

Jessica Vaughan's Response to Questions for the Record
Hearing on "Eroding the Law and Diverting Taxpayer Resources:
An Examination of the Administration's Central American Minors Refugee/Parole Program
April 23, 2015, Senate Subcommittee on Immigration in the National Interest

Senator Vitter: In your opinion, did the Obama administration use the words "lawfully present" to describe family members already in the U.S. under this program to deceive the general public about the legality of their status here?

Response: Yes. The term "lawfully present" was created by Congress to describe those non-citizens who are covered under the provisions of the Affordable Care Act of 2010 (known as "Obamacare") who have not been admitted for permanent residency and who do not have legal status. Some are in a limbo-like status with a pending request for legal status that may or may not be approved, or which could take years to be heard in immigration court. It includes a large number of aliens who entered or attempted to enter illegally and do not qualify for legal status, or are unlikely to qualify, but who have been allowed to stay under executive branch policies. They include: asylum applicants, Cuban and Haitian boat people, aliens with Temporary Protected Status (TPS), those approved for Deferred Action for Childhood Arrivals (DACA), illegal aliens who have been ordered removed but whose countries will not take them back, and illegal aliens from Central America who arrived in the recent surge and were granted parole (mostly family units). "Lawful presence" is not the same as "legal status;" it refers to someone who is being allowed to stay even though they lack legal status.

The original announcement for the CAM Program from the State Department came on November 14, 2014 (<http://www.state.gov/j/prm/releases/factsheets/2014/234067.htm>) and included this passage:

The United States is establishing an in-country refugee/parole program in El Salvador, Guatemala, and Honduras to provide a safe, legal, and orderly alternative to the dangerous journey that some children are currently undertaking to the United States. This program will allow **certain parents who are lawfully present** in the United States to request access to the U.S. Refugee Admissions Program for their children still in one of these three countries. Children who are found ineligible for refugee admission but still at risk of harm may be considered for parole on a case-by-case basis. **The refugee/parole program will not be a pathway for undocumented parents to bring their children to the United States**, but instead, the program will provide certain vulnerable, at-risk children an opportunity to be reunited with parents lawfully resident in the United States.

The language in bold is meant to be misleading, in my opinion. In fact, nearly all, if not 100 percent, of the parents who will take advantage of this program to seek entry for their children are illegal aliens who do not have legal status, but who have been allowed to stay in some form of limbo-like status, such as parole, asylum applicants, Temporary Protected Status (TPS), and Deferred Action for Childhood Arrivals (DACA). This includes Central American illegal aliens who entered in previous surges, for example in the late 1990s and early 2000s, as well as those

who entered in the most recent surge. It also would have included Central Americans who were awarded deferred action under the President's planned executive action known as DAPA, which was announced just days later, but which has been blocked by a lawsuit by 26 states. In addition, the term "lawful presence" covers any illegal alien in deportation proceedings who is released from ICE custody, either by court order or as a result of ICE discretion, under an order of supervision. Many of these individuals are convicted criminals.

The statement that the program "will not be a pathway for undocumented parents to bring their children to the United States" is simply false. It is obvious that is exactly what the program will do.

Senator Cruz: Please provide any additional information you believe would be helpful to the Committee in its formulation of immigration policy and/or addressing the Central American Minors Refugee/Parole Program.

Response: It is apparent from official intelligence reports, journalists' accounts, and surveys of the migrants that, while the quality of life in the homes and home countries of the young people who will be resettled under the CAM Program may be less than ideal for some, the primary reasons driving them to seek entry to the United States are to join family members who are living here illegally and to work. Their friends and families who are already in the United States illegally know that they face little threat of deportation unless they are convicted of a serious crime – this has been announced far and wide by the Obama administration.

Therefore, the best way to deter parents from attempting to smuggle their children into the United States is to change the policies of non-enforcement; of rubber-stamping approval of dubious "credible fear" claims; of stretching the definition of "refugee," "persecution," and "particular social group" beyond recognition and common sense; and of releasing smuggled children to their illegally-resident parents without consequence. The response should not be to reward their violation of U.S. laws by creating a family reunification program for them at taxpayer expense and in conflict with the laws written by Congress.

Contrary to what has been suggested in some media reports, the surge of Central American children and families is not over. As of the end of April, 2015 the Border Patrol had apprehended 26,067 unaccompanied minors and members of family units, and this is before the usual peak in illegal crossings, which in the past have occurred in May and June. If this pace continues, 2015 will be the year with the second highest rate of these cases ever. Nearly all of the new arrivals are being released.

Further, at this writing, the Obama administration appears to be preparing to release most of the few family units who have been detained in brand-new multi-million-dollar state-of-the-art family residential centers after complaints from advocacy groups. Statements from the administration suggest that these residential centers will be run more like processing centers for brief detention and prompt release. This development likely will spur even more interest in illegal migration from Central America.

In order to stem the influx and avoid additional costs to American communities, Congress needs to step in. Legislation that would clarify how the government should handle minors; impose limits on use of executive parole authority; boost enforcement and compliance with existing laws; require use of accelerated forms of due process for juveniles, families, and especially criminal aliens; create infrastructure and authority for the Border Patrol to maintain custody of arriving aliens in the immediate vicinity of the border; mandate speedier asylum case disposition, ideally at the border; clarify the criteria for the admission of refugees and asylees; and create a process for state and local governments to receive information about planned resettlements in their jurisdiction.

In addition, Congress must insist that DHS provide additional information to permit adequate oversight. First, the agency should share the details of its official mass migration plan formulated in 2011-12 with members of Congress, and explain why it did not implement this plan to address the surge of Central American minors and families.

Second, the agency should disclose the status of all cases of Central American juveniles and family units who were caught and released since the 2013 fiscal year – what is the status of the cases, basic demographic and citizenship information; how many have been granted relief or admission (and what type of relief, i.e. asylum, SIJS, etc.), how many absconded from proceedings, how many were ordered deported, how many were removed, and how many have been arrested for criminal offenses.

In addition, the agencies should provide detailed information on the CAM program – how many are admitted as refugees, how many as parolees, costs to the U.S. government and amount of fee revenue collected, number of I-602 ineligibility waivers processed and reasons waivers were needed, number repaying promissory notes for travel expenses, and details on the immigration status of the sponsoring parents.

I hope this information is helpful to the Subcommittee. Thank you for the opportunity to testify, and for your attention to this important matter.

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