3).

<sup>10</sup> See, *Confidential Report United Nations High Commissioner For Refugees: Findings and Recommendations Relating to the 2012 - 2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border*, June 2014,

[http://www.immigrantjustice.org/sites/immigrantjustice.org/files/UNHCR\\_UAC\\_Monitoring\\_Report\\_Final\\_June\\_2014.pdf](http://www.immigrantjustice.org/sites/immigrantjustice.org/files/UNHCR_UAC_Monitoring_Report_Final_June_2014.pdf) and *Forced From Home: The Lost Boys and Girls of Central America*, October 2012, <https://www.womensrefugeecommission.org/uncategorized/2057-forced-from-home-the-lost-boys-and-girls-of-central-america-background-and-report>

<sup>11</sup> Government Accountability Office, *Unaccompanied Alien Children: Actions Needed to Ensure Children Receive Required Care in DHS Custody*, July 2015, <http://www.gao.gov/assets/680/671393.pdf>, and *Confidential Report United Nations High Commissioner For Refugees: Findings and Recommendations Relating to the 2012-2013 Missions to Monitor the Protection Screening of Mexican Unaccompanied Children Along the U.S.-Mexico Border*, June 2014,

[http://www.immigrantjustice.org/sites/immigrantjustice.org/files/UNHCR\\_UAC\\_Monitoring\\_Report\\_Final\\_June\\_2014.pdf](http://www.immigrantjustice.org/sites/immigrantjustice.org/files/UNHCR_UAC_Monitoring_Report_Final_June_2014.pdf)

<sup>12</sup> MSNBC, "Human Rights Groups Outraged Over Obama's Deportation Proposal," by Amanda Sakuma, July 1, 2014, <https://supportkind.org/media/human-rights-groups-outraged-over-obamas-deportation-proposal/>. Politico, "Evangelicals Address Migrant Crisis," by Seung Min Kim, July 22, 2014, <http://www.politico.com/story/2014/07/evangelicals-migrants-border-crisis-2008-anti-trafficking-law-109212.html?hp=r2>; Letter by child advocacy law professors to Senate Majority Leader Harry Reid and House Speaker John Boehner, "Appropriate Treatment and Processes for Unaccompanied Immigrant Children, July 21, 2014, on file with KIND; Alliance to End Slavery and Trafficking, letter, "Fair Treatment of Unaccompanied Children," July 21, 2014, signed by 76 NGOs, on file with KIND.

<sup>13</sup> Nongovernmental legal service providers conduct Know Your Rights presentations to educate children about their rights throughout the immigration court process.

<sup>14</sup> Prior to 2014, ORR's shelter capacity was based on the number of children referred to its care in previous years. Beginning in 2015, ORR created a new capacity framework to give the agency flexibility in providing increased bed space as necessary. It included three types of beds: "standard" beds, which are available year-round through the annual grant process; "temporary" beds, which are part of the annual grant process but provide additional capacity for a portion of the year as needed; and "surge" beds, which can be made available during surges and outside of the annual grant process. The framework gives ORR the ability to start sending

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children to a new facility with very short notice when regular facilities begin to reach maximum occupancy. When capacity rises to almost full capacity, they are able to move older children, and those slated for release, to the emergency facility to free up beds in their more permanent shelters. ORR can staff facilities only when necessary and does not need to regularly maintain facilities that are not at capacity.

<sup>15</sup> The network is run by the Vera Institute of Justice. For more information and a list of legal service providers, see <https://www.vera.org/projects/legal-services-for-unaccompanied-children>

<sup>16</sup> A criminal defendant's right to an attorney is found in the Sixth Amendment to the U.S. Constitution, which requires the "assistance of counsel" for the accused "in all criminal prosecutions." Section 292 of the Immigration and Nationality Act [8 U.S.C. 1362], however, provides that a person in removal proceedings shall have the privilege of being represented at no expense to the government. Although some have interpreted Section 292 to prohibit government funded attorneys, others believe it only prohibits an alien from claiming entitlement to counsel at the government expense but does not prevent the government from paying for counsel pursuant to other provisions of law or at its discretion. See, Congressional Research Service *Aliens' Right to Counsel in Removal Proceedings: In Brief*. Kate M. Manuel, March 17, 2016.

<sup>17</sup> Syracuse University Transactional Resource Access Clearinghouse (TRAC), Report "Representation for Unaccompanied Children in Immigration Court," November 2014,

<http://trac.syr.edu/immigration/reports/371/>

<sup>18</sup> TRAC, Report "New Data on Unaccompanied Children in Immigration Court," July 2014,

<http://trac.syr.edu/immigration/reports/359/>

<sup>19</sup> TRAC, Tool "Juveniles – Immigration Court Deportation Proceedings", data through June 2016,  
<http://trac.syr.edu/phptools/immigration/juvenile/>

<sup>20</sup>Notarios are not lawyers. They also are not valid accredited representatives approved by the U.S. government. Often, they use the term "notario publico" to advertise their services in the Hispanic community. That title is not recognized in the United States as it is in some Latin American countries. While many legitimate community and religious organizations provide immigration-related services, non-lawyers who advertise as legal "consultants" or "notarios publicos" are not authorized or qualified to help with immigration law-related matters.

<sup>21</sup> justice Americorps is a partnership led by Equal Justice Works, in which 46 full-time legal professionals — lawyers and paralegals — serve as AmeriCorps members in 21 cities across the United States with the greatest need: Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cleveland, Dallas, Denver, Knoxville, Las Vegas, Miami, Minneapolis, Newark, New York, Oakland, Philadelphia, San Antonio, San Francisco, Seattle, and Washington, D.C. For more information, see <https://joinjusticeamericorps.org>

<sup>22</sup> TRAC, "Representation of Unaccompanied Children in Immigration Court," November 2014,

<http://trac.syr.edu/immigration/reports/371/>

<sup>23</sup> Bill can be found at: <https://www.congress.gov/bill/114th-congress/senate-bill/2540>

<sup>24</sup> Bill can be found here <https://www.congress.gov/bill/114th-congress/house-bill/4646>

<sup>25</sup> Department of Justice, "Department of Justice Announces New Priorities to Address Surge of Migrants Crossing into the U.S.", July 9, 2014, <https://www.justice.gov/opa/pr/department-justice-announces-new-priorities-address-surge-migrants-crossing-us>

<sup>26</sup> Chief Immigration Judge Brian M. O'Leary, "Docketing Practices Relating to Unaccompanied Children Cases in Light of the New Priorities," (Sept. 10, 2014),

<https://www.justice.gov/sites/default/files/eoir/legacy/2014/09/30/Docketing-Practices-Related-to-UACs-Sept2014.pdf>

<sup>27</sup> Los Angeles Times, "7,000 Immigrant Children Deported Without Going to Immigration Court," by Kate Linthicum, March 6, 2015. <http://www.latimes.com/local/california/la-me-children-deported-20150306-story.html>

<sup>28</sup> As of August 2016, EOIR had a backlog of more than 510,000 cases, according to TRAC.

[http://trac.syr.edu/phptools/immigration/court\\_backlog/](http://trac.syr.edu/phptools/immigration/court_backlog/)

<sup>29</sup> TVPRA, Section 235, <https://www.govtrack.us/congress/bills/110/hr7311>

<sup>30</sup> TVPRA, Section 235(d)(7)(C)

<sup>31</sup> The countries are Guatemala, Honduras, El Salvador, Mexico and India. See, <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-july-2016.html>

<sup>32</sup> UNHCR, *Guidelines on Asylum Claims based on Gang Violence*,  
<http://www.refworld.org/docid/4bb21fa02.html>, UNHCR, *Eligibility Guidelines for Assessing the International*

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*Protection Needs of Asylum-Seekers from Honduras, <http://www.refworld.org/docid/579767434.html>, and UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador, <http://www.refworld.org/docid/56e706e94.html>*

<sup>33</sup> Associated Press, "Children's Asylum Approvals Vary by Region," by Amy Taxin, June 1, 2016, <http://bigstory.ap.org/article/b140ad95d4a646e9aff67b8c80708e57/ap-exclusive-childrens-asylum-approvals-vary-us-region>

<sup>34</sup> On January 4, 2016, DHS announced it would be conducting raids against women and children recently arrived from Central American to enforce their removal orders, Department of Homeland Security, "Statement by Secretary Jeh C. Johnson on Southwest Border Security,"

<https://www.dhs.gov/news/2016/01/04/statement-secretary-jeh-c-johnson-southwest-border-security>. These types of harsh enforcement tactics had not been used by the government in many years. The announcement struck fear in immigrant communities; many immigrant children stopped going to school, attending appointments with their attorneys, and even missed important medical appointments, Think Progress, "Obama's Immigration Raids are Turning Latino Communities into Ghost Towns," by Esther Yu Hsi Lee, January 14, 2016, <https://thinkprogress.org/obamas-immigration-raids-are-turning-latino-communities-into-ghost-towns-e96684833e4#.56yt0j40w>

<sup>35</sup> UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, <http://www.unhcr.org/4566b16b2.pdf>

<sup>36</sup> DHS should work collaboratively with HHS and NGOs in developing these materials.

<sup>37</sup> The Washington Post, "U.S. to Expand Program for Central American Minors," by David Nakamura, July 26, 2016. [https://www.washingtonpost.com/politics/us-to-expand-refugee-program-for-central-american-minors/2016/07/26/242ab0cc-533f-11e6-bbf5-957ad17b4385\\_story.html](https://www.washingtonpost.com/politics/us-to-expand-refugee-program-for-central-american-minors/2016/07/26/242ab0cc-533f-11e6-bbf5-957ad17b4385_story.html)

<sup>38</sup> As of July 29, 2016, of the 563 individuals who have arrived in the United States via the CAM program (385 from El Salvador, 11 from Guatemala, and 167 from Honduras), 191 arrived as refugees and 372 arrived as parolees.

<sup>39</sup> U.S. Department of State, "U.S. Expands Initiatives to Address Migration Challenges," July 26, 2016 <http://www.state.gov/r/pa/prs/ps/2016/07/260507.htm>

<sup>40</sup> Georgetown University Law Center, *The Cost of Stemming the Tide: How Immigration Enforcement Practices at Mexico's Southern Border Limit Immigration Protection for Children*, April 2014.

<sup>41</sup> U.S. training assistance should be limited to procedural best practices and not on U.S. asylum law since it is different and less expansive than Mexican law.

<sup>42</sup> Such cases frequently involve human trafficking; harms based on LGBTI status; forced and early marriages of girls; sexual violence perpetuated by family members and gender-based violence in the home; severe discrimination (depriving girls of education and requiring girls to work from a young age), and gang-related sexual violence including kidnapping, rape, and torture. In addition to these forms of violence, LGBTI youth often experience rejection by their own families and abuse by police and other authorities. Many of these children need particular medical attention and social services.

<sup>43</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Honduras*, July 2016, <http://www.refworld.org/docid/579767434.html> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador*, March 2016,

<http://www.refworld.org/pdfid/56e706e94.pdf>

<sup>44</sup> FY 2016 Consolidated Appropriations Act, <http://docs.house.gov/billsthisweek/20151214/CPRT-114-HPRT-RU00-SAHR2029-AMNT1final.pdf>, page 1371.

<sup>45</sup> For more information on CICIG, see <http://www.un.org/undpa/en/americas/cicig> or <http://cicig.org/>

<sup>46</sup> The House of Representative Appropriations Committee approved \$750 million for Central America in its Fiscal Year 2017 funding for the Department of State, foreign operations, and related programs on July 12, 2016.

<sup>47</sup> Efforts should be modeled after the USAID supported a program in the Rivera Hernandez neighborhood of San Pedro Sula that included support for youth attempting to leave gangs.