

The Crisis in Our Own Backyard: United States Response to Unaccompanied Minor Children from Central America

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Introduction

In the summer of 2014, the news was filled with stories of children from Central America pouring across the United States (U.S.) border with Mexico. Labeled a “surge” in the media¹ with accompanying profiles of children escaping death on the top of trains and on foot,² the dramatic rise in numbers raised fears and concerns across the U.S. Subsequent federal, state and non-governmental policy and program changes offer a much-needed opportunity to reflect on our nation’s own response to those seeking refuge in the U.S., specifically with respect to the health ramifications of our actions.

¹ Wiltz T. *Q&A: Unaccompanied Children from Central America, One Year Later*. *Stateline*. Pew Charitable Trusts. August 24, 2015. Available at: <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/08/24/unaccompanied-children-from-central-america-one-year-later>

² Gonzalez-Barrera A and Krogstad J. With help from Mexico, number of child migrants crossing U.S. border falls. April 28, 2015. Fact Tank. Pew Charitable Trusts. Available at: <http://www.pewresearch.org/fact-tank/2015/04/28/child-migrants-border/>

Migration Trends

Roughly 69,000 children, mostly from Guatemala (25%), El Salvador (24%) and Honduras (27%), crossed into the U.S. through the Rio Grande Valley, Texas, in 2014 alone.³ These children represent the peak of the increase in unaccompanied minors (those under the age of 17 traveling without a parent or guardian) arriving to the U.S. from these three countries since October 2011. In 2011, only 4,059 apprehensions of children from these countries were recorded⁴, with numbers of apprehended unaccompanied minors climbing to 24,000 in 2012 and 39,000 in 2013. Many of these trends were mirrored in migration patterns

³ Montgomery D. These children have crossed the U.S. border, but their journeys are far from over. *The Washington Post*. August 21, 2014. Available at: <http://www.washingtonpost.com/sf/style/2014/08/21/departures-2/>

⁴ UNHCR: The U.N. Refugee Agency. *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*. 2014. Available at: http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf.

for children traveling with adults, most of whom turned themselves over to U.S. Customs and Border Patrol in the hopes of being granted asylum and reunification with family in the States.⁵

Strikingly, a Pew Research Center analysis of data obtained through a Freedom of Information Act request quantified the shifting demographics of this population. From 2009 to 2014, children from Mexico on average represented the largest number of unaccompanied minors apprehended at the border. However, their rates of apprehension during this same time decreased 28%, a sharp contrast to the very large percent increases in apprehensions during this same time period in El Salvador (707% increase), Guatemala (930% increase) and Honduras (1272% increase).⁶

Perhaps more concerning, analysis of migration trends also highlighted many of the unaccompanied minors' very young ages. The Pew Research Center review of U.S. Customs and Border Patrol data demonstrated a 117% increase in the number of child migrants under the age of 12 between 2013 and 2014, though overwhelmingly, the majority of migrants have been teenagers (84%). In particular, more than one in four (27%) unaccompanied children from Honduras were under the age of 12,

compared to 22% from El Salvador and 10 percent from Guatemala.⁷

The changing demographics of those unaccompanied minors apprehended at the U.S. border represent a shift in the factors driving migration from Central America and demand further evaluation and response. Given those seeking refuge—children who have often experienced significant physical and psychological trauma and abuse⁴—what is the imperative to act?

Drivers of Migration

In 2013, the United Nations High Commissioner for Refugees (UNHCR) undertook a study to evaluate the reasons for displacement of children from Guatemala, El Salvador, Honduras and Mexico. They interviewed a total of 404 unaccompanied children ages 12-17 who were apprehended and held in federal custody after October 2011, approximately 100 from each of the aforementioned country. 66% of children from El Salvador and 44% from Honduras cited having been threatened with or having been the victims of violence by organized armed criminal actors as a primary motivator for leaving their home country. Twenty percent of children from Guatemala reported violence in society as a primary driver. In Guatemala, Honduras and El Salvador, approximately 80% of children mentioned reunification with family, better

⁵ Hipsman F and Meissner D. *In-Country Processing in Central America: A Piece of the Puzzle*. Migration Policy Institute. August 2015. Available at: <http://www.migrationpolicy.org/research/country-processing-central-america-piece-puzzle>.

⁶ Gonzalez-Barrera A and Krogstad J. Number of Latino children caught trying to enter U.S. nearly doubles in less than a year. *Fact Tank*. Pew Research Center. June 10, 2014. Available at: [http://www.pewresearch.org/fact-tank/2014/06/10/number-of-latino-children-caught-](http://www.pewresearch.org/fact-tank/2014/06/10/number-of-latino-children-caught-trying-to-enter-u-s-nearly-doubles-in-less-than-a-year/)

[trying-to-enter-u-s-nearly-doubles-in-less-than-a-year/](http://www.pewresearch.org/fact-tank/2014/07/22/children-12-and-under-are-fastest-growing-group-of-unaccompanied-minors-at-u-s-border/).

⁷ Gonzalez-Barrera A, Krogstad J., and Hugo Lopez M. Children 12 and under are fastest growing group of unaccompanied minors at U.S. border. *Fact Tank*. Pew Research Center. July 22, 2014. Available at: <http://www.pewresearch.org/fact-tank/2014/07/22/children-12-and-under-are-fastest-growing-group-of-unaccompanied-minors-at-u-s-border/>

opportunities for work or study, or helping their families as primary drivers. While the number for this driver is relatively high, it was reported in isolation for only 18% of those from El Salvador, 17% of those from Honduras and 30% of those from Guatemala. More importantly, 58% of the children surveyed reported that they had suffered, been threatened or feared serious harm warranting concerns for international protection needs. 72% of the children from El Salvador, 57% from Honduras, 38% from Guatemala and 64% from Mexico met these criteria. These numbers contrast sharply with similar interviews conducted by UNHCR in 2006 in which only 13% of unaccompanied minors raised any concern for requiring international protection.⁴

U.S. Department of Homeland Security (DHS) documents obtained by the Pew Research Center supported these findings, citing local conditions such as economic deprivation in rural parts of Guatemala and extremely high rates of violence in Honduras and El Salvador. For example, the top municipality from which children are migrating to the U.S. is San Pedro Sula in Honduras, also known as the murder capital of the world, with a homicide rate of 187 per 100000 inhabitants in 2013 largely attributed to gang violence.⁸ Similarly, the DHS identified economic drivers pushing children to migrate, with poverty rates of 30%, 26%

and 17% in Honduras, Guatemala and El Salvador, respectively.⁸ Others have cited rumors of special protections for unaccompanied minors or President Obama's deferred action on deportation programs as contributing factors drawing unaccompanied minors to the U.S.⁶

The U.S. Response

The Obama administration's initial response to the surge was largely shaped by the sheer number of arrivals and a provision of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which protects unaccompanied children from countries without a common border with the United States. These children, unlike those from Mexico or Canada, must be given an opportunity for an immigration hearing and then be turned over to care of the Department of Health and Human Services (HHS). HHS must place the child "in the least restrictive setting that is in the interest of the child" and attempt to reunite children with their family members. Thus, the children arriving from Central America could not be quickly removed from the U.S. in the manner that Mexican immigrants could be removed.⁹

Funding

As part of this response, President Obama declared a humanitarian crisis and designated the Federal Emergency Management Agency (FEMA) to coordinate the federal

⁸ Gonzalez-Barrera A, Krogstad J., and Hugo Lopez M. DHS: Violence, poverty, is driving children to flee Central America to U.S. *Fact Tank*. Pew Research Center. July 1, 2014. Available at: [http://www.pewresearch.org/fact-tank/2014/07/01/dhs-violence-poverty-is-driving-children-to-flee-central-america-to-u-s/?beta=true&utm_expId=53098246-2.Lly4CFSVQG2lphsg-KoplG.1&utm_referrer=http%3A%2F%2Fwww.pew](http://www.pewresearch.org/fact-tank/2014/07/01/dhs-violence-poverty-is-driving-children-to-flee-central-america-to-u-s/?beta=true&utm_expId=53098246-2.Lly4CFSVQG2lphsg-KoplG.1&utm_referrer=http%3A%2F%2Fwww.pewresearch.org%2Ffact-tank%2F2015%2F04%2F28%2Fchild-migrants-border%2F)

[research.org%2Ffact-tank%2F2015%2F04%2F28%2Fchild-migrants-border%2F](http://www.pewresearch.org/fact-tank/2015/04/28/child-migrants-border).

⁹ Hulse C. Immigrant Surge Rooted in Law to Child Trafficking. *New York Times*. July 7, 2014. Available at: http://www.nytimes.com/2014/07/08/us/immigrant-surge-rooted-in-law-to-curb-child-trafficking.html?_r=0.

response.¹⁰ He requested \$3.7 billion from Congress for detention centers, improved border security and staffing, and immigration judges. This funding request quickly became ensnarled in the controversy surrounding immigration policies in the U.S., ultimately resulting in an initial appropriation of approximately \$650 million.^{11, 12} Additional funds have been appropriated for specific programs.

Detention Centers and Family Reunification

Initially, temporary shelters were established by the Department of Defense and then by the Immigration and Customs Enforcement Agency. The latter shelters were considered “processing centers” for the children being apprehended by DHS, offering a health evaluation, medical/infectious disease screenings with treatment as needed and any necessary immunizations.¹⁰ The facilities have faced many allegations of abuse, squalid conditions, and prolonged stays, as well as poor medical care.¹³

Their reported cold temperatures earned them the nickname “hielera” or iceboxes.¹³ Children are mandated to have

their care taken over by the Office of Refugee Resettlement, which holds children in detention centers and helps facilitate reunification with family members as the children await immigration proceedings. The shelters are run as group homes, generally with 50 or fewer children with average stays of 35 days.¹⁴ California, New York, Texas and Washington, D.C. region have taken the most children.¹ The majority of children are placed with a sponsor, typically a family member, in the sponsor’s home.¹⁵ On a state-by-state basis, there have been wide variations in reception for the unaccompanied minors, from Connecticut refusing federal requests to temporarily house unaccompanied children to funds being appropriated for a range of services for unaccompanied children in New York.¹

Legal Representation

There is a range of legal avenues for children to pursue depending on their specific circumstances. Children with legal representation have a high likelihood of attending their court dates and that having legal representation is the single most important factor in whether the court allows

¹⁰ White House. *The Obama Administration’s Government-Wide Response to Influx of Central American Migrants at the Southwest Border*. August 1, 2014. Available at:

<https://www.whitehouse.gov/the-press-office/2014/08/01/obama-administration-s-government-wide-response-influx-central-american->

¹¹ Shear M and Peters J. *Obama Asks for \$3.7 Billion to Aid Border*. *New York Times*. July 8, 2014. <http://www.nytimes.com/2014/07/09/us/obama-seeks-billions-for-children-immigration-crisis.html>

¹² Chishti M, Hipsman F, Bui B. The Stalemate over Unaccompanied Minors Holds Far-Reaching Implications for Broader U.S. Immigration Debates. *Migration Information Source*. Migration Policy Institute. August 15, 2014. Available at: <http://www.migrationpolicy.org/article/stalemate->

[over-unaccompanied-minors-holds-far-reaching-implications-broader-us-immigration](#).

¹³ American Civil Liberties Union. *Unaccompanied Immigrant Children Report Serious Abuse by U.S. Officials During Detention*. June 11, 2014. Available at: <https://www.aclu.org/news/unaccompanied-immigrant-children-report-serious-abuse-us-officials-during-detention>

¹⁴ Office of Refugee Settlement. *Unaccompanied Children Frequently Asked Questions*. Available at: <http://wpsites.net/wordpress-tips/displaying-hidden-features-in-your-wordpress-visual-editor/>.

¹⁵ Park H. Children at the border. *New York Times*. October 21, 2014. Available at: <http://www.nytimes.com/interactive/2014/07/15/us/questions-about-the-border-kids.html>.

a child to stay in the country.¹⁶ Preliminary data from the Transactional Records Access Clearinghouse show that children with legal representation are permitted to stay nearly 50% of the time, while only 10% without representation are able to remain.¹⁷

In June 2014, the Department of Justice and the Corporation for National and Community Service announced a strategic partnership with AmeriCorps to add approximately 100 lawyers and paralegals specifically for legal services for unaccompanied minors.¹⁰ Children otherwise were left to seek out their own representation, generally from pro bono lawyers and legal aid clinics with varying expertise in a complicated area of law.¹⁶ Certain states have attempted to provide more funds to alleviate these issues.¹ However, the backlog of cases has created long wait times on the order of years and delayed decisions for children.

The Obama administration has appointed temporary immigration judges and the Department of Justice has asked the Executive Office of Immigration Review to refocus immigration court priorities to expedite cases,¹⁰ processes known as “rocket dockets.”¹⁸ These hearings have their own issues as children are sometimes relocated in regions far from the assigned immigration court and either must have the case

transferred to the appropriate court or find transportation to.¹⁷ Also, children who do not show up to court are automatically placed in removal proceedings.¹⁹

Thus far, the U.S. government has resisted requests to mandate access to legal representation despite its known benefits.¹⁷

Novel Policies

As part of a strategy to reduce perilous and unauthorized crossings through the border, the Obama Administration established the Central American Minors (CAM) Refugee/Parole Program in December 2014. This program attempts to process minors in El Salvador, Guatemala and Honduras for potential refugee status within their own country and is based on similar special programs in Vietnam and Haiti in the past. To be eligible, children must meet the statutory definition of a refugee (or be eligible on a case-by-case basis for other humanitarian parole), be unmarried, under the age of 21, from the specified countries and have a qualifying parent living lawfully in the United States. These children are typically unable to obtain visas based on their status as children of lawful immigrants if their parents have not yet obtained citizenship, or because visa quotas present barriers. As of August 2015, a total of 3,344 applications had been submitted, the vast majority (n=2859) from

¹⁶ American Bar Association. Commission on Immigration. Available at <http://www.americanbar.org/calendar/aba-day/resources/immigration.html>

¹⁷ Chishti M and Hipsman F. *Unaccompanied Minors Crisis Has Receded from Headlines But Major Issues Remain*. Migration Information Source. Migration Policy Institute. September 25, 2014. Available at: <http://www.migrationpolicy.org/article/unaccompanied-minors-crisis-has-receded-headlines-major-issues-remain>.

¹⁸ Semple K. Advocates in New York scramble as child deportation cases are accelerated. *New York Times*. Available at: <http://www.nytimes.com/2014/08/05/nyregion/advocates-scramble-as-new-york-accelerates-child-deportation-cases.html>.

¹⁹ Pierce S. *Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools*. Migration Policy Institute. October 2015. Available at: <http://www.migrationpolicy.org/research/unaccompanied-child-migrants-us-communities-immigration-court-and-schools>

Salvadoran nationals.²⁰ The program has been welcomed as an alternative to the dangerous journeys taken by many children, but is unlikely to impact the overwhelming number of children without parents with legal status in the U.S. Also, these numbers count towards the U.S. refugee admission ceilings for the region, meaning no additional spots are created for these children.^{5,20} Six children have been resettled as refugees since the program's inception.²¹

Health Impact

Much of the public health focus surrounding unaccompanied minors

has been around the risk of infectious diseases being transmitted into the U.S., despite statements made by the Centers for Disease Control and Prevention and the Office for Refugee Resettlement denying this risk.¹⁴ However, there are likely larger public health impacts from the limited access unaccompanied minors have in most states given their lack of legal status. Children who remain in HHS custody remain able to access healthcare within the shelter, but receive their education within the shelter. Those who are released to sponsors may attend school in their communities, but their access to healthcare is subject to health policies typically set by their state.¹⁴ As the children await their court dates and decisions, mental health challenges often remain untreated or even worsen in poor detention center

conditions. These issues include neglect, abandonment, post-traumatic stress disorder, depression or anxiety. Even in cases where legal status is granted, there can be limited or delayed access to services. Conversely, in cases where children are ultimately removed from the country, mental health issues can remain untreated entirely.²²

Current Trends and Future Projections

As of August 2015, the number of children apprehended in the U.S. dropped more than 50% (12,509 versus 21,403) in 2015 compared to 2014,¹ though the majority continue to hail from El Salvador, Guatemala and Honduras.² While the Obama administration points to many of its programmatic changes as the source of this decline, it is clear that shifts in policy in Mexico was also an important driver. The Obama administration enhanced border security and engaged in a public messaging campaign in Central America regarding migration policy in the U.S., emphasizing the dangers of the journey through Mexico. President Obama also met with the presidents of Guatemala, El Salvador and Honduras to coordinate efforts, and increased efforts to prosecute human traffickers.¹⁰ Pew Research Center reported that, in the first five months of the fiscal year, the number of unaccompanied children deported from Mexico to their home countries increased by 56%. Many immigrants also rode atop or

²⁰ U.S. Department of State. In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras with Parents Lawfully Present in the United States. Available at: <http://www.state.gov/j/prm/releases/factsheets/2014/234067.htm>

²¹ First six teens arrive in U.S. legally under Central American Minors program. *Fox News Latino*. November 17, 2015. Available

at: <http://latino.foxnews.com/latino/politics/2015/11/17/first-six-teens-arrive-in-us-legally-under-central-american-minors-program/>

²² Collier L. Helping immigrant children heal. *Journal of the American Psychological Association*. 2015(46); 3: 58. Available at: <http://www.apa.org/monitor/2015/03/immigrant-children.aspx>.

in *La Bestia*, the “train of death” used to cross from Central America into Mexico. Mexican officials have also more aggressively controlled the number of migrants on the train.¹

The decreasing rates of unaccompanied minors seems at first glance to be a testament to coordinated efforts by the U.S. and Mexico to reduce unauthorized migration; however these numbers are limited to the impact on the U.S. Ultimately, violence and economic deprivation in the children’s home countries has not decreased enough to reduce the push factors for migration. Children are left seeking asylum elsewhere, and it is notable that only 18 children were granted asylum in Mexico in 2014 and face a system with even more delays and poor housing conditions. For the children, if there is nowhere else to go, there is the possibility that we will see another surge.²³ Most recently, this outcome is seeming more likely, with Border Patrol apprehending 17,300 unaccompanied minors between October and December 2015, more than double the number apprehended during that time frame in 2014. The Department of Health and Human Services has been moving to expand beds in preparation for a potential surge.²⁴

Conclusion

Clearly, there are many challenges faced by countries like the U.S. in addressing the influx of unauthorized migrants seeking refuge within their borders. The Obama administration has made overtures such as the in-country assessment program, to

address the problem closer to its root. However, these interventions do not help alleviate the violence that is more recently driving migration, or the desire for family reunification or escape from poverty that has been a longer standing driver. Additionally, their benefit is limited to small numbers of children and continues to leave many children desperate to escape and without any safer option to successfully seek refugee or asylee status. Those left out include children from Mexico who are not eligible for the same screening for an immigration hearing. Moreover, the Obama administration’s policy changes do only little to address the situation of those already present within U.S. and leave children vulnerable to suffering additional traumas. These traumas potentially can occur at the time of apprehension, during detention through poor conditions in the processing centers, and as children endure a slowly moving legal system that both leaves them in limbo and does not guarantee them legal representation that could impact their ability to be granted asylum in the U.S. Furthermore, children that are released to sponsors face limitations in their ability to access social services and even healthcare based on their immigration status, potentially worsening the impact of this trauma through lack of treatment.

It is clear that the U.S. approach to the crisis in our own backyard raises concerns about how we as a country have chosen to protect the most vulnerable among us. From a public health perspective, our mandate should be advocating for universal immigration-related

²³ Nazario S. Refugees at our door. *New York Times*. October 10, 2015. Available at: <http://www.nytimes.com/2015/10/11/opinion/sunday/the-refugees-at-our-door.html>

²⁴ Villagran L. Migrant kids to be housed at Holloman Air Force Base. *Albuquerque Journal*. January 19, 2016. Available at: <http://www.abqjournal.com/707711/news/migrant-kids-to-be-housed-at-holloman.html>.

legal representation for all children, improved access to health and other social services for children regardless of immigration status across the country, and for child-friendly processes that maximize our ability to identify those children needing protection and reducing the risk of inflicting additional trauma. We will need to improve how we screen for need for refugee status, ideally in country, and broaden who is eligible for this relief. However, ultimately as long as factors like violence and gross economic deprivation persist, these crises will never be resolved. While we work to target the underlying issues, providing safety, dignity and respect should be our priority.