



# Biden's Plan for Central American Migrants: Fly Them Straight to the U.S.

## Bill points to a three-part approach for in-country processing

By Nayla Rush

The Biden administration is reviving and expanding on the Central American Minors Refugee/Parole program launched in 2014 (and expanded in 2016) by the Obama administration, and terminated in 2017 by the Trump administration.<sup>1</sup> While Biden's February executive order sought to "to reinstitute and improve upon the CAM Parole Program" only,<sup>2</sup> the entire program, in a new advanced version, is making a comeback.<sup>3</sup>

The new CAM version will have more outreach, but the rationale is the same: Don't come here illegally because we will design in-country processing programs to get you in legally. That was, in essence, DHS Secretary Alejandro Mayorkas' recent message to Central Americans rushing to the Southern border when he asked them to "wait".<sup>4</sup> Mayorkas was clear: "We are not saying don't come. We are saying don't come *now*, because we will be able to provide a *safe and orderly process* to them."<sup>5</sup> (All emphases in quotations are added unless otherwise indicated.) Three programs, specifically designed for Central Americans as "additional options for legal pathways for migration", are likely to be forthcoming.<sup>6</sup>

That is also, in essence, what President Biden told ABC News' George Stephanopoulos when asked about the "crisis at the border":

*I can say quite clearly don't come over. And the **process of getting set up, and it's not gonna take a whole long time, is to be able to apply for asylum in place.** So don't leave your town or city or community. We're gonna make sure we have facilities in those cities and towns run by department of — by DHS and also access with HHS, the Health and Human Services, to say you can apply for asylum from where you are right now.<sup>7</sup>*

The question remains: Will reopening in-country processing (or what I have called the "back door"<sup>8</sup>) convince people to apply for a ticket instead of simply showing up at the door? This disincentivizing strategy did not seem to work for the Obama administration; it may not for this one either. Biden's plan may be more elaborate than Obama's, but there is no guarantee it will help resolve the ongoing border crisis.

## Restarting CAM

The Department of State announced on March 10 the reopening of the Central American Minors (CAM) program:

*As another concrete step in implementing our **comprehensive regional migration management strategy**, we are **expanding legal pathways to enter the United States** by reopening the Central American Minors (CAM) program. As directed by President Biden, the Departments of State and Homeland Security (DHS) have initiated the **first phase of reinstating and improving the CAM program** to reunite **qualified children** from El Salvador, Guatemala, and Honduras with their parent or parents who are lawfully present in the United States.<sup>9</sup>*

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The program is presented as an essential protection tool for children:

*The program ... represents our continued commitment to ensure that our immigration system ... **protects the most vulnerable, especially children.***<sup>10</sup>

But CAM, following its 2016 expansion, was no longer limited to “minor children”; adult sons and daughters could also qualify. It was not even restricted to the “children” (minors or adults) of U.S.-based parents; adult “caregivers” (grandparents, siblings, aunts and uncles, etc.) were also able to join in.<sup>11</sup>

CAM is set to reopen in two phases under the Biden administration:

*the first will **process eligible applications** that were closed when the program was terminated in 2017, and the second will begin to accept new applications with **updated guidance to follow.***<sup>12</sup>

Are we certain these individuals are still in need of protection four or more years later? And if they were at risk of harm in their own countries since 2017 (or earlier), how did they manage to get by all those years?

## A Preview of What’s Coming?

As we await phase two to learn more about the program’s updates, we can preview the Biden administration’s likely next steps by turning to the U.S. Citizenship Act of 2021, the White House immigration bill introduced by Democrats in the House and the Senate.<sup>13</sup> Even if this bill is “dead on arrival,” as my colleague Mark Krikorian pointed out, many of its provisions could be pushed through by way of piecemeal legislation.<sup>14</sup> In any case, the executive branch can implement two of the plan’s three main components on its own, as the Obama administration did in 2014.

Here are few indicators of the future of CAM under the Biden administration, as described in the U.S. Citizenship Act of 2021:

- The Biden administration wants to replace the Obama-era two-in-one refugee/parole approach with a new three-part version of CAM, with three distinct programs with three specific protection schemes:
  - The “Central American Refugee Program” will give access to “refugee resettlement”;
  - the “Central American Family Reunification Parole Program” will give access to “parole”; and
  - the “Central American Minors Program” will give access to a new “special immigrant” status.
- By allocating two of the three proposed programs to migrants who simply want to join family members already in the United States (and only one program for potential refugees), this administration is acknowledging that most of the border-crossers at the Southern border are not fleeing persecution, but using an asylum claim as their “family reunification” card.
- Processing centers will assess registered individuals to determine the benefits for which they may be eligible.
- All three programs will give access to permanent residence in the United States.
- The programs will no longer be limited to nationals of El Salvador, Honduras, and Guatemala; any other “Central American” country could be added to the list by the Secretary of State.
- None of those provided special immigrant status under the “Central American Minors Program” would be counted against any numerical limitation.
- Unlike with the previous CAM, no family member sponsorship will be needed to apply for refugee resettlement in the United States.

- Under the “Central American Refugee Program”, an “Emergency Relocation Coordination” will be implemented to provide temporary placement in safe locations pending a final decision for applicants exposed to imminent risks where they are. This is in line with the Protection Transfer Arrangement (PTA) set up in 2016 by the Obama administration. Under the new Biden Central American Plan, Protection Transfer Arrangements like the one with Costa Rica could be entered with other countries in the region.
- Many eligibility conditions for applicants are set to be lifted, resources and processing centers added, numbers of refugee officers and other personnel increased, and expedited processing introduced to ensure Central Americans, minors and adults alike, get access to one of these programs, and thereafter, to the United States.
- An informational campaign (in English and Spanish) will be created to raise awareness of the programs and a hot-line put in place for case follow-ups.

## Obama’s Two-in-One Refugee/Parole Program

The Central American Minors Refugee/Parole program was set up in 2014 by the Obama administration to offer certain minors (later expanded to include adults) from El Salvador, Guatemala, and Honduras the opportunity to join their parents in the United States as an alternative to risky and illegal crossings of the Southern border. Individuals admitted into the program were flown directly to the United States. In essence, the program turned illegal entries into legal ones.

To qualify, children (whether biological, step, or legally adopted) had to be unmarried, under the age of 21, and residing in El Salvador, Guatemala, or Honduras. Sponsoring parents had to be “lawfully present” in the United States at the time of the application. But being “lawfully present” doesn’t necessarily mean having “lawful status”; most of the parents making use of the program were illegal immigrants who were “lawfully present” because they had received Temporary Protected Status (TPS) or Deferred Enforced Departure (DED).

The program remained small for two main reasons. First, the majority of the Salvadoran, Guatemalan, and Honduran immigrants present in the U.S. were ineligible to participate because they were here illegally, without TPS or some other status by which they might have been judged “lawfully present”. Second, most Central American minors, according to the UN refugee agency, did not meet the refugee status requirements; and, as research shows, “being forced to join a gang or experiencing violence do not generally qualify as a basis for refugee status.”<sup>15</sup>

The Obama administration expanded the program in 2016 to include additional categories of applicants. CAM was no longer limited to “minors” sponsored by parents already in the United States — adult children, married children, biological parents, and “caregivers” (grandparents, aunts and uncles, etc.) could also join in.

As its name suggests, the program was two-fold: The refugee component allowed for permanent settlement (with lawful permanent residence one year after arrival and access to U.S. citizenship four years later); parole was “temporary” and did not lead in itself to a permanent immigration status (an initial two-year stay and work authorization were provided — both renewable). But “temporary” in such a setting was akin to permanent. Odds are, once in the United States, most would never be made to leave.

The program offered two protection umbrellas, but only one passage in. Individuals had to apply for the refugee status first, with the help of a “resettlement agency” (a non-profit organization partly funded by the U.S. government to resettle refugees in the country). Unsuccessful refugee applicants were automatically considered (and, for the vast majority, approved) for parole. Parole determinations were based on information obtained at the refugee interview.

This parole parachute was opportune since the large majority of CAM applicants were not eligible for refugee resettlement. Parole determinations were more inclusive; individuals needed only to be “at risk of harm” in their own countries and to demonstrate they should receive “a favorable exercise of discretion”.<sup>16</sup> Of the 5,500 CAM applicants processed by the end of 2016, 30 percent were approved under the refugee program, and an additional 69 percent under parole.<sup>17</sup> This also meant that 99 percent of applicants earned an entry ticket into the United States, one way or another.

This reminds me of a French television program that aired a long time ago in which kids participated in a singing competition. The “competition” was in name only; at the end of each show, the host would declare “everyone a winner”. With CAM, almost everyone got an entry ticket into the United States.

## Biden’s Central American Plan: Three Programs to Fit All Claims

Sections 2204-2208 of the U.S. Citizenship Act of 2021 suggest that the Biden administration wants to move beyond Obama’s two-in-one approach.<sup>18</sup>

A new Central American program, as designed by the Biden administration, would be threefold; with each element offering a distinct protection scheme:

- “Central American *Refugee* Program” would allow for refugee resettlement;
- “Central American *Family Reunification Parole* Program” would grant parole; and
- “Central American *Minors* Program” would offer special immigration status.

The programs are designed to identify, screen, and process “refugees and other individuals eligible for lawful admission to the United States”. Processing centers would assess registered individuals to determine to which of these the benefits they may be eligible.

What is not clear, however, is whether applicants who are found ineligible under one program would be automatically referred to (and likely accepted) under another one, as was the case with the previous versions of CAM.

The programs would no longer be limited to nationals of El Salvador, Honduras, and Guatemala; any other “Central American” country could be added to the list by the Secretary of State.

Processing centers would be built to facilitate such claims:

*Not fewer than one designated processing center shall be established in a safe and secure location identified by the United States and the host government in: El Salvador; Guatemala; Honduras; and any other Central American country that the Secretary of State considers appropriate to accept and process requests and applications.*

Expedited processing of applications and requests would be provided “in emergency situations, for humanitarian reasons, or if the secretary of State otherwise determines that circumstances warrant expedited treatment.”

An informational campaign and case status hotline would be created to increase awareness of the programs and provide confidential processing information for Central Americans.

## Central American Refugee Program

Applicants under this program, laid out in Sec. 2206 of the U.S. Citizenship Act, would be eligible for “refugee resettlement” in the United States. Refugee resettlement would give beneficiaries a pathway to U.S. citizenship five years after arrival. In fact, refugees are obligated by law to apply for a green card one year after admission.

The bill calls for agreements with international organization, including the UN High Commissioner for Refugees (UNHCR), to “facilitate the processing and preparation of case files for applicants.” The Refugee Corps would be expanded to add additional refugee officers, as necessary, to staff the program.

Prospective applicants would have access to orientation materials, including those relating to their rights and legal recourse.

Unlike with the previous CAM (the initial 2014 version and the expanded 2016 one), no family sponsorship would be required to apply for refugee resettlement under the Biden version:

*Any individual who registers at a designated processing center, expresses a fear of persecution or an intention to apply for refugee status, and who is a national of El Salvador, of Honduras, of Guatemala, or of any other Central American country whose nationals the Secretary of State has determined are eligible for refugee status under this section may apply for refugee resettlement under this section.*

The program also calls for “Emergency Relocation Coordination”, which would provide temporary placement in safe locations pending a final decision for applicants exposed to imminent risks where they are:

*The Secretary of State, in coordination with the [DHS] Secretary, may enter into bilateral or multilateral agreements with other countries in the Western Hemisphere to establish safe and secure emergency transit centers for individuals who register at a designated processing center, are deemed to face an imminent risk of harm, and require temporary placement in a safe location pending a final decision on an application under this section. Such agreements may be developed in consultation with the United Nations High Commissioner for Refugees and shall conform to international humanitarian standards.*

This parallels mechanisms in the Protection Transfer Arrangement (PTA) set up in 2016 by the Obama administration in conjunction with the expansion of CAM. In collaboration with UNHCR and the International Organization for Migration (IOM), under the PTA, the U.S. government would process certain individuals from El Salvador, Guatemala, and Honduras in a transit country, and then fly them directly to the United States.

UNHCR described the PTA as “an innovative life-saving mechanism that provides individuals exposed to extreme risks in their country of origin with a safe and legal access to a durable solution in a resettlement country via a country of transit.”<sup>19</sup>

In 2016, Costa Rica agreed to act as a “country of transit” and entered into a protection transfer arrangement with the UNHCR and IOM.<sup>20</sup> As I explained in an earlier report, only a small number of persons were resettled under PTA, mainly because of the limited number of U.S. resettlement places and the limited capacity of the transit country. Moreover, UNHCR was unable to identify enough suitable individuals to meet the full capacity of PTA.<sup>21</sup>

Under the new Biden Central American Plan, the United States would enter into protection transfer arrangements with other countries in the region like the earlier one with Costa Rica. The number of U.S. resettlement slots provided could be increased, Costa Rica (and other countries) would be encouraged to increase their capacity and/or willingness to process an expanded number of applicants (perhaps with increased funding), and UNHCR and other partners would be charged with finding more applicants to fill in the spots.

## “Central American Family Reunification Parole Program”

Applicants under this program, outlined in Sec. 2208 of the bill, would be eligible for immigration “parole”.

In general terms, “parole”, unlike refugee status, does not provide a pathway to future immigration status. In this context, however, parole could lead to permanent status since it would be granted under the family-reunification umbrella. Applicants would then fall under the preference-allocation for family-sponsored immigrants, if a visa were available to them. This means that, instead of waiting for their immigrant visa[s] in their own country, they could do so while remaining with family members in the United States.

Unlike with the previous Central American Refugee/Parole program, parole applications here could be filed separately:

*the designated processing center may accept a completed application for parole filed by the noncitizen, or on behalf of the noncitizen by a parent or legal guardian.*

A noncitizen would be eligible for parole if he or she:

*is a national of El Salvador, of Guatemala, of Honduras, or of any other Central American country whose nationals the Secretary has determined are eligible for parole under this section;*



*the beneficiary of an approved immigrant visa petition under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) [Preference allocation for family-sponsored immigrants]; and*

*an immigrant visa is not immediately available for the noncitizen, but is expected to be available within a period designated by the Secretary.*

## Central American Minors Program

Unlike the other two programs described in the U.S. Citizenship Act, which could largely be implemented administratively if the bill did not become law, the “Central American Minors Program” (Sec. 2207 of the bill) would need to be created through legislation.

Applicants under this program would be eligible for “special immigrant” status, a catch-all category currently covering certain employees of international organizations as well as others.<sup>22</sup> Special immigrants qualify for a green card (permanent residence) after meeting certain criteria.

Those provided special immigrant status under this section would not be counted against any numerical limitation. The applicant would need to be:

*A national of El Salvador, of Honduras, of Guatemala, or of any other Central American country whose nationals the Secretary has determined are eligible for special immigrant status under this section.*

*A child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of an individual who is lawfully present in the United States.*

The term “child” (whether biological, step, or legally adopted) in that context means an “unmarried person under twenty-one years of age.”<sup>23</sup> It seems that, for now, the Biden administration is reverting to the 2014 CAM “minors” guidelines — possibly because all other categories of applicants under the Refugee program and the Family Reunification Parole program would not fall under any age limitation.

Minor children of these children would also be entitled to special immigrant status if they were accompanying or following to join the primary beneficiary.

Individuals “lawfully present” in the United States at the time of the application (which is different from having “lawful status” under the INA), are those who are here on Permanent Resident Status, Temporary Protected Status, Parole, Deferred Action, Deferred Enforced Departure, or Withdrawal of Removal.

Unlike with previous iterations of administrative CAM programs, eligibility criteria would not include, for now, parental sponsorship or DNA testing. Perhaps those would be added with the further elaboration and detailed presentation of the program.

Applicants under prior versions of CAM would receive another opportunity for admission:

*The Secretary shall deem an application filed under the Central American Minors Refugee Program, established on December 1, 2014, and terminated on August 16, 2017, which was not the subject of a final disposition before January 31, 2018, to be a petition filed under this section.*

Those prior so-called “minors” (as mentioned earlier) following Obama’s 2016 expansion of CAM, included not just “minors”, but also adult family members. Also notably, those “minors” the Biden administration plans on admitting now are those who claimed persecution four or more years ago. One can wonder about the significance and urgency of the so-called “persecution” they claim to face or have suffered.

# Conclusion

The Central American Minors (CAM) Refugee/Parole program was initially set up by the Obama administration in response to the border crisis in the summer of 2014, when illegal crossings of unaccompanied minors from Central America reached peak levels. The program was not as widely used as that administration had hoped, despite a 2016 expansion of eligibility. Illegal crossings at the border did not decrease in response to Obama's CAM; rather, they decreased only later on because of Trump's tough border measures.

President Biden is making the same bet as President Obama. He plans to further expand Central American in-country processing programs to try to discourage unaccompanied minors and other migrants/asylum seekers from showing up at our border.

Biden is also allocating \$4 billion “to address the underlying causes of migration in the region, including by increasing assistance to El Salvador, Guatemala, and Honduras, conditioned on their ability to reduce the endemic corruption, violence, and poverty that causes people to flee their home countries.”<sup>24</sup>

While trying to address migration push factors in the region, the Biden administration is enhancing pull factors into the United States.

This does not seem like a recipe for success.

## End Notes

- <sup>1</sup> Nayla Rush, [“CAM and PTA: Opening the Back Door. The Likely Revival and Expansion of the Programs for Central Americans”](#), Center for Immigration Studies *Background*, January 21, 2021.
- <sup>2</sup> [“Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border”](#), the White House, February 02, 2021.
- <sup>3</sup> [“Restarting the Central American Minors Program”](#), U.S. Department of State, March 10, 2021.
- <sup>4</sup> [“Press Briefing by Press Secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas”](#), the White House, March 01, 2021.
- <sup>5</sup> *Ibid.*
- <sup>6</sup> [“Readout of Secretary Mayorkas’ Call with Guatemalan Minister of Foreign Affairs, Pedro Brolo”](#), Department of Homeland Security, March 1, 2021.
- <sup>7</sup> [“Transcript: ABC News’ George Stephanopoulos interviews President Joe Biden”](#), ABC News, March 17, 2021.
- <sup>8</sup> Nayla Rush, [“CAM and PTA: Opening the Back Door. The Likely Revival and Expansion of the Programs for Central Americans”](#), Center for Immigration Studies *Background*, January 21, 2021.
- <sup>9</sup> [“Restarting the Central American Minors Program”](#), U.S. Department of State, March 10, 2021.
- <sup>10</sup> *Ibid.*
- <sup>11</sup> Nayla Rush, [“Welcoming Unaccompanied Alien Children to the United States: Family reunification disguised as refugee resettlement”](#), Center for Immigration Studies *Background*, May 2, 2016.
- <sup>12</sup> [“Restarting the Central American Minors Program”](#), U.S. Department of State, March 10, 2021.
- <sup>13</sup> [“U.S. Citizenship Act of 2021”](#), Senate version, February 18, 2021.
- <sup>14</sup> Mark Krikorian, [“Amnesty: Comprehensive or Piecemeal?”](#), National Review, February 18, 2021.
- <sup>15</sup> See [“Children on the Run: Unaccompanied Children Leaving Central America And Mexico And The Need For International Protection”](#), UNHCR Regional Office for the United States and the Caribbean, 2014; and Faye Hipsman and Doris Meissner, [“In-Country Processing in Central America: A Piece of the Puzzle”](#), Migration Policy Institute, August, 2015.
- <sup>16</sup> [“Immigration Parole”](#), Congressional Research Service, October 15, 2020.
- <sup>17</sup> [“S.A. v. Trump, 363 F. Supp. 3d 1048 \(N.D. Cal. 2018\)”](#), December 10, 2018.
- <sup>18</sup> [“U.S. Citizenship Act of 2021”](#), Senate version, February 18, 2021.
- <sup>19</sup> [“Expanding Operations in Central America 2019”](#), UNHCR, 2019.
- <sup>20</sup> [“U.S. Expands Initiatives to Address Central American Migration Challenges”](#), Department of Homeland Security, July 26, 2016.



<sup>21</sup> Nayla Rush, [“CAM and PTA: Opening the Back Door. The Likely Revival and Expansion of the Programs for Central Americans”](#), Center for Immigration Studies *Backgrounders*, January 21, 2021.

<sup>22</sup> See [8 U.S.C. 1101\(a\)\(27\)](#).

<sup>23</sup> [“8 U.S. Code § 1101 — Definitions”](#), Cornell Law School, undated.

<sup>24</sup> [“Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System”](#), the White House, January 20, 2021.