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Fulfilling U.S. Commitment to Refugee Resettlement: Protecting Refugees, Preserving National Security, & Building the U.S. Economy Through Refugee Admissions

Harvard Immigration and Refugee Clinical Program

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REPORT

FULFILLING U.S. COMMITMENT TO REFUGEE RESETTLEMENT: PROTECTING REFUGEES, PRESERVING NATIONAL SECURITY, & BUILDING THE U.S. ECONOMY THROUGH REFUGEE ADMISSIONS

A Report of the Syrian Refugee Resettlement Project

*An Initiative of the Harvard Immigration
and Refugee Clinical Program**

* The Howard and Abby Milstein Foundation launched and supported the Syrian Refugee Resettlement Project (the “Project”), which culminated in the release of this Report in the Summer of 2017. Megan McLean also contributed funding, especially for the activities related to the rollout of the Report.

Sabi Ardalan, assistant director of the Harvard Immigration and Refugee Clinical Program and assistant clinical professor at Harvard Law School, supervised a fantastic team of students, staff, researchers, and interns who contributed to the writing of this Report. These included Mana Azarmi, Shubhangi Bhadada, Daniel Binette, Madelyn Finucane, Harleen Gambhir, Selma Haveric, Melissa Mikail, Anusha Pamula, Kim Quarantello, Jillian Ventura, Amy Volz, and Salma Waheedi.

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The following consultants contributed to the Project and to writing the Report: Amy Nelson, former director of the Refugee Processing Center; Sana Shtasel of the Multifaith Alliance for Syrian Refugees, a project of the Tides Center that is a coalition of faith-based and secular organizations seeking to mobilize global support to alleviate the Syrian humanitarian crisis and advance stability in the region; and Deb Stein, former director of Episcopal Migration Ministries, who served as the lead consultant for the Project and Report. Thanks also to Georgette F. Bennett, Ph.D., founder of the Multifaith Alliance for Syrian Refugees, for her contributions to the launch of the Project and for her detailed review of the final Report.

A spring 2016 paper entitled *Barriers to Entry: Systemic Injustice in the U.S. Treatment of Syrian Refugees*, by Michael Adame, Tala Atassi, Ahsan Sayed, and Crispin Smith, students in the Systemic Justice Project at Harvard Law School, provided excellent background and context.

We are grateful to members of the Syrian Refugee Resettlement Project’s advisory group—HIAS, Human Rights Watch, the International Refugee Assistance Project, and the International Rescue Committee—for their thoughtful feedback and com-

ABSTRACT

At a time when the U.S. refugee admissions program is under serious threat and the world's displaced population is at its highest, this Report sets forth extensive recommendations regarding the United States' role in protecting vulnerable refugees and compliance with its commitments under domestic and international law that together safeguard people fleeing persecution and fearing return to torture. The Report also identifies key national security reasons for supporting and enhancing the refugee program in keeping with U.S. foreign policy priorities. Additionally, the Report provides an in-depth discussion of the robust, multistep security-assessment mechanisms already in place for screening refugees; offers viable policy solutions to improve the integration of resettled refugees through enhanced collaboration among government agencies, private resettlement agencies, and sponsors involved in domestic resettlement; and demonstrates the positive economic impact of refugee resettlement in the United States. Drawing on the perspectives of longtime domestic refugee resettlement experts, the Report also provides fresh insights into how public-private partnerships function in refugee resettlement and the ways in which they can be strengthened.

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I. EXECUTIVE SUMMARY

In 1968, the United States formalized its longstanding commitment to protecting the most vulnerable among us by ratifying the 1967 Protocol to the 1951 Refugee Convention. Since then, with the successful integration of more than three million refugees from all corners of the world, the United States has reaped the benefits of resettling these new Americans, from the economic boost they provide domestically to the leverage and regional stability they create abroad.

The resettling of refugees is therefore very much in keeping with the Executive Branch’s two major priorities in 2017: national security and job generation. This Report and its recommendations demonstrate how the U.S. Refugee Admissions Program assists the U.S. government in achieving these goals by advancing national security, generating jobs for Americans, and bringing the administration into compliance with its domestic and international humanitarian and legal obligations.

The Report offers new and critical information to Congress and the Executive Branch as they consider how to advance our domestic and international interests, while retaining our tradition of safeguarding refugees and ensuring equal treatment for all. The Report:

- reviews U.S. legal and moral commitments under domestic and international law, which together safeguard people fleeing persecution and fearing return to torture;
- identifies key national security reasons for supporting and enhancing the refugee program, in keeping with U.S. foreign policy priorities of preserving regional stability in the Middle East;

- provides an in-depth discussion of the robust, multistep security-assessment mechanisms already in place for screening refugees, as well as technological enhancements to the process to make it more efficient and effective;
- offers viable policy solutions to improve the integration of resettled refugees through enhanced collaboration among government agencies, private resettlement agencies, and sponsors involved in domestic resettlement; and
- demonstrates the positive economic impact of refugee resettlement in the United States.

This Report draws on over two dozen interviews with leading government officials, key nongovernmental organizations, and academics to identify changes to the refugee admissions system that have significantly improved the efficiency and effectiveness of refugee screening, processing, resettlement, and integration, as well as the areas in which the U.S. government can do more. Highlighting the perspectives of recognized domestic refugee resettlement experts, the Report provides fresh insights into how longstanding public-private partnerships in U.S. refugee resettlement operate and the ways in which they can be further expanded and strengthened.

Described below are some key recommendations that form the basis of a uniform protocol to (a) strengthen an already robust security-assessment system and (b) provide the support refugees need to successfully integrate into and contribute to U.S. society, both as wealth generators and as assets to their communities.

To the Executive Branch, including the Departments of State, Homeland Security, and Health and Human Services:

Department of State

- Continue to implement new technologies to enhance and harmonize effective security checks for refugees, building on the technological advances put in place in 2016, which allow for more efficient screening while still safeguarding national security.
- Facilitate more efficient family reunification for refugees to ensure the stability they need to contribute fully and effectively to U.S. society and boost the economy.

Department of Homeland Security

- Expand the deployment of permanent Refugee Affairs Division officers for refugee screening and use of videoconferencing when trips to the region are not possible due to security concerns, in order to facilitate more efficient and effective security and eligibility assessments.
- Maintain exemptions to the terrorism-related inadmissibility grounds (“TRIG”) and continue to work with the United Na-

tions High Commissioner for Refugees to identify cases for resettlement where TRIG issues are not present or where TRIG exemptions are applicable.

Department of Health and Human Services

- Create systems to collect relevant data to track outcomes of refugee resettlement, including refugees' successes and contributions to local economies and communities.
- Adjust the Office of Refugee Resettlement's funding cycle to states in order to account more quickly for secondary migration and changes to local refugee populations to ensure that refugees are better integrated and on the path to self-sufficiency and economic prosperity.

To the U.S. Congress:

- Expand the Office of Refugee Resettlement's mandate and invest in resettlement services to facilitate refugees' integration and contributions to the economy.

To Nongovernmental Organizations and the Advocacy Community:

- Celebrate and recognize the United States' success in resettling over three million refugees,¹ amplifying this message through high-profile public-awareness campaigns.
- Build on existing public-private partnerships to marshal more resources for resettlement.
- Identify and track refugees' substantial contributions to local economies and communities.
- Highlight existing security measures that safeguard national security while still promoting refugee admission and resettlement.

II. METHODOLOGY

Launched in 2016, the Syrian Refugee Resettlement Project, funded by the Howard and Abby Milstein Foundation, analyzed U.S. policies, laws, and regulations affecting refugee resettlement.² The Project's goal was to offer recommendations related to increasing the efficiency and effectiveness of the U.S. system in resettling refugees while protecting national security.³

This Report is based on over two dozen in-depth interviews conducted between May and December 2016 with officials from key federal agencies—including the State Department's Bureau of

1. See *Refugee Admissions*, U.S. DEP'T OF STATE, <https://www.state.gov/j/prm/ra/> [<https://perma.cc/SJR4-V493>] (last visited Apr. 3, 2017).

2. *Clinical program receives grant from Milstein Foundation to launch Syrian Refugee Resettlement Project*, HARVARD LAW TODAY (June 10, 2016), <https://today.law.harvard.edu/clinical-program-receives-milstein-foundation-grant-launch-syrian-refugee-resettlement-project/> [<https://perma.cc/9ZAJ-KKHE>].

3. *Id.*

Population, Refugees, and Migration (“PRM”); the Department of Homeland Security’s (“DHS”) U.S. Citizenship and Immigration Services (“USCIS”); and the Department of Health and Human Services’ Office of Refugee Resettlement (“ORR”)—as well as with state refugee coordinators, resettlement agencies, and nongovernmental organizations (“NGOs”).⁴

The Report also draws on and synthesizes recent reports on the U.S. refugee resettlement process, statements by U.S. government officials, and legislative proposals in formulating recommendations to facilitate the expeditious overseas processing of refugees and to enhance the integration of refugees once they arrive in the United States.

The Report was drafted in consultation with an advisory group comprising HIAS, Human Rights Watch, the International Refugee Assistance Project, and the International Rescue Committee.

Since the Project’s inception in 2016, the political landscape has shifted significantly. On January 27, 2017, President Donald J. Trump signed an Executive Order, *Protecting the Nation from Foreign Terrorist Entry into the United States*, which reduced the number of refugees to be admitted into the United States in Fiscal Year (“FY”) 2017 from 110,000 to 50,000, suspended the U.S. Refugee Admissions Program (“USRAP”) for 120 days, and indefinitely banned the admission of refugees from Syria—a ban which only the President could lift.⁵ The order also mandated that future resettlement procedures prioritize refugees who were members of a religious minority in their country of origin and faced religious persecution.⁶

Following litigation, this Executive Order was subject to a nationwide restraining order and was subsequently replaced by a new Executive Order issued on March 6, which was also entitled *Protecting the Nation from Foreign Terrorist Entry into the United States*.⁷ This March 6 Order revoked the prior January 27 order as of March 16, 2017. Like the prior order, this order set the number of refugees who

4. Interview by Deb Stein with undisclosed official, U.S. Dep’t of State Bureau of Population, Refugees, and Migration, in Wash., D.C. (Aug. 29, 2016) [hereinafter *PRM Interview*]; Interview by Deb Stein with undisclosed official, Dep’t of Homeland Sec. U.S. Citizenship and Immigration Services, in Wash., D.C. (Aug. 29, 2016) [hereinafter *USCIS Interview*]; Interview by Deb Stein with undisclosed official, U.S. Dep’t of Health and Human Serv., in Wash., D.C. (Sep. 21, 2016) [hereinafter *ORR Interview*]; Telephone Interview by Deb Stein with undisclosed state refugee coordinators (Oct. 2016) [hereinafter *Refugee Coordinator Interviews*]. Interviews for this Report were conducted with the condition that they were not for attribution.

5. Exec. Order No. 13,769, 82 Fed. Reg. 8,977 (Jan. 27, 2017).

6. *Id.*; see also Sarah Pierce & Doris Meissner, *Trump Executive Order on Refugees and Travel Ban: A Brief Review*, MIGRATION POL’Y INST. (Feb. 2017), <https://www.migrationpolicy.org/research/trump-executive-order-refugees-and-travel-ban-brief-review> [<https://perma.cc/JW3G-P3MJ>].

7. Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).

may be admitted to the United States at 50,000,⁸ less than half the number previously set prior to the start of FY 2017 by President Barack Obama in consultation with Congress.⁹ The March 6 Order was also the subject of litigation, and on March 15, it was enjoined from taking effect.¹⁰

Given these new policy directives and policymakers' heightened focus on national security concerns in refugee processing, this Report presents a thorough overview of the robust security checks and other procedural safeguards already in place to protect U.S. national security interests. It also offers an in-depth analysis of avenues for increased efficiency, improved outcomes, and integration of refugees, both in the overseas admissions and the domestic resettlement processes.

III. BACKGROUND ON SYRIAN REFUGEE RESETTLEMENT IN THE UNITED STATES

As this Report goes to print, almost five million Syrian refugees—mostly women and children in need of protection, medical assistance, and other urgent aid¹¹—have registered (or are awaiting registration) with the United Nations High Commissioner for Refugees (“UNHCR”).¹² After six years of conflict in Syria, there is no sign of

8. *Id.*

9. Juliet Eilperin, *White House Raises Refugee Target to 110,000*, WASH. POST (Sept. 14, 2016), https://www.washingtonpost.com/news/post-politics/wp/2016/09/14/white-house-plans-to-accept-at-least-110000-refugees-in-2017/?utm_term=.3fcf2f2b46a6 [<http://perma.cc/44VX-2XSH>].

10. For more information regarding the litigation, see *Civil Rights Challenges to Trump Refugee/Visa Order*, U. OF MICH. L. SCH. C.R. LITIG. CLEARINGHOUSE, <https://www.clearinghouse.net/results.php?searchSpecialCollection=44> [<https://perma.cc/CYX5-XDRN>] (last visited Apr. 23, 2017). Subsequent to the release of the Report, on September 24, 2017, the President issued a new Proclamation, which is deemed by many to be the “travel ban 3.0.” This latest Proclamation does not address the issue of refugee resettlement and, like the January and February Orders, it is also the subject of extensive litigation. See generally Ilya Smith, *Federal court rules against Travel Ban 3.0 because it discriminates against Muslims*, WASH. POST (Oct. 18, 2017), https://www.washingtonpost.com/news/voikh-conspiracy/wp/2017/10/18/federal-court-rules-against-travel-ban-3-0-because-it-discriminates-against-muslims/?utm_term=.1e299d6f27fb [<https://perma.cc/ETY4-79RG>].

11. See, e.g., UNFPA, REGIONAL SITUATION REPORT FOR SYRIA CRISIS (Aug. 2013), <http://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA%20regional%20sitrep%2015%20July-%2015%20August%20%2310%20.pdf> [<https://perma.cc/7AQU-SUDW>]; Samira Sami et al., *Responding to the Syrian Crisis: The Needs of Women and Girls*, THE LANCET (Nov. 8, 2013), <https://data2.unhcr.org/en/documents/download/39300> [<https://perma.cc/7Y4Q-5JQW>].

12. Refugees are, by definition, individuals who are outside of their country of origin. “This figure includes 2 million Syrians registered by UNHCR in Egypt, Iraq, Jordan and Lebanon, 2.9 million Syrians registered by the Government of Turkey, as well as more than 29,000 Syrian refugees registered in North Africa.” UNHCR, SYRIA REGIONAL REFUGEE RESPONSE: REGIONAL OVERVIEW (Mar. 23, 2017), <https://data.unhcr.org/syrianrefugees/regional.php> [<https://perma.cc/RAV6-DRLF>]. Many more—approximately 6.5 million (including 2.8 million children)—were internally

abatement and no sign that Syrian refugees are any closer to finding more permanent solutions.

UNHCR, the principal organization that provides international protection to refugees, typically tries to assist governments in pursuing one of three durable solutions for refugees: voluntary repatriation when conditions in the source country improve; permanent local integration in the country of first asylum; or resettlement in a third country.¹³ The last—resettlement in a third country—is the focus of this Report.

The United States has long been an international leader in resettling refugees.¹⁴ Generally, resettlement in another country is an option for very few: only about one percent of all refugees in 2015.¹⁵ UNHCR refers refugees for resettlement only after the first two solutions—voluntary repatriation and local integration—are assessed and resettlement is identified as “the most appropriate solution.”¹⁶ Further, UNHCR refers for resettlement only those refugees who are particularly vulnerable in their host nation and who pose no threat to the resettlement country.¹⁷ Specifically, UNHCR identifies certain categories of refugees whom it refers for resettlement, based on the urgency of their cases: those in need of legal and/or physical protection; survivors of torture and/or violence; those with medical needs; women, adolescents, and girls at particular risk; those who need to reunify with family members in other nations; and finally, those with

displaced within Syria as of July 2016. UNHCR, INTERNALLY DISPLACED PEOPLE (July 7, 2016), <http://www.unhcr.org/sy/29-internally-displaced-people.html> [https://perma.cc/DSP2-LM7W].

13. See UNHCR, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2015 24 (2016), <http://www.unhcr.org/en-us/statistics/unherstats/576408cd7/unhcr-global-trends-2015.html> [https://perma.cc/MU55-Q5D2]. See also UNHCR, PROTECTING REFUGEES & THE ROLE OF UNHCR 20–22 (2014); UNHCR, UNHCR RESETTLEMENT HANDBOOK 11, 24–26 (2011); UNHCR, FRAMEWORK FOR DURABLE SOLUTIONS FOR REFUGEES AND PERSONS OF CONCERN (2003). See also Alex Nowrasteh, *Syrian Refugees Don't Pose a Serious Security Threat*, CATO INSTITUTE (Nov. 18, 2015), <http://www.cato.org/blog/syrian-refugees-dont-pose-serious-security-threat> [https://perma.cc/GW2X-DXXE].

14. In 2014, for example, the United States resettled 48,911 refugees, Canada resettled 7,233, and Australia resettled 6,162. UNHCR, UNHCR GLOBAL RESETTLEMENT STATISTICAL REPORT 48–49 (2014), <http://www.unhcr.org/52693bd09.pdf> [https://perma.cc/DHJ2-RCCT]. It is worth noting in this context that President Trump's plan for safe zones in the region in lieu of resettlement has been widely discredited, including by military leaders. See, e.g., Andrew de Grandpre, *Trump's Call for 'Safe Zones' in Syria Is Met with Skepticism at the Pentagon*, MILITARY TIMES (Jan. 26, 2017), <http://www.militarytimes.com/articles/trump-syria-refugees-safe-zones> [https://perma.cc/SCF4-FAB2].

15. See *Resettlement*, UNHCR, <http://www.unhcr.org/en-us/resettlement.html> [https://perma.cc/C4X8-EPW7] (last visited Apr. 16, 2017).

16. *UNHCR Resettlement Submission Categories*, UNHCR, <http://www.unhcr.org/558bff849.pdf> [https://perma.cc/PWL2-8936] (last visited Apr. 3, 2017). See also UNHCR, UNHCR RESETTLEMENT HANDBOOK 243–87 (2011).

17. See *UNHCR Resettlement Submission Categories*, UNHCR, <http://www.unhcr.org/558bff849.pdf> [https://perma.cc/PWL2-8936] (last visited Apr. 3, 2017).

no foreseeable alternative durable solutions.¹⁸ The resettlement program aims both to provide durable protection for at-risk refugees and to allow countries to share responsibility for refugee protection, thereby reducing instability in overburdened countries of first asylum.¹⁹

For Syrian refugees, resettlement generally means transfer from Lebanon, Jordan, Turkey, or Iraq to a third country—such as the United States—that has agreed to admit them after a referral by UNHCR and a rigorous and redundant series of screenings and checks.²⁰ Refugees are admitted into the United States through the USRAP, an interagency program that identifies and admits qualified refugees for resettlement in the United States, in coordination with a network of international and domestic nongovernmental partners.²¹

Since the beginning of the Syrian conflict in 2011, approximately 18,000 Syrian refugees have been resettled in the United States, including a total of 12,587 in FY 2016.²² Prior to FY 2016, the resettlement of Syrian refugees had faced a variety of political roadblocks, including efforts by certain state governors to block the resettlement of these refugees in their states in the wake of the 2015 terrorist attacks in Paris.²³ However, litigation challenging those actions made

18. *Id.* See also UNHCR, UNHCR RESETTLEMENT HANDBOOK 243–87 (2011).

19. See UNHCR, UNHCR RESETTLEMENT HANDBOOK 3 (2011).

20. See *Refugee Resettlement - Security Screening Information*, HUMAN RIGHTS FIRST (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/SyrianRefugees-VettingFacts.pdf> [<https://perma.cc/TLZ8-WX9L>]; see also UNHCR, UNHCR RESETTLEMENT HANDBOOK 302–80 (2011); see also U.S. COMMITTEE FOR REFUGEES AND IMMIGRANTS, *Security Screening of Refugees Admitted to the U.S.*, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/UKW6-9HXF>] (last visited Apr. 3, 2017); see also *Refugee Processing and Security Screening*, USCIS (Dec. 3, 2015), <https://www.uscis.gov/refugeescrreening> [<https://perma.cc/5UY3-CSXJ>].

21. See *U.S. Refugee Admissions Program FAQs*, U.S. DEP'T OF STATE (Jan. 20, 2017), <https://www.state.gov/j/prm/releases/factsheets/2017/266447.htm> [<https://perma.cc/X9UK-GMLX>]; see also *Refugee Resettlement - Security Screening Information*, HUMAN RIGHTS FIRST (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/SyrianRefugeesVettingFacts.pdf> [<https://perma.cc/U5WL-42LU>]. The three main U.S. government agencies involved in refugee resettlement are USCIS within the DHS; PRM within the State Department; and ORR within the Department of Health and Human Services. PRM is responsible for the overall coordination and management responsibility of the USRAP and plays a lead role in proposing admissions ceilings and processing priorities. See *The United States Refugee Admissions Program (USRAP) Consultation & Worldwide Processing Priorities*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (May 5, 2016), <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-worldwide-processing-priorities> [<https://perma.cc/DA97-YKB5>]; See also 8 U.S.C. § 1522 (2012).

22. Data as of December 31, 2016. Jie Zong & Jeanne Batalova, *Syrian Refugees in the United States*, MIGRATION POL'Y INST. (Jan. 12, 2017), <http://www.migrationpolicy.org/article/syrian-refugees-united-states> [<https://perma.cc/P9M5-9W2U>]. See also *Admissions & Arrivals*, REFUGEE PROCESSING CTR. (2016), <http://www.wrapnet.org/admissions-and-arrivals> [<https://perma.cc/KK7L-7FT7>].

23. See Patrick Healy & Julie Bosman, *G.O.P. Governors Vow to Close Doors to Syrian Refugees*, N.Y. TIMES (Nov. 16, 2015), <https://www.nytimes.com/2015/11/17/us/>

clear²⁴ that under the Refugee Act of 1980, states cannot unilaterally

politics/gop-governors-vow-to-close-doors-to-syrian-refugees.html [https://perma.cc/YXC9-8UAR]. Governor Greg Abbott of Texas, for example, asserted that “Texas ‘will not accept any refugees from Syria’ because of security concerns,” and Vice President Mike Pence, then governor of Indiana, said that “while his state ‘has a long tradition of opening our arms and homes to refugees from around the world,’ his ‘first responsibility is to ensure the safety and security of all Hoosiers.’” *Id.* A directive from then-Governor Pence to state agencies ordering them to stop helping with the resettlement of Syrian refugees by withholding the use of federal money to provide services such as housing and medical care resulted in at least one national resettlement agency making the last-minute decision to change the placement of a Syrian family already en route to Indianapolis. The local affiliate that was to have welcomed this family, Exodus Refugee Immigration, expressed concern to the sponsoring national resettlement agency, Episcopal Migration Ministries, that this directive could indefinitely block the family from accessing the vital services and financial assistance they would normally receive, and further reported receiving several angry and threatening calls from the public in opposition to Syrian refugees in reaction to the Paris attacks, which had occurred days before. Wishing to avoid further traumatizing the family by exposing them to potential discrimination and threats to their safety, both agencies agreed it would be in the family’s best interest to secure a different placement location. The family had been notified weeks prior that they would be destined for Indianapolis and had spent that time learning about their future home, but upon their arrival at New York’s JFK Airport, they learned they would instead be going to New Haven, Connecticut, and would be assisted by Integrated Refugee and Immigration Services. In New Haven, they were warmly welcomed by staff of Integrated Refugee and Immigration Services, state officials, and residents alike. *See Indiana Governor Faces Lawsuit for Blocking Syrian Refugees*, THE INDIANA LAWYER (Nov. 24, 2015), <http://www.theindianalawyer.com/indiana-governor-faces-lawsuit-for-blocking-syrian-refugees/PARAMS/article/38809> [https://perma.cc/9AYD-T4J9]. *See also* Liz Robbins, *Syrian Family Diverted from Indiana Feels ‘Welcomed’ in Connecticut*, N.Y. TIMES (Nov. 20, 2015), <https://www.nytimes.com/2015/11/21/nyregion/syrian-refugees-come-to-the-us-to-find-a-place-they-did-not-expect.html> [https://perma.cc/VA4X-3LQS].

24. *See* Exodus Refugee Immigr., Inc. v. Pence, 838 F.3d 902 (7th Cir. 2016). The Department of Justice filed a statement of interest in the case, arguing that the directive violated the Refugee Act of 1980 and agreements the state made to abide by nondiscrimination terms in the Refugee Social Service Program. *See* Dave Stafford, *US Joins Syrian Refugee Case against Pence*, THE INDIANA LAWYER (Feb. 12, 2016), <http://www.theindianalawyer.com/us-joins-syrian-refugee-case-against-pence/PARAMS/article/39489> [https://perma.cc/B9QQ-SNMG]; Dave Stafford, *7th Circuit Affirms Order Against Pence in Syrian Refugee Case*, THE INDIANA LAWYER (Oct. 3, 2016), <http://www.theindianalawyer.com/th-circuit-affirms-order-against-pence-in-syrian-refugee-case/PARAMS/article/41610> [https://perma.cc/76R4-7ZPU]. Meanwhile, the state of Texas tried another tactic. First, Governor Abbott sent a letter to President Obama on November 16, 2015, stating in part, “Effective today, I am directing the Texas Health & Human Services Commission’s Refugee Resettlement Program to not participate in the resettlement of any Syrian refugees in the State of Texas.” Letter from Greg Abbott, Governor Tex., to President Barack Obama (Nov. 16, 2015), http://gov.texas.gov/files/pressoffice/SyrianRefugees_BarackObama11162015.pdf [https://perma.cc/D8M8-Z97A]. Two weeks later, the state of Texas brought a lawsuit on December 3, 2015, against federal officials and one resettlement agency, the International Rescue Committee, asking for an immediate restraining order and a hearing for an injunction that would have prevented the resettlement of Syrian refugees. *See* Jon Herskovitz & Lisa Maria Garza, *Texas Sues U.S., Relief Agency, to Block Syrian Refugees*, REUTERS (Dec. 2, 2015, 10:03 PM), <http://www.reuters.com/article/us-texas-syrians-idUSKBN0TL2Z920151203> [https://perma.cc/S7QT-F7K7]. Ultimately, a federal district court rejected Texas’s attempt to bar the federal government from resettling

block resettlement, and when refugees arrive in the United States, they have the right to move freely throughout the country.²⁵

The presidential determination on refugee admissions for FY 2017, in consultation with Congress, authorized the admission of 110,000 refugees, including a proposed regional ceiling of 40,000 for refugees from the Near East and South Asia.²⁶

Although the January 27 Executive Order attempted to halt all refugee admissions for 120 days and Syrian refugee resettlement indefinitely, as well as reduce the authorized admission level to 50,000 refugees, litigation is ongoing and federal courts across the country have enjoined various provisions of the order from taking effect.²⁷ For example, in February 2017, HIAS, the International Refugee Assistance Project, the American Civil Liberties Union, and others filed a motion for a preliminary injunction to stop the reduction of refugee admissions as part of a lawsuit in Maryland. The Harvard Immigration and Refugee Clinical Program, among others, submitted an amicus curiae brief in support of this litigation.²⁸

The March 6 Executive Order, which superseded the January 27 order no longer included a ban on Syrian refugee resettlement. However, it still included the 120-day suspension of the USRAP and also

Syrian refugees, dismissing the lawsuit on June 16, 2016, and stating that the Texas Health and Human Services Commission had failed to “state a plausible claim for relief” or prove it could challenge the federal government’s actions under existing law. *Tex. Health & Human Servs. Comm’n v. United States*, 193 F. Supp. 3d 733, 736 (N.D. Tex. 2016). See also Matt Ford, *Texas Loses Its Syrian Refugee Lawsuit*, THE ATLANTIC (June 16, 2016), <http://www.theatlantic.com/news/archive/2016/06/texas-syrian-refugee-lawsuit/487424/> [<https://perma.cc/39L4-GNMX>].

25. See *Exodus Refugee Immigr., Inc. v. Pence*, 838 F.3d 902, 904 (7th Cir. 2016).

26. U.S. DEP’T OF STATE, U.S. DEP’T OF HOMELAND SEC. & U.S. DEP’T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2016: REPORT TO THE CONGRESS 59 (2016), <https://www.state.gov/j/prm/releases/doc/forcongress/247770.htm> [<https://perma.cc/EW5F-375R>]. Because regional ceilings do not specify individual nationality quotas, it should be noted that this includes not only vulnerable Syrians but also Iraqis, Bhutanese, Iranians, Pakistanis, and Afghans, including individuals from various religious and ethnic groups in the Near East/South Asia region. Since 1975, the United States has resettled over three million refugees. U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, *History*, <http://www.acf.hhs.gov/orr/about/history> [<https://perma.cc/H8MU-B6SD>] (last visited Apr. 3, 2017). See also Jens Manuel Krogstad & Jannah Radford, *Key Facts About Refugees to the U.S.*, PEW RESEARCH CTR. (Jan. 30, 2017), <http://www.pewresearch.org/fact-tank/2017/01/30/key-facts-about-refugees-to-the-u-s/> [<https://perma.cc/8L9Q-D89Y>].

27. See *Washington v. Trump*, No. 17-35105 (9th Cir. Mar. 17, 2017); see also *Aziz v. Trump*, No. 17-116 (E.D. Va. Feb. 13, 2017).

28. See Rachel Nusbaum, *HIAS v. Trump - Why We’re Suing*, HIAS (Feb. 7, 2017), <https://www.hias.org/blog/hias-v-trump-why-were-suing> [<https://perma.cc/55DK-Y7VS>]; *Complaint for Declaratory & Injunctive Relief, Int’l Refugee Assistance Project v. Trump*, No. 8:17-cv-00361-TDC (D. Md. Feb. 7, 2017). See also *HIAS Files Preliminary Injunction Challenging Reduction of Refugee Admissions to 50,000*, HIAS (Feb. 23, 2017), <https://www.hias.org/hias-files-preliminary-injunction-challenging-reduction-refugee-admissions-50000> [<https://perma.cc/96BT-SXXJ>] (describing motion for preliminary injunction following filing of complaint).

set the number of refugees who may be admitted to the United States in FY 2017 at 50,000—less than half the number set by President Obama, in consultation with Congress, prior to the start of the fiscal year. This Executive Order was enjoined from taking effect on March 15.

As discussed further in the following Section, both the January 27 and the March 6 Executive Orders contravened U.S. obligations under domestic and international law, including the Refugee Act of 1980 and the 1967 Protocol to the 1951 Refugee Convention. The orders also violated U.S. obligations under the Convention against Torture, which Congress incorporated into U.S. law and which prevents the United States from returning individuals to a country where they would face torture.

Limiting refugee resettlement to the United States has not only legal implications but also critical policy ramifications, given the importance of the refugee resettlement regime in advancing U.S. national security interests worldwide. By sharing the global burden of hosting refugees, the USRAP has proven integral to preserving and building goodwill with U.S. allies in the Middle East, many of whom are experiencing the destabilizing effects of hosting millions of refugees.²⁹ As U.S. government officials noted in a 2015 bipartisan letter to Congress regarding Syrian refugees: “[R]efusing to take [refugees] only feeds the narrative of ISIS that there is a war between Islam and the West We must make clear that the United States rejects this worldview by continuing to offer refuge to the world’s most vulnerable people, regardless of their religion or nationality.”³⁰

This Report begins by addressing the overseas refugee processing and admissions process, highlighting the robust vetting and security check procedures, and identifying recent changes to the system that have improved efficiency and effectiveness. It then analyzes domestic refugee resettlement mechanisms, bringing light to bear on public-private partnerships already in place and suggesting avenues for greater collaboration in order to expand and improve existing resettlement structures and thereby enhance integration efforts. Finally, this Report concludes with a series of recommendations for Congress, the Executive Branch (including the President, DHS, the State Department, and the Department of Justice), resettlement agencies, NGOs, and the advocacy community.

29. HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES 13 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [<https://perma.cc/BXY3-QKN9>].

30. *Id.* at 13–14.

IV. LEGAL AND POLICY FRAMEWORK

A. *Legal Framework*

Congress incorporated the international definition of “refugee” from the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees into U.S. law with the Refugee Act of 1980.³¹ U.S. law thus defines a refugee in the following way:

any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion³²

Article 33 of the 1951 Refugee Convention, which was incorporated into the Refugee Act of 1980, imposes a *nonrefoulement* obligation on the United States, requiring the United States not to return refugees to circumstances in which their “life or freedom would be threatened on account of [their] race, religion, nationality, membership of a particular social group[,] or political opinion.”³³

The Refugee Act set forth “a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern.”³⁴ In doing so, it brought the U.S. “definition of ‘refugee’ into conformity with the United Nations Convention and Protocol Relating to the Status of Refugees and . . . g[a]ve ‘statutory meaning to our national commitment to human rights and humanitarian con-

31. See *INS v. Cardoza-Fonseca*, 480 U.S. 421, 423–24 (1987) (“Congress used different, broader language to define the term ‘refugee’ . . . The [Refugee] Act’s establishment of a broad class of refugees who are eligible for a discretionary grant of asylum, and a narrower class of aliens who are given a statutory right not to be deported to the country where they are in danger, mirrors the provisions of the United Nations Protocol Relating to the Status of Refugees, which provided the motivation for the enactment of the Refugee Act of 1980.”); see also *An Overview of U.S. Refugee Law and Policy*, AM. IMMIGR. COUNCIL (Nov. 18, 2015), <https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy> [<https://perma.cc/QC7Z-6EJP>].

32. 8 U.S.C. § 1101(a)(42) (2012).

33. U.S. DEP’T OF JUSTICE, OFFICE OF LEGAL COUNSEL, LEGAL OBLIGATIONS OF THE UNITED STATES UNDER ARTICLE 33 OF THE REFUGEE CONVENTION, 15 OP. O.L.C. 86, 86–87 (1991) (quoting Article 33 of the Refugee Convention); 8 U.S.C. § 1253(h) (2012). See also *Note on Non-Refoulement (Submitted by the High Commissioner)*, UNHCR (Aug. 23, 1977), <http://www.unhcr.org/en-us/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html> [<https://perma.cc/G9EG-6P9U>]; U.N. Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150; 1967 Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577 [hereinafter together “Refugee Convention”].

34. Refugee Act of 1980, Pub. L. No. 96-212, § 101(b), 94 Stat. 102, 102 (1980).

cerns.’”³⁵ Prior to the Refugee Act, “geographical and ideological preferences” governed refugee admissions to the United States.³⁶ The Refugee Act eliminated the ideological definition of refugee and replaced it with a new definition that “no longer applies only to refugees ‘from communism’ or certain areas of the Middle East; it now applies to all who meet the test of the United Nations Convention and Protocol.”³⁷ The Refugee Act’s purpose was to reform the prior ad hoc and discriminatory approach to U.S. refugee admissions and promote a more structured, equitable, and neutral decision-making process.³⁸

Pursuant to the Refugee Act, the number of refugees the United States admits annually is determined by the President in “appropriate consultation” with Congress.³⁹ Specifically, section 207 of the Immigration and Nationality Act (“INA”), which incorporates provisions of the Refugee Act, requires the President, in consultation with Congress, to set admissions numbers prior to the beginning of the fiscal year: “Except as provided in subsection (b) of this section, the number of refugees who may be admitted under this section in any fiscal year . . . shall be such number as the President determines, *before the beginning of the fiscal year and after appropriate consultation.*”⁴⁰ Subsection (b), which addresses refugee admissions in emergency situations, further states that “such admissions shall be allocated among refugees of special humanitarian concern . . . in accordance with a determination

35. *In re S-P-*, 21 I. & N. Dec. 486, 492 (B.I.A. 1996) (quoting S. REP. NO. 256, 96th Cong., 2d Sess. 1, 4, reprinted in 1980 U.S.C.C.A.N. 141, 144); *see also* INS v. Cardozo-Fonseca, 480 U.S. 421, 435–38 (1987).

36. *See* Deborah E. Anker & Michael H. Posner, *The Forty Year Crisis: A Legislative History of the Refugee Act of 1980*, 19 SAN DIEGO L. REV. 9, 11, 17–18 (1981) (describing the history of the 1965 amendments to the Immigration and Nationality Act, which regarded as a refugee, persons from a communist or communist-dominated country, or a country in the Middle East).

37. Edward M. Kennedy, *Refugee Act of 1980*, 15 INT’L MIGRATION REV. 141, 142–43 (1981) (explaining that the act “gave new statutory authority to the United States’ longstanding commitment to human rights and its traditional humanitarian concern for the plight of refugees around the world”). *See also* Refugee Act of 1980, Pub. L. No. 96-212, § 101(b), 94 Stat. 102, 102 (1980) (establishing a “permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States” and providing “comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted”).

38. *See* H.R. REP. NO. 96-781, at 1 (1980) (Conf. Rep.) (noting that the Refugee Act aimed to “establish a more uniform basis for the provision of assistance to refugees”); S. REP. NO. 96-590, at 1 (1980) (Conf. Rep.) (same); *see also* S. REP. NO. 96-2, at 3757 (1979) (“Contrary to current law, the consultation process is now specifically outlined in the statute, ending the current parole process which is merely governed by custom and practice.”) (statement of Sen. Kennedy).

39. 8 U.S.C. § 1157(e) (2012). *See* U.S. DEP’T OF STATE, U.S. DEP’T OF HOMELAND SEC. & U.S. DEP’T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2016: REPORT TO CONGRESS 6 (2016), <https://www.state.gov/j/prm/releases/docsforcongress/247770.htm> [<https://perma.cc/EW5F-375R>].

40. 8 U.S.C. § 1157(a)(2) (2012) (emphasis added).

made by the President *after the appropriate consultation* provided under this subsection.”⁴¹

The “appropriate consultation” process is defined in section 207(e) of the INA as in-person discussions “by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives” to review the refugee situation and project the level of U.S. participation in resettlement efforts.⁴² At least two weeks prior to these discussions, the President is required to provide information to Congress, to the extent possible, regarding the current numbers and regional allocation of refugees, conditions in refugees’ countries of origin, and plans for resettlement and movement of refugees, along with corresponding estimated costs, the socioeconomic and demographic impact of resettlement, the scope of refugee resettlement efforts internationally, and the impact of U.S. resettlement efforts on U.S. foreign-policy interests.⁴³

Under well-established canons of statutory interpretation, the statute’s plain language must determine its meaning where, as here, the statutory text is unambiguous.⁴⁴ President Obama, in consultation with Congress, set the admissions number at 110,000 refugees prior to the start of FY 2017,⁴⁵ and the plain language of the statute does not allow the president to override that determination unilaterally.

The legislative history of the Refugee Act further demonstrates that Congress took steps to ensure it had “ample control over refugee admissions.”⁴⁶ The conference report to the Refugee Act indicated that the legislation granted Congress “much greater and more explicit power than it has had before with regard to the numbers and nature of refugees to be admitted to this country.”⁴⁷ Indeed, in the discussions leading up to the adoption of the Refugee Act, the consultative pro-

41. *Id.* § 1157(b) (emphasis added). This consultation requirement is reiterated in subsection (d), entitled “Oversight reporting and consultation requirements,” which mandates a hearing to review the President’s proposal under either subsection (a) or (b), “unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.” *Id.* § 1157(d)(3)(B). Furthermore, subsection (e) sets forth an extensive definition of “appropriate consultation,” including a detailed list of information that, “to the extent possible,” “shall be provided at least two weeks in advance” of discussions “by designated representatives of the President” with members of Congress. *Id.* § 1157(e).

42. 8 U.S.C. § 1157(e) (2012).

43. *Id.*

44. *Barnhart v. Sigmon Coal Co., Inc.*, 534 U.S. 438, 450 (2002) (internal quotation marks omitted) (“The [judicial] inquiry ceases ‘if the statutory language is unambiguous and the statutory scheme is coherent and consistent.’”).

45. Press Release, White House, Office of the Press Sec’y, Presidential Determination – Refugee Admissions for Fiscal Year 2017 (Sept. 28, 2016), <https://obama.whitehouse.archives.gov/the-press-office/2016/09/28/presidential-determination-refugee-admissions-fiscal-year-2017> [<https://perma.cc/MX43-E5FM>].

46. H.R. REP. NO. 96-2, at 4500 (1980) (statement of Rep. Holtzman).

47. *Id.* at 4501.

cess between the executive and legislative branches was described as “a give-and-take on both sides” and as “a joint decision.”⁴⁸

Members of the House Subcommittee on Immigration and Border Security also emphasized the United States’ special responsibility to refugees from regions where the United States had a “prolonged presence,” such as, at that time, Southeast Asia.⁴⁹ Committee members recognized that the number of refugees resettled would likely be “far in excess of 50,000”⁵⁰ and noted that “Americans should not fight against letting more people in to the extent we can accommodate them, because it’s well known that our democracy has been replenished by way of immigration.”⁵¹ President Jimmy Carter’s signing statement similarly emphasized that the “new admissions policy . . . will permit fair and equitable treatment of refugees in the United States, regardless of their country of origin” and “will also ensure thorough consideration of admissions questions by both the Congress and the administration.”⁵²

Any presidential policy that unilaterally attempts to suspend the refugee program and reduce the number of refugees who may be admitted after the start of the fiscal year violates the elaborate consultation process set forth by statute, as well as longstanding practice.⁵³ The statute does not grant the President unfettered power to reduce

48. *Admission of Refugees into the United States: Hearing Before the Subcomm. on Immigration, Citizenship, & Int’l Law of the H. Comm. on the Judiciary*, 95th Cong. 71 (1977) (statement of John W. DeWitt, Deputy Administrator, Bureau of Security and Consular Aff., Dep’t of State); see also *id.* at 59 (statement of Rep. Joshua Eilberg) (“I am deeply concerned that, under current law and procedures, Congress has surrendered—to a great extent—its authority to regulate the flow of refugees to this country. Our bill represents an attempt to restore this authority and, at the same time, to establish a proper balance between the executive and the legislative branches of Government in establishing the appropriate procedures governing their admission.”).

49. See, e.g., *Admission of Refugees into the United States Part II: Hearing Before the Subcomm. on Immigration, Citizenship, & Int’l Law of the H. Comm. on the Judiciary*, 95th Cong., 2d Sess. 178 (1978) (statement of Rep. Joshua Eilberg) (“It is apparent that the basic reason, apart from our traditional concern for refugees and human rights, for our responsibility for the refugees in that area, stems from our prolonged presence in Vietnam, and our utilization of the resources of Laos and Cambodia during the Indochina conflict.”).

50. *Refugee Act of 1979: Hearing Before the Subcomm. on Immigration, Refugees, and Int’l Law of the H. Comm. on the Judiciary*, 96th Cong. 31 (1979) (statement of Rep. Dan Lungren).

51. *Id.* at 29 (statement of Att’y Gen. Bell).

52. Jimmy Carter, *Refugee Act of 1980 Statement on Signing S. 643 into Law* (Mar. 18, 1980), <http://www.presidency.ucsb.edu/ws/?pid=33154> [<https://perma.cc/ZY68-H7L7>].

53. Complaint for Declaratory & Injunctive Relief, *Int’l Refugee Assistance Project v. Trump*, No. 8:17-cv-00361-TDC, ¶¶ 166–72 (D. Md. Feb. 7, 2017). See, e.g., U.S. DEP’T OF STATE, U.S. DEP’T OF HOMELAND SEC. & U.S. DEP’T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2016: REPORT TO THE CONGRESS, <https://2009-2017.state.gov/documents/organization/262168.pdf> [<https://perma.cc/2HT8-4T64>].

the annual number of refugees who may be admitted.⁵⁴ Indeed, the only explicit and established exception to the procedure is that after midyear executive-congressional consultations, the government can decide to admit *more* refugees when justified by “grave humanitarian concerns” and emergency refugee situations.⁵⁵

Specifically, section 207(b) of the INA grants the president, in consultation with Congress, the power to “fix” a number of refugees to be admitted separately from the predetermined number to address urgent humanitarian concerns.⁵⁶ The statute explains that the president may exercise this exception only to increase the number of refugee admissions in the case of an unforeseen humanitarian situation.⁵⁷ The statute also requires a hearing on the proposal to increase admissions, unless public disclosure would threaten the lives or safety of individuals.⁵⁸

54. Brief of Immigration Law Scholars as Amici Curiae Supporting Respondents, Int’l Refugee Assistance Project, et al. v. Trump, 2017 WL 818255 (No. 16-1436); *Hawai’i v. Trump*, 233 F. Supp. 3d 850 (No. 16-1540).

55. 8 U.S.C. §§ 1157(b), (d)(1), (e) (2012). In addition, under Article 3 of the 1951 Refugee Convention, state parties are required to apply the convention “without discrimination as to race, religion or country of origin.” The January 27 Executive Order’s improper prioritization of religious minorities and discrimination against refugees from predominantly Muslim countries, however, contravenes nondiscrimination protections under both domestic and international law. *See, e.g.*, Geoff Gilbert, *Trump’s Order Barring Refugees Flies in the Face of Logic and Humanity*, THE CONVERSATION (Jan. 29, 2017, 8:41 AM), <http://theconversation.com/trumps-order-barring-refugees-flies-in-the-face-of-logic-and-humanity-72061> [<https://perma.cc/EJ2W-AU4Y>]; Jonathan Hafetz, *The Important Role of International Law in Legal Challenges to Trump’s Anti-Refugee Order*, OPINIO JURIS (Feb. 3, 2017, 6:45 AM), <http://opiniojuris.org/2017/02/03/the-important-role-of-international-law-in-legal-challenges-to-trumps-anti-refugee-order/> [<https://perma.cc/9PAD-C35V>] (“The order contravenes the 1951 Refugee Convention and 1967 Protocol by discriminating among refugees based on religion and country of origin. The ban also violates applicable human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), which prohibits non-discrimination across a broad range of state action, including entry decisions, and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), which bars racial and religious discrimination in immigration decisions.”); Jay Shooster, *Trump’s Immigration Policy Risks Violating International Law—Alienates US Allies*, JUST SECURITY (Jan. 27, 2017, 8:04 AM), <https://www.justsecurity.org/36834/trumps-immigration-restrictions-risk-violating-international-law-cutting-foreign-allies-support/> [<https://perma.cc/B52A-FE68>] (“[W]hen the administration attempts to engage in what amounts to unlawful discrimination of immigrants, those key allies may refuse to cooperate with the U.S. government in order to avoid their responsibility for violations of international law Foreign intelligence information that previously could have been shared with U.S. authorities may need to be withheld, given the significant risk that the Trump Administration would use that information to discriminate against Muslim and/or Arab immigrants. This is just one more way that Trump’s purported tough on terror policies undercut, rather than enhance, US national security. . . . [I]nternational human rights law (IHRL) regulates government policies that have the effect of discriminating against vulnerable minority groups, even if in the absence of purposeful discrimination by officials.”).

56. 8 U.S.C. § 1157(b) (2012).

57. 8 U.S.C. § 1157(d)(3)(B) (2012).

58. *Id.*

The statute's silence regarding the president's power to reduce the number of refugees in the middle of a fiscal year reflects the fact that Congress did not grant this power to the President. Section 207 of the INA unambiguously affords the President, in consultation with Congress, only two distinct forms of authority regarding refugee admissions: (a) determining the number of refugees who may be admitted prior to the start of the fiscal year, and (b) fixing an *additional* number of refugees to be admitted during an "unforeseen emergency refugee situation."⁵⁹ If the legislature had intended to grant the president the additional power to reduce the cap, that power would have been included in the text of the statute.

As described above, the Refugee Act's legislative history supports this reading of the statute. The conference report and statements by members of the House and Senate repeatedly emphasized the humanitarian purpose of the refugee admissions process, reflected in Congress's decision to provide for an emergency increase—not decrease—in the number of refugees admitted.⁶⁰ As a result of these discussions, the final Act built in a procedure for additional admissions to respond to "emergency refugee situations."⁶¹ By contrast, there is no evidence of congressional intent to authorize a midyear reduction.

B. Policy Framework

1. National Security

The refugee resettlement program advances U.S. national security objectives and increases U.S. leverage and credibility internationally. Indeed, 130 Republican and Democratic national security professionals affirmed the importance of the resettlement program in a March 2017 letter, stating that nondiscriminatory refugee resettlement promotes "U.S. global leadership and national security interests."⁶² By

59. 8 U.S.C. § 1157(a), (b) (2012). Where, as here, "Congress explicitly enumerates certain exceptions . . . additional exceptions are not to be implied, in the absence of evidence of a contrary legislative intent." *Hillman v. Maretta*, 133 S. Ct. 1943, 1953 (2013) (quoting *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 616–17 (1980)).

60. *See, e.g.*, S. REP. NO. 96-256, at 1 (1980) ("[The bill] reflects one of the oldest themes in America's history—welcoming homeless refugees to our shores. . . . [This Act] gives statutory meaning to our national commitment to human rights and humanitarian concerns, [which are] not now reflected in [our immigration laws].") (statement of Sen. Kennedy); Catherine McHugh, Cong. Research Serv., 1B77120, *Refugees in the United States: Laws, Programs, and Proposals* 1 (1979) ("Emphasis is placed on the development of a policy which would have a permanent statutory basis, but which would be flexible enough to be responsive to unforeseen emergency refugee situations.").

61. S. REP. NO. 96–256, at 2 (1980) (statement of Sen. Kennedy).

62. *Letter from Foreign Policy Experts on Travel Ban*, N.Y. TIMES (Mar. 11, 2017), <https://www.nytimes.com/interactive/2017/03/11/us/politics/document-letter-foreign-policy-trump.html?mcubz-1> [<https://perma.cc/V85D-4HF5>]. *See also* AMNESTY INT'L, THE GLOBAL REFUGEE CRISIS: A CONSPIRACY OF NEGLECT 31 (2015) ("The Refugee Convention also establishes the principle of responsibility-sharing—the idea that the international community must work together to address refugee crises so that no

attempting to suspend refugee admissions and reduce the number of refugees resettled through the USRAP, the January 27 and March 6 Executive Orders undermine both U.S. national security and global stability.⁶³

a. International Leverage and Credibility

The Syrian refugee resettlement program, in particular, increases the United States' leverage in the Middle East and encourages regional actors to cooperate with U.S. policy and military action in the region.⁶⁴ This cooperation is especially vital in Turkey, Jordan, and Iraq, which all host U.S. military bases used for operations against ISIS and al Qaeda in Syria and Iraq.⁶⁵ Each of these countries also

one country, or a small number of countries, has to cope alone The obligation of individual countries to give protection and assistance to refugees, coupled with the responsibility of the international community to act collectively in the case of large refugee crises, is essential to refugee protection.”); UNHCR, SOLIDARITY AND BURDEN-SHARING 2 (2013), <http://www.unhcr.org/525fe3e59.pdf> [<https://perma.cc/4VWF-NQFL>] (“The burden of sheltering millions of Syrian refugees is far too heavy to be borne by only the neighboring countries. The international community must put in place more—and more robust—measures of sharing that burden.”); *see also* Nicole Ostrand, *The Syrian Refugee Crisis: A Comparison of Responses by Germany, Sweden, the United Kingdom, and the United States*, 3 J. ON MIGRATION & HUM. SEC. 255, 267 (2015); Katy Long, *Why America Could—and Should—Admit More Syrian Refugees*, THE CENTURY FOUNDATION (Dec. 16, 2015), <https://tcf.org/content/report/why-america-could-and-should-admit-more-syrian-refugees/> [<https://perma.cc/9TKX-5RZ3>] (“Accepting more Syrian refugees gives the United States more credibility with its rivals; the Assad regime and its foreign backers tend to dismiss Washington as a paper tiger, so any evidence of U.S. commitment to its Syria policy helps reverse an unfortunate trend. Furthermore, Syrian resettlement is also strategically important in terms of wide U.S. engagement in the broader region, including with the Gulf monarchies and Turkey, Lebanon, and Jordan; as the United States assumes a greater share of refugee resettlement, it will have an easier time persuading U.S. allies to coordinate policies toward Syria and fall in line with U.S. preferences. Strategic and humanitarian imperatives are mutually reinforcing. Refugee-hosting countries in the region are overwhelmed By showing solidarity, U.S. resettlement programs can help to check unrest in host states, offer refugees hope, and in turn the United States can demand more of its partners and allies.”).

63. *See, e.g.*, Bill Frelick, *Refugee Resettlement Isn't a Trojan Horse (or a Bowl of Skittles)*, HUM. RTS. WATCH (Nov. 22, 2016, 12:00 AM), <https://www.hrw.org/news/2016/11/22/refugee-resettlement-isnt-trojan-horse-or-bowl-skittles> [<https://perma.cc/7UN5-DENU>] (“[O]f the nearly 800,000 refugees resettled in the U.S. since September 11, 2001, three have been arrested for planning terrorist activities Resettling refugees enhances global security. It shows support for many countries allied with the United States that are on the front lines of refugee exoduses and have huge refugee populations, like Jordan, Kenya, and Thailand. And it demonstrates to the world—including the likes of ISIS—that the United States has the strength to show compassion over fear.”).

64. *Letter from Foreign Policy Experts on Travel Ban*, N.Y. TIMES (Mar. 11, 2017), <https://www.nytimes.com/interactive/2017/03/11/us/politics/document-letter-foreign-policy-trump.html?mcubz-1> [<https://perma.cc/V85D-4HF5>].

65. *See* Jeremy M. Sharp, *Jordan: Background and U.S. Relations*, CONG. RES. SERV. 2 (Jan. 25, 2017), <https://fas.org/sgp/crs/17ideast/RL33546.pdf> [<https://perma.cc/DXB9-G8QY>]. (“Jordan is contributing to Operation Inherent Resolve against the Islamic State organization (IS, also known as ISIL, ISIS, or the Arabic acronym

hosts significant refugee populations: Turkey hosts at least 2.7 million refugees, more than any other country worldwide; Jordan hosts at least 656,230 registered refugees (1.4 million in total, according to King Abdullah II);⁶⁶ and Iraq hosts at least 228,894 refugees, in addition to its 3.1 million internally displaced persons.⁶⁷ The January 27 and March 6 Executive Orders undercut these U.S. alliances by implying to Muslim communities worldwide that “the U.S. government is at war with them based on their religion,” as former Secretary of State Madeleine Albright, former Secretary of the Department of Homeland Security Janet Napolitano, and dozens of other officials explained in a recent public statement.⁶⁸

Resettling refugees also strengthens the United States’ credibility internationally. Participating in resettlement efforts increases the United States’ political capital among European allies and international organizations.⁶⁹ The Executive Orders may discourage partners from sharing critical intelligence with implications for national security.⁷⁰ Alternately, the United States’ withdrawal from resettlement commitments in the midst of the greatest refugee crisis since World War II might encourage other countries to abandon their own resettlement pledges, thereby exacerbating the Syrian refugee crisis and fur-

Da’esh) in Syria and Iraq by . . . allowing the use of its bases by foreign forces.”); see also Richard Sisk, *Turkey Hints at Shuttering Incirlik to US Air Operations*, MILITARY.COM (Jan. 4, 2017), <http://www.military.com/daily-news/2017/01/04/turkey-hints-shuttering-incirlik-us-air-operations.html> [https://perma.cc/VML9-DZFX]; Liz Sly & Karen DeYoung, *Turkey Agrees to Allow U.S. Military to Use Its Base to Attack Islamic State*, WASH. POST (July 23, 2015), https://www.washingtonpost.com/world/middle-east/turkey-agrees-to-allow-us-military-to-use-its-base-to-attack-islamic-state/2015/07/23/317f23aa-3164-11e5-a879-213078d03dd3_story.html?utm_term=.2e05ea4b3eae [https://perma.cc/62H9-JNE4]; Michael R. Gordon, *U.S. Forces Play Crucial Role against ISIS in Mosul*, N.Y. TIMES (Feb. 26, 2017), <https://www.nytimes.com/2017/02/26/world/middleeast/mosul-iraq-american-military-role-islamic-state.html> [https://perma.cc/C3U6-YTJS] (“Qayyarah West . . . is a pivotal base for the Mosul offensive.”).

66. Lucy Westcott, *Jordan at ‘Boiling Point’ over Syrian Refugees, King Says Ahead of Donor Conference*, NEWSWEEK (Feb. 2, 2016, 10:26 AM), <http://www.newsweek.com/syrian-refugees-jordan-king-abdullah-422021> [https://perma.cc/ZEZ9-J7FT].

67. UNHCR, JORDAN: UNHCR OPERATIONAL UPDATE, MARCH 2017 1 (Mar. 2017), <http://www.refworld.org/docid/58c7fc844.html> [https://perma.cc/PRZ9-3P2D]; *Syria’s Refugee Crisis in Numbers*, AMNESTY INT’L (Feb. 3, 2016, 7:02 PM), <https://www.amnesty.org/en/latest/news/2016/02/syrias-refugee-crisis-in-numbers/> [https://perma.cc/3L3J-PSUP].

68. Letter from Madeleine Albright et al. to Sec’y Kelly, Acting Attorney Gen. Yates, Acting Sec’y Shannon (Jan. 30, 2017), <http://www.politico.com/f/?id=00000159-f0ef-d46b-abdf-f4efdd310001> [https://perma.cc/G92R-Y9BG].

69. Long, *supra* note 62.

70. Jay Shooster, *Trump’s Immigration Policy Risks Violating International Law—Alienates US Allies*, JUST SECURITY (Jan. 27, 2017, 8:04 AM), <https://www.justsecurity.org/36834/trumps-immigration-restrictions-risk-violating-international-law-cutting-foreign-allies-support/> [https://perma.cc/B52A-FE68].

ther undermining stability in the region, which in turn has consequences for U.S. security.

b. Regional Stability

The Syrian refugee resettlement program promotes Middle Eastern stability and accelerates resolution of the Syrian conflict. Commentators have noted that “the United States aims to prevent the proliferation of terrorist activity in Syria’s ungoverned spaces and has sought a multisectarian solution to the Syrian conflict.”⁷¹ Achieving these objectives requires stable and secure partners in the Middle East. Unfortunately, the United States has remained reluctant to resettle refugees even as its partners struggle to provide adequate security and aid to massive refugee populations.⁷² A lack of adequate assistance and protection for refugees in camps, urban areas, and other locations where refugees live may sometimes provide recruitment opportunities for local armed groups.⁷³

71. Christopher M. Blanchard & Carla E. Humud, *The Islamic State and U.S. Policy*, CONG. RESEARCH SERV., R43613, 8–9 (2017), <https://fas.org/sgp/crs/mideast/R43612.pdf> [<https://perma.cc/PVP2-H549>]; see Carla E. Humud et al., *Armed Conflict in Syria: Overview and U.S. Response*, CONG. RESEARCH SERV., RL33487, 1–25 (2017), <https://fas.org/sgp/crs/mideast/RL33487.pdf> [<https://perma.cc/R6GU-UZ24>].

72. See James Denselow, *Syria’s Deadly Spillover*, AL JAZEERA (July 15, 2016), <http://www.aljazeera.com/indepth/opinion/2016/07/syria-deadly-spillover-160710063401547.html> [<https://perma.cc/38T4-22SK>]; see also Elena Fiddian-Qasmiyeh, *Syrian Refugees in Turkey, Jordan and Lebanon Face an Uncertain 2017*, THE CONVERSATION (Jan. 3, 2017), <http://theconversation.com/syrian-refugees-in-turkey-jordan-and-lebanon-face-an-uncertain-2017-70747> [<https://perma.cc/ZSD6-WGPG>]; *Syria’s Refugee Crisis in Numbers*, AMNESTY INT’L (Feb. 3, 2016, 7:02 PM), <http://www.amnesty.org/en/latest/news/2016/02/syrias-refugee-crisis-in-numbers/> [<https://perma.cc/3L3J-PSUP>]; Rawan Arar et al., *The Real Refugee Crisis is in the Middle East, Not Europe*, WASH. POST (May 14, 2016), <https://www.washingtonpost.com/news/monkey-cage/wp/2016/05/14/the-real-refugee-crisis-is-in-the-middle-east-not-europe/> [<https://perma.cc/A5EC-RRC6>].

73. UNICEF, RECRUITMENT AND USE OF CHILDREN – THE NEED FOR RESPONSE IN JORDAN, <data.unhcr.org/syrianrefugees/download.php?id=7547> [<https://perma.cc/G5Y6-L6ZA>]; Haras Rafiq & Nikita Malik, *REFUGEE: Pathways of Youth Fleeing Extremism*, QUILLIAM INT’L (Feb. 2017), <https://www.quilliaminternational.com/wp-content/uploads/2017/02/refugee-pathways-of-youth-fleeing-extremism-executive-summary.pdf> [<https://perma.cc/UYZ4-3SFD>]. Given funding gaps, refugee camps, especially those run by the UNHCR, are likely to remain under-resourced. See Kate Bond, *UNHCR Warns of Dramatic Consequences if Funding Gaps for Syrian Refugees Continue*, UNHCR (July 3, 2014), <http://www.unhcr.org/en-us/news/latest/2014/7/53b518499/unhcr-warns-dramatic-consequences-funding-gaps-syrian-refugees-continue.html> [<https://perma.cc/WVK5-P3UP>]. As Michael Chertoff, former DHS Secretary and Assistant Attorney General, DOJ Criminal Division, has noted, when refugees “stagnat[e] in camps year in and year out . . . you’re creating essentially a hospitable environment for people to recruit extremists and criminals.” Donald Kerwin, *How Robust Refugee Protection Policies Can Strengthen Human and National Security*, 4 J. ON MIGRATION & HUM. SEC. 83, 92 (2016) (quoting Michael Chertoff, former DHS Sec’y and Assistant Att’y Gen., Dep’t of Justice Criminal Div., CENTER FOR MIGRATION STUD. (June 9, 2016), <http://cmsny.org/podcast-secretary-michael-chertoff/> [<https://perma.cc/EC98-VZAS>]).

The refugee crisis has also exacerbated sectarian tensions in countries such as Lebanon and Turkey.⁷⁴ Thus, the United States' must facilitate refugee resettlement to prevent expansion of the Syrian conflict—which would threaten the United States ability to conduct counterterrorism operations—and to ensure regional stability and national security in the long term.⁷⁵

c. *Countering Terrorist Recruitment*

Resettling refugees of all faiths also helps undermine the recruitment efforts of ISIS, al Qaeda, and other armed terrorist groups, which claim that the United States is at war with Islam.⁷⁶ ISIS has pursued an explicit strategy of polarization: it highlights anti-Muslim rhetoric in the United States and Europe in order to position itself as a protector of Sunni Muslims, thereby motivating Sunnis in Syria and

74. See *Sectarian Conflict in Lebanon*, COUNCIL ON FOREIGN REL.: GLOBAL CONFLICT TRACKER, <https://www.cfr.org/global/global-conflict-tracker/p32137#!/conflict/sectarian-conflict-in-lebanon> [<https://perma.cc/SH6Y-BVVV>] (last visited May 10, 2017). (“Lebanon’s political system and security infrastructure have been deeply affected by spillover from the Syrian civil war, as nearly one quarter of Lebanon’s population is made up of refugees The country implemented restrictive visa requirements for Syrian refugees in January 2015, aimed at stemming the influx of Sunnis into the country and preventing the disruption of fragile religious balance The influx of Syrian refugees, coupled with Hezbollah’s involvement in fighting Syrian rebels, has resulted in cross-border skirmishes and increased weapons smuggling.”); see also INT’L CRISIS GROUP, *TURKEY’S REFUGEE CRISIS: THE POLITICS OF PERMANENCE 3* (Nov. 30, 2016), <https://www.crisisgroup.org/europe-central-asia/western-europemediterranean/turkey/turkey-s-refugee-crisis-politics-permanence> [<https://perma.cc/YQ46-WTKD>] (“The refugees are overwhelmingly Sunni Arabs, adding an ethnic-sectarian dimension to the issue.”).

75. Although only a small fraction of Syrian refugees in the region are resettled to the United States or Europe, the United States can use its moral authority as a leader in refugee resettlement to convince other nations to do the same and can take on some responsibility for mitigating the refugee crisis by providing support to its allies in the region who are bearing the brunt of the burden. See, e.g., Michael Ignatieff et al., *The United States and the Syrian Refugee Crisis: A Plan of Action Share*, HARV. KENNEDY SCH.: SHORENSTEIN CTR. (Jan. 27, 2016, 3:00 PM), <https://shorensteincenter.org/united-states-syrian-refugee-crisis-plan-action/> [<https://perma.cc/7ZW6-DPB3>] (noting that “[i]n 2014, the UNHCR designated 130,000 Syrians in refugee camps in need of resettlement by 2016” and that “[t]he U.S. has traditionally resettled at least half of UNHCR-designated refugees,” in support of the argument that “the U.S. should . . . take in 65,000 Syrian refugees” in order to “relieve the pressure on the front line states and send a message of solidarity to the European states struggling to cope with the refugee influx on their own”).

76. Graeme Wood, *What ISIS Really Wants*, THE ATLANTIC (Mar. 2015), <https://www.theatlantic.com/magazine/archive/2015/03/what-isis-really-wants/384980/> [<https://perma.cc/84SV-55AZ>]; Robin Wright et al., *The Jihadi Threat: ISIS, al Qaeda, and Beyond*, U.S. INST. OF PEACE 11 (Jan. 2017), <https://www.usip.org/sites/default/files/The-Jihadi-Threat-ISIS-Al-Qaeda-and-Beyond.pdf> [<https://perma.cc/FM5F-TGFK>] (“ISIS seeks a war of attrition with the West in the Middle East and projects itself as the defender of Sunni Muslim communities [I]t has sought to present itself as the only Sunni militant group capable of fighting the government of Iraq and the only authentic jihadi group in Syria, and indeed, the world.”).

abroad to join in its fight.⁷⁷ Al Qaeda's Syrian affiliate, Jabhat Fateh al-Sham, echoes this message in its recruitment materials, claiming that the United States and Europe are unwilling to protect Syrians harmed by the war.⁷⁸ Assisting Syrian refugees combats terrorist groups' narratives of religious and cultural animosity. Accordingly, national security professionals in both political parties have recognized that "[w]elcoming Muslim refugees and travelers . . . exposes the lies of terrorists and counters their warped vision."⁷⁹ Resettling refugees thus serves "mutually reinforcing" strategic and humanitarian objectives.⁸⁰

d. Security Screening Process for Refugees

Refugees resettled to the United States are "subject to the highest degree of security screening and background checks for any category of traveler to the United States."⁸¹ Indeed, prominent former govern-

77. See Harleen Gambhir, *The Islamic State's Trap for Europe*, WASH. POST (Nov. 15, 2015), https://www.washingtonpost.com/opinions/hating-muslim-refugees-is-exactly-what-the-islamic-state-wants-europe-to-do/2015/11/15/dfe0ca84-87d1-11e5-be39-0034bb576eee_story.html [<http://perma.cc/6TBY-FTGX>]; Myriam Francois-Cerrah, *Islamic State Wants to Divide the World into Jihadists and Crusaders*, THE TELEGRAPH (Nov. 18, 2015, 12:35 PM), <http://www.telegraph.co.uk/news/worldnews/islamic-state/12002726/The-grey-zone-How-Isis-wants-to-divide-the-world-into-Muslims-and-crusaders.html> [<https://perma.cc/U7XF-FKR7>].

78. ROBIN WRIGHT ET AL., U.S. INST. OF PEACE, *THE JIHADI THREAT: ISIS, AL QAEDA, AND BEYOND* 24 (Jan. 2017), <https://www.usip.org/sites/default/files/The-Jihadi-Threat-ISIS-Al-Qaeda-and-Beyond.pdf> [<https://perma.cc/FM5F-TGFK>]; CHARLES LISTER, THE BROOKINGS PROJECT, *PROFILING JABHAT AL-NUSRA* 6, 39 (July 2016), https://www.brookings.edu/wp-content/uploads/2016/07/iwr_20160728_profiling_nusra.pdf [<https://perma.cc/DVV5-K6WF>] ("Jabhat al-Nusra set about heavily recruiting from within increasingly disenfranchised opposition communities in Aleppo and Idlib in early 2016, exploiting widespread and seething perceptions of abandonment by the international community That such brazen destruction and violence could take place without any sanction from abroad played directly into Jabhat al-Nusra's hands."); see also *Defeating Terrorism in Syria: A New Way Forward: Hearing before the H. Foreign Affairs Comm. Subcomm. on Terrorism, Non-proliferation, and Trade*, 114th Cong. (Feb. 14, 2017) (statement of Melissa G. Dalton, Senior Fellow and Deputy Dir., Int'l Sec. Program, Ctr. for Strategic & Int'l Stud.), <http://docs.house.gov/meetings/FA/FA18/20170214/105553/HHRG-115-FA18-Wstate-DaltonM-20170214.pdf> [<https://perma.cc/EMT4-6STV>] (noting that "generations of Syrians will remember potential U.S. inaction, which could feed anti-U.S. narratives and boost terrorist recruitment").

79. *Letter from Foreign Policy Experts on Travel Ban*, N.Y. TIMES (Mar. 11, 2017), <https://www.nytimes.com/interactive/2017/03/11/us/politics/document-letter-foreign-policy-trump.html> [<https://perma.cc/8JP4-XPKH>].

80. Long, *supra* note 62.

81. The USRAP priorities are as follows:

- **Priority 1:** UN High Commissioner for Refugees, U.S. Embassy, or specially-trained non-governmental organization (NGO) identified cases, including persons facing compelling security concerns, women-at-risk, victims of torture or violence and others in need of resettlement.
- **Priority 2:** Groups of special concern identified by the U.S. refugee program (e.g., Bhutanese in Nepal).

ment officials, including former Secretaries of State Kissinger and Albright, have repeatedly emphasized this high degree of scrutiny, as discussed in the next Section of the Report.⁸² The same experts have also noted that the threat posed by refugees to the United States is “minuscule.”⁸³ Refugees are “interviewed several times over the course of the vetting process, which takes 18–24 months and often longer,” and national and international intelligence agencies check refugees’ fingerprints and other biometric data against terrorist and criminal databases.⁸⁴

Multiple international intelligence and law enforcement agencies, including the National Counterterrorism Center, the Department of Defense, and Interpol, participate in the overseas refugee screening process.⁸⁵ Those agencies review applicants’ information against at

- **Priority 3:** Family reunification cases (i.e., spouses, unmarried children under 21, and parents of persons lawfully admitted to the U.S. as refugees or asylees or persons who are legal permanent residents or U.S. citizens who previously had refugee or asylum status).

USCIS, FACT SHEET: REFUGEE SECURITY SCREENING (Dec. 3, 2015), https://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%271%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf [https://perma.cc/32HB-F4GL].

82. See HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES 17 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9]; See also *The Syrian Refugee Crisis: Hearing Before the S. Comm. on the Judiciary, Subcomm. on the Constitution, Civil Rights and Human Rights*, (Jan. 7, 2014) (statement of Anne C. Richard, Assistant Sec’y for the Bureau of Population, Refugees, and Migration, Dep’t of State), <https://www.state.gov/jprm/releases/remarks/2014/219388.htm> [https://perma.cc/K9JL-AK87] (“Refugee applicants are subject to more security checks than any other category of traveler to the United States.”).

83. Peter Bergen, *Syrian Refugees Are Not a Threat to U.S.*, CNN (Nov. 21, 2015, 9:29 AM), <http://www.cnn.com/2015/11/21/opinions/bergen-syrian-refugees-not-a-threat-to-us/index.html> [https://perma.cc/3MZA-R49K].

84. HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES 17 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9]; *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the Subcomm. on Immigr. and Border Security of the H. Comm. on the Judiciary*, 114th Cong. 64, at 3 (Nov. 19, 2015) (statement of Anne C. Richard, Assistant Sec’y for the Bureau of Population, Refugees, and Migration, Dep’t of State), https://judiciary.house.gov/wp-content/uploads/2016/02/114-48_97632.pdf [https://perma.cc/CW8N-GAQ9]; see also *History of the U.S. Refugee Resettlement Program*, REFUGEE COUNCIL USA, <http://www.rcusa.org/index.php?page=history> [https://perma.cc/2RLS-E6DA] (last visited Mar. 17, 2017); Eliza Griswold, *Why Is It So Difficult for Syrian Refugees to Get Into the U.S.?*, N.Y. TIMES (Jan. 20, 2016), <http://www.nytimes.com/2016/01/24/magazine/why-is-it-so-difficult-for-syrian-refugees-to-get-into-the-us.html> [https://perma.cc/Z9EE-VHJH]; *Refugee Processing and Security Screening*, U.S. DEP’T OF HOMELAND SEC., U.S. CITIZENSHIP AND IMMIGR. SERVS., <https://www.uscis.gov/refugeescrreening> [https://perma.cc/5FWM-4WM4] (last visited Mar. 17, 2017).

85. HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES 7 (2016), <http://www.humanrightsfirst>

least three separate databases with information on “foreign fighters, suspected terrorists, and stolen, false, and blank passports from Syria, Iraq, and elsewhere.”⁸⁶ The Department of State uses biometric information to check whether refugees have any criminal or prior immigration history and to check for any national security concerns by comparing refugees’ data with biometric data collected by the Department of Defense in conflict zones.⁸⁷ Refugees who hail from Syria are subjected to a more enhanced review process compared to refugees from other nations.⁸⁸

Furthermore, refugees are checked against watch-list information throughout the overseas screening and admissions process. The Department of State seeks Security Advisory Opinions from law enforcement and intelligence agencies for refugees who meet certain criteria, including members of a group or nationality that the U.S. government has designated as requiring this higher level check.⁸⁹ The National

.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf [https://perma.cc/BXY3-QKN9].

86. *Id.*; HUMAN RIGHTS FIRST, THE SYRIAN REFUGEE CRISIS AND THE NEED FOR U.S. LEADERSHIP 17 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-SyrianRefCrisis.pdf> [https://perma.cc/VW6W-CDVJ].

87. USCIS, FACT SHEET: REFUGEE SECURITY SCREENING (Dec. 3, 2015), https://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%271%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf [https://perma.cc/32HB-F4GL]. *Oversight of the Administration’s FY 2016 Refugee Resettlement Program: Fiscal and Security Implications before the S. Comm. on the Judiciary*, 114th Cong. 4 (2015) (questions for the record submitted to Larry Bartlett, Dir. of Admissions, Bureau of Population, Refugees, and Migration, U.S. Dep’t of State, from Sen. Richard Blumenthal, member, S. Comm. on the Judiciary), <https://www.judiciary.senate.gov/imo/media/doc/10-01-15%20Bartlett%20Testimony.pdf> [https://perma.cc/L3LC-7PQX]. USCIS conducts a case-by-case review of all cases with negative security check results and then makes a determination about eligibility for resettlement.

88. *See* USCIS, FACT SHEET: REFUGEE SECURITY SCREENING (Dec. 3, 2015), https://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%271%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf [https://perma.cc/32HB-F4GL]. As part of that enhanced review, the USCIS Fraud Detection and National Security Directorate works to identify fraudulent claims and “engages with law enforcement and intelligence community members for assistance with identity verification and acquisition of additional information.” HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9]. *See also* HUMAN RIGHTS FIRST, VETTING, SECURITY AND FRAUD SCREENING IN ASYLUM PROCESS (Nov. 2015), <http://www.humanrightsfirst.org/resource/vetting-security-and-fraud-screening-asylum-process> [https://perma.cc/2BQR-R8C9]. In addition, only 2% of admitted Syrian refugees are single men of combat age. *Background Briefing on Refugee Screening and Admissions*, U.S. DEP’T OF STATE (Nov. 17, 2015), <https://2009-2017.state.gov/r/pa/prs/ps/2015/11/249613.htm> [https://perma.cc/PFQ8-VABL].

89. *See* USCIS, FACT SHEET: REFUGEE SECURITY SCREENING (Dec. 3, 2015), https://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%271%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf [https://perma.cc/32HB-F4GL]. *See also* HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9].

Counterterrorism Center conducts interagency checks for all refugees who fall within a certain age range, irrespective of nationality, and additional “recurrent vetting” checks, conducted before the applicant travels to the United States, determine whether any information has changed since the initial check.⁹⁰ Moreover, applications may be subject to the Controlled Application Review and Resolution Process (CARRP) if USCIS has any national security concerns, “either based on security and background checks or personal interviews or testimony.”⁹¹ Prior to admission to the United States, refugees are subjected to further screenings by Customs and Border Protection officials.⁹²

Only after undergoing all of the aforementioned processes and checks can a refugee enter the United States. Accordingly, government officials have repeatedly characterized the security-focused refugee screening process as “extensive,” “redundant,” and “careful,” and have affirmed the importance of the U.S. refugee resettlement program in promoting—not undermining—U.S. security interests.⁹³

/www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf [https://perma.cc/BXY3-QKN9]; *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. (Nov. 19, 2015) (statement of Leon Rodriguez, Dir., U.S. Citizenship and Immigr. Servs., Dep’t of Homeland Security), <https://judiciary.house.gov/wp-content/uploads/2016/02/USCIS-Rodriguez-Testimony.pdf> [https://perma.cc/R8E4-T2KH]; *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. (Nov. 19, 2015) (statement of Zoe Lofgren, member, H. Comm. on the Judiciary), https://judiciary.house.gov/wp-content/uploads/2016/02/114-48_97632.pdf [https://perma.cc/R8E4-T2KH] (explaining that Security Advisory Opinions are required for all Syrian refugees).

90. HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9]. See also *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. (Nov. 19, 2015) (statement of Leon Rodriguez, Dir., U.S. Citizenship and Immigr. Servs., Dep’t of Homeland Security), <https://judiciary.house.gov/wp-content/uploads/2016/02/USCIS-Rodriguez-Testimony.pdf> [https://perma.cc/R8E4-T2KH].

91. *Refugee Process and Security Screening*, USCIS, <https://www.uscis.gov/refugee-screening#CARRP> [https://perma.cc/4G4S-TD6Z] (last visited Apr. 3, 2017). For a critique of CARRP, see ACLU, MUSLIMS NEED NOT APPLY (2013), https://www.aclu-socal.org/sites/default/files/field_documents/161849063-muslims-need-not-apply-aclu-socal-report.pdf [https://perma.cc/KN33-EFJ9].

92. HUMAN RIGHTS FIRST, AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [https://perma.cc/BXY3-QKN9].

93. See *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. (2015) (statement of Leon Rodriguez, Dir., U.S. Citizenship and Immigr. Servs., Dep’t of Homeland Security), https://judiciary.house.gov/wp-content/uploads/2016/02/114-48_97632.pdf [https://perma.cc/R8E4-T2KH]; see also USCIS, FACT SHEET: REFUGEE SECURITY SCREENING (Dec. 3, 2015), <https://www.uscis.gov/sites/default/files/>

2. Economic Policy

In addition to furthering the nation's foreign policy and national security objectives, refugee resettlement also helps the United States economically. Studies have shown that refugees in the United States typically "integrate well into their new communities" with "similar rates of labor force participation and business ownership."⁹⁴ According to the International Rescue Committee, eighty-five percent of the refugees the organization resettles are employed within six months.⁹⁵

The positive economic effects of refugees on receiving communities are well established.⁹⁶ One study, for example, found a tenfold return on investment: \$4.8 million spent on refugee services in Cleveland,

USCIS/Refugee%2C%20Asylum%2C%20and%20Int%271%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf [https://perma.cc/32HB-F4GL].

94. David Dyssegaard Kallick with Silva Mathema, *Refugee Integration in the United States*, CTR. FOR AM. PROGRESS 1 (June 2016), <https://cdn.americanprogress.org/wpcontent/uploads/2016/06/15112912/refugeeintegration.pdf> [https://perma.cc/7RSX-X4AC]. See also Kit Taintor & Gary Lichtenstein, *The Refugee Integration Survey and Evaluation (RISE) Year Five: Final Report*, COLO. OFF. OF ECON. SECURITY (Feb. 22, 2016), <https://drive.google.com/file/d/0B9dBw15XFYdTjVnUy1DWXgxZDA/view> [https://perma.cc/W3TL-CQZR] (finding improvement in integration metrics for 98% of individuals studied over a five-year period). See *Economic Impact of Refugees in the Cleveland Area*, CHMURA ECON. & ANALYTICS (Oct. 2013), <https://www.hias.org/sites/default/files/clevelandrefugeeeconomic-impact.pdf> [http://perma.cc/NQU5-C333] ("[O]nce refugees have adjusted to their new life after resettlement, they can provide substantial contributions to the workforce and economic development in the long run at the regional level."); US TOGETHER et al., *IMPACT OF REFUGEES IN CENTRAL OHIO* 50 (2015), http://ustogether.us/wp-content/uploads/2016/12/IMPACT-OF-REFUGEES-ON-CENTRAL-OHIO_2015SP.pdf [http://perma.cc/V4WK-8ZKV] ("[R]efugees in the community are more than twice as likely to start a business as the general population Through the goods and services produced by refugee workers, refugee-owned businesses, and refugee resettlement agencies, the local refugee community contributes an estimated \$1.6 billion to the Columbus MSA economy. In addition, they support an estimated 21,273 jobs in the region. All of these [figures] suggest refugees bring some positive benefits to central Ohio.").

95. *Seven Common Myths about Refugee Resettlement in the United States*, INT'L RESCUE COMM. (June 20, 2017), <https://www.rescue.org/article/seven-common-myths-about-refugee-resettlement-united-states> [http://perma.cc/3JHB-LYTN]. The International Rescue Committee has found that for every \$1 in cash given to a refugee in Lebanon, \$2.13 circulates within the economy. David Miliband, *Europe: The Refugee Crisis Does Not Need to Be a Political Crisis*, INT'L RESCUE COMM. (Sept. 7, 2016), <https://www.rescue.org/press-release/david-miliband-refugee-crisis-does-not-need-be-political-crisis> [http://perma.cc/S4W4-EGV7].

96. See, e.g., PHILIPPE LEGRAIN, *REFUGEES WORK: A HUMANITARIAN INVESTMENT THAT YIELDS ECONOMIC DIVIDENDS* 9 (2016), http://www.opennetwork.net/wp-content/uploads/2016/05/Tent-Open-Refugees-Work_V13.pdf [http://perma.cc/489H-L9S9] ("With a suitable upfront investment and wise policies, welcoming refugees can yield substantial economic dividends."). Cf. RANDY CAPPS ET AL., *MIGRATION POL'Y INST., THE INTEGRATION OUTCOMES OF U.S. REFUGEES: SUCCESSES AND CHALLENGES* (June 2015), <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges> [http://perma.cc/LK4M-SGCA]. Some authors have explored mechanisms for maximizing the benefits of refugees for receiving communities. See ALEXANDER TEYTELBOYM ET AL., *REFUGEE RESETTLEMENT* 5 (Nov. 8, 2016), www.t8el.com/jmp.pdf [http://perma.cc/N7PD-LHQG]; see also Jesús Fernández-Huertas Moraga & Hillel Rapoport, *Tradable Refugee-Admission Quotas*

Ohio, in 2012 yielded nearly \$50 million for the local economy from refugee-owned business and household spending. This investment, in turn, generated approximately \$1.8 million in tax revenue for the state and nearly \$900,000 for the local government.⁹⁷ This high economic impact is explained in part by entrepreneurship, because refugees are more likely to be entrepreneurial and enjoy higher rates of successful business ventures compared to native-born residents.⁹⁸ For example, a study of refugees in nearby Columbus, Ohio, found that refugees were more than twice as likely than the general population to start a business.⁹⁹

Refugee-owned businesses not only create jobs, but also bolster the economy through household spending and other employment. For example, a study of Somali, Burmese, Hmong, and Bosnian refugee men found that they have similar rates of labor-force participation as U.S.-born men.¹⁰⁰ Refugee communities in the United States may also bring additional benefits by drawing international investment, as observed by the Government Accountability Office (GAO).¹⁰¹

These types of economic effects are illustrated through the experiences of a community like Utica, New York—a Rust Belt town where one in four residents is a refugee.¹⁰² The resettlement of refugees to Utica reversed the city's population and economic declines in what Mayor Robert Palmieri described as “the rebound for our great

and *EU Asylum Policy*, 61 CESIFO ECON. STUD. 638 (2015), <http://hdl.handle.net/10.1093/cesifo/ifu037> [<http://perma.cc/H3TH-PBEP>].

97. See CHMURA ECON. & ANALYTICS, *ECONOMIC IMPACT OF REFUGEES IN THE CLEVELAND AREA* 4–5 (Oct. 2013), <https://www.hias.org/sites/default/files/cleveland-refugeeconomic-impact.pdf> [<http://perma.cc/NQU5-C333>]. The CATO Institute has quantified this impact by estimating that each refugee increases the wages of U.S.-born workers by \$476.61 per year. Alex Nowrasteh, *Huge Net Costs from Trump's New Executive Order Cutting Refugees*, CATO AT LIBERTY (Mar. 6, 2017, 12:27 PM), <https://www.cato.org/blog/huge-net-costs-trumps-new-executive-order-cutting-refugees> [<http://perma.cc/NCM6-C5DC>].

98. See CHMURA ECON. & ANALYTICS, *ECONOMIC IMPACT OF REFUGEES IN THE CLEVELAND AREA* 9 (Oct. 2013), <http://rscleveland.org/wp-content/uploads/2013/10/ClevelandRefugeeEconomic-Impact.pdf> [<http://perma.cc/NQU5-C333>].

99. See US TOGETHER ET AL., *IMPACT OF REFUGEES IN CENTRAL OHIO* 50 (2015), http://ustogether.us/wp-content/uploads/2016/12/IMPACT-OF-REFUGEES-ON-CENTRAL-OHIO_2015SP.pdf [<http://perma.cc/V4WK-8ZKV>].

100. David Dyssegaard Kallick with Silva Mathema, *Refugee Integration in the United States*, CTR. FOR AM. PROGRESS (June 2016), <https://www.americanprogress.org/issues/immigration/reports/2016/06/16/139551/refugee-integration-in-the-united-states/> [<https://perma.cc/7RSX-X4AC>]. This study focuses on refugees from four sending countries.

101. U.S. GOV'T ACCOUNTABILITY OFFICE, *REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM*, GAO-12-729 1, 17 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>].

102. *How Refugee Resettlement Became a Revival Strategy for This Struggling Town*, PBS NEWSHOUR (Apr. 7, 2016, 6:35 PM), <http://www.pbs.org/newshour/bb/how-refugee-resettlement-became-a-revival-strategy-for-this-struggling-town/> [<http://perma.cc/6KYH-26ZU>].

city.”¹⁰³ The GAO has found that these benefits have accrued to other areas of the country and noted that “city officials and business leaders . . . in several communities said that refugees help stimulate economic development by filling critical labor shortages as well as by starting small businesses and creating jobs.”¹⁰⁴ For example, an official in Washington State interviewed by the GAO described how “diverse resettlement communities with international populations attract investment from overseas businesses.”¹⁰⁵ The GAO also found that refugee-owned businesses had revitalized a neighborhood in Chicago that had previously been in decline.¹⁰⁶

Outside of entrepreneurship and labor-force participation, refugees support local economies through high rates of home ownership. Though few refugees purchase homes soon after arrival, Bosnian and Burmese refugees exceed the U.S.-born rate of homeownership within ten years of arrival.¹⁰⁷ Another stabilizing long-term investment is education: data suggests that refugees attend college at roughly the same rate as that of the general population.¹⁰⁸ Taken together, these data reflect refugees’ sustained contributions to the U.S. economy and investments in local communities.

Indeed, refugees have enjoyed high rates of successful resettlement and economic self-sufficiency in the United States. Through the implementation of the Refugee Act of 1980, Congress affirmed the goal of “help[ing] refugees in this country become self-sufficient and contributing members of society.”¹⁰⁹ ORR’s employment-services program works toward this goal through its Matching Grant initiative, discussed in further detail later in this Report. The Matching Grant Pro-

103. *Id.*

104. U.S. GOV’T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729 1, 17 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>].

105. *Id.*

106. *Id.* at 17.

107. David Dyssegaard Kallick with Silva Mathema, *Refugee Integration in the United States*, CTR. FOR AM. PROGRESS (June 16, 2016, 12:02 AM), <https://www.americanprogress.org/issues/immigration/reports/2016/06/16/139551/refugee-integration-in-the-united-states/> [<https://perma.cc/7RSX-X4AC>].

108. See RANDY CAPPES ET AL., MIGRATION POL’Y INST., THE INTEGRATION OUTCOMES OF U.S. REFUGEES: SUCCESSES AND CHALLENGES 1, 19 (June 2015), <http://www.migrationpolicy.org/research/integration-outcomes-us-refugees-successes-and-challenges> [<http://perma.cc/LK4M-SGCA>]; COMMUNITY RES. PARTNERS, IMPACT OF REFUGEES IN CENTRAL OHIO 1, 2 (2015), https://static1.squarespace.com/static/580e4274e58c624696efadc6/t/583c52a09f745683d2d3caae/1480348345068/IMPACT+OF+REFUGEES+ON+CENTRAL+OHIO_2015SP.pdf [<http://perma.cc/V4WK-8ZKV>]. Approximately 41.8% of refugees in Franklin County aged eighteen or older are currently enrolled in college or have graduated from college, compared to 43.0% of all Franklin County residents in this age group. *Id.*

109. Jimmy Carter, *Refugee Act of 1980 Statement on Signing S. 643 into Law* (Mar. 18, 1980), <http://www.presidency.ucsb.edu/ws/?pid=33154> [<https://perma.cc/ZY68-H7L7>].

gram helps refugee populations “achieve economic self-sufficiency in four to six months after arrival in the United States . . . by providing intensive case management and employment services.”¹¹⁰ These services include housing and utilities, transportation, English-language training, and other support services. Historically, the Matching Grant Program has achieved high outcomes. In 2015, for example, the program served 29,765 refugees, with sixty-seven percent of them achieving economic self-sufficiency within 120 days of arrival in the United States. At the six-month mark, eighty-two percent of refugees served in FY 2015 were reported as self-sufficient.¹¹¹

Syrians, in particular, have settled and integrated into U.S. communities successfully. Although data regarding the integration of Syrian refugees in the United States is limited given that significant numbers have been resettled to the United States only since 2015, the experience of Syrian immigrants in the United States generally is informative. Many studies have found that Syrian immigrants “are learning English, getting good jobs, owning homes, and starting businesses at impressive rates.”¹¹² One study found that Syrian immigrants have higher incomes than other immigrants in the United States: in 2014, the median annual wage for Syrian immigrants in the United States was \$52,000, compared to the \$36,000 median wage for immigrants overall and the \$45,000 median wage for U.S.-born workers.¹¹³

Another report found that Syrian men (refugees and non-refugees) participate in the labor force at a slightly higher rate than U.S.-born men.¹¹⁴ Additionally, Syrians are a highly educated group of immigrants: in 2014, thirty-eight percent of Syrian immigrants aged twenty five and older had a bachelor’s degree or higher, compared to twenty-nine percent of the analogous U.S.-born population.¹¹⁵ Moreover,

110. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, ANNUAL REPORT TO CONGRESS FOR FY 2015 20 (2016), https://www.acf.hhs.gov/sites/default/files/orr/arc_15_final_508.pdf [<https://perma.cc/RA4Q-YWSZ>]. For reporting purposes, the Matching Grant guidelines provided to grantees define “economic self-sufficiency” as earning a total family income that enables the family to support itself without the need for a cash assistance grant. In practice, this means having earnings that exceed the income eligibility level for receipt of a TANF cash assistance grant in the state and having the ability to cover family living expenses. *Id.*

111. *Id.*

112. David Dyssegaard Kallick et al., *Syrian Immigrants in the United States*, CTR. FOR AM. PROGRESS 1 (Dec. 13, 2016), <https://www.americanprogress.org/issues/immigration/reports/2016/12/13/294851/syrian-immigrants-in-the-united-states-a-receiving-community-for-todays-refugees/> [<http://perma.cc/R83L-2W6C>].

113. *Id.* at 2.

114. Jie Zong, *Profile of Syrian Immigrants in the United States*, MIGRATION POL’Y INST. 1, 5 (Nov. 2015), <http://www.Migrationpolicy.org/research/profile-syrian-immigrants-united-states> [<http://perma.cc/BXQ6-HNNH>].

115. David Dyssegaard Kallick et al., *Syrian Immigrants in the United States*, CTR. FOR AM. PROGRESS 5 (Dec. 13, 2016), <https://www.americanprogress.org/issues/immigration/reports/2016/12/13/294851/syrian-immigrants-in-the-united-states-a-receiving-community-for-todays-refugees/> [<http://perma.cc/R83L-2W6C>].

forty-nine percent of Syrian men in the United States work in high-skilled occupations, such as management, business, and science.¹¹⁶ There are approximately 4,000 Syrian doctors in the United States.¹¹⁷

Syrian immigrants also have extremely high rates of business ownership, and “[t]hese businesses provide employment, create jobs, and help spur growth in the local economy.”¹¹⁸ One study found that in 2014, eleven percent of Syrian immigrants in the labor force were business owners, compared to four percent of immigrants generally and only three percent of the U.S.-born population.¹¹⁹

Overall, Syrian immigrants are succeeding in the United States, both socially and economically, as measured by a wide range of metrics. While these statistics refer to all Syrian immigrants, rather than Syrian refugees specifically, they illustrate the economic strength of the communities into which Syrian refugees would likely be received¹²⁰ and demonstrate that Syrians in the United States are net job makers, not job takers.¹²¹

In addition to acknowledging refugees’ economic contributions, reports have noted the “untold ways [in which society benefits] from the natural increase in cultural and ethnic diversity that accompany accepting new residents from around the world.”¹²² Drastically reducing the number of refugee admissions wrecks havoc on the lives of countless refugees, including those already present in the United States who are awaiting reunification with family members stranded overseas. These actions also prevent local communities in the United States from reaping the economic and social benefits that refugees bring to their communities.

V. OVERSEAS REFUGEE PROCESSING AND ADMISSIONS

This Section outlines the overseas refugee screening process, which starts with UNHCR’s screening and referral process and is followed

116. Jie Zong, *supra* note 114.

117. *Myths & Facts: Syrian Refugees in the U.S.*, MULTIFAITH ALLIANCE FOR SYRIAN REFUGEES, <http://www.multifaithalliance.org/myths-and-facts> [<http://perma.cc/2RUS-48XL>].

118. David Dyssegaard Kallick et al., *Syrian Immigrants in the United States*, CTR. FOR AM. PROGRESS 3 (Dec. 13, 2016), <https://www.americanprogress.org/issues/immigration/reports/2016/12/13/294851/syrian-immigrants-in-the-united-states-a-receiving-community-for-todays-refugees/> [<http://perma.cc/R83L-2W6C>].

119. *Id.*

120. Jie Zong, *supra* note 114.

121. The Multifaith Alliance for Syrian Refugees has observed that even in the context of a refugee camp, such as Za’atari in Jordan, the main street is lined with shops and cafes started by the Syrian refugees confined to that camp. Given this resourcefulness and entrepreneurial spirit, Syrian refugees who resettle in the United States are likely to become an engine of job generation.

122. CHMURA ECON. & ANALYTICS, *ECONOMIC IMPACT OF REFUGEES IN THE CLEVELAND AREA* 34 (Oct. 2013), <https://www.hias.org/sites/default/files/clevelandrefugeeconomic-impact.pdf> [<http://perma.cc/NQU5-C333>].

by rigorous screening by the State Department, DHS, and the Federal Bureau of Investigation (FBI), among other U.S. agencies. As explained below, refugees generally face a “multi-year, multi-step screening process” before they can be resettled to the United States.¹²³ This Section concludes with a discussion of technological advancements and other improvements to the refugee admissions program that have enhanced the process in recent years, allowing for more efficient screening while still safeguarding national security.

A. *The Overseas Refugee Screening Process*

1. UNHCR and the Referral Process

The first step in the refugee resettlement process is selection by UNHCR.¹²⁴ UNHCR begins both by collecting identifying information and documents, such as biographic and biometric data and in some cases, iris scans, and by conducting interviews of candidates to assess their eligibility for refugee status and resettlement.¹²⁵ If the individual meets the refugee definition, passes the requisite security checks, and satisfies the criteria for resettlement described above in Part II, UNHCR then sends a referral for the individual (or for the individual and dependent family members), along with the information collected by UNHCR, to a potential host state—in the case of the United States, to the USRAP.¹²⁶ In most cases, refugees have little input as to where they are ultimately resettled, except in cases involving family reunification, described further below.¹²⁷

123. Letter from Sen. Cory Booker et al. to Sec’y Jeh Johnson (Oct. 6, 2015), https://www.peters.senate.gov/imo/media/doc/151006_Letter_DHS_Refugees.pdf [<https://perma.cc/CA66-S2E2>].

124. Refugees may also access the USRAP through referral by an NGO or a petition based on family reunification, among other avenues. *The United States Refugee Admissions (USRAP) Consultation & Worldwide Processing Priorities*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (May 5, 2016), <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-worldwide-processing-priorities> [<https://perma.cc/DA97-YKB5>].

125. Devon Cone, *The Process for Interviewing, Vetting, and Resettling Syrian Refugees in America Is Incredibly Long and Thorough*, FOREIGN POL’Y (Nov. 30, 2015), <http://foreignpolicy.com/2015/11/30/the-process-for-interviewing-vetting-and-resettling-syrian-refugees-in-america-is-incredibly-long-and-thorough/> [<http://perma.cc/R7TH-FPMJ>]. See Amy Pope, *Infographic: The Screening Process for Refugee Entry into the United States*, THE WHITE HOUSE, PRESIDENT BARACK OBAMA (Nov. 20, 2015, 7:09 PM), <https://obamawhitehouse.archives.gov/blog/2015/11/20/infographic-screening-process-refugee-entry-united-states> [<https://perma.cc/6V5V-JA2A>]. See also UNHCR, UNHCR RESETTLEMENT HANDBOOK 220 (2011).

126. See, e.g., UNHCR, UNHCR RESETTLEMENT HANDBOOK 228–29 (2011); U.S. *Refugee Admissions Program FAQs*, U.S. DEP’T OF STATE (Jan. 20, 2017), <https://www.state.gov/j/prm/releases/factsheets/2017/266447.htm> [<https://perma.cc/X9UK-GMLX>]; *Refugee Resettlement – Security Screening Information*, HUMAN RIGHTS FIRST (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/SyrianRefugees-VettingFacts.pdf> [<http://perma.cc/DB7Y-NLSE>].

127. See *Refugee Resettlement – Security Screening Information*, HUMAN RIGHTS FIRST (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/SyrianRefugees->

The USRAP priority system determines which individuals are “of special humanitarian concern” to the United States for refugee resettlement.¹²⁸ To be resettled in the United States, a refugee must fall within one of three designated “priority” categories:

- (1) individuals and families with compelling protection needs whose cases were referred to the United States by UNHCR, a U.S. embassy, or a trained NGO;
- (2) members of specific ethnic, political, or social groups identified by the State Department in conjunction with DHS and UNHCR, including select groups from Cuba, Iranian religious minorities, and ethnic minorities from Burma currently living in camps in Thailand; or
- (3) spouses, unmarried children under the age of twenty-one, and parents of asylees and refugees already resettled in the United States.¹²⁹

Syrian refugees may also be resettled to the United States based on their relationship to a U.S. citizen or lawful permanent resident, thereby facilitating family reunification.¹³⁰

Next, the security-screening process begins. The USRAP’s decisions regarding whom to approve for resettlement are based, in part, on exhaustive security screenings conducted by UNHCR, the State Department, and DHS, among other agencies.¹³¹ A Resettlement Sup-

VettingFacts.pdf [<http://perma.cc/DB7Y-NLSE>]; see also Larisa Epatko, *You Asked: How Are Refugees Referred to Live in the U.S.?*, PBS NEWSHOUR (Mar. 1, 2017, 2:47 PM), <http://www.pbs.org/newshour/updates/asked-refugees-referred-live-u-s/> [<http://perma.cc/5HPL-LC3L>].

128. *The United States Refugee Admissions Program (USRAP) Consultation & Worldwide Processing Priorities*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (May 5, 2016), <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-worldwide-processing-priorities> [<https://perma.cc/DA97-YKB5>].

129. *Id.* Those who lived in the same household as a qualifying family member, who were part of the same economic unit, and who demonstrate compelling humanitarian circumstances may also be considered “priority 3” on a case-by-case basis. U.S. DEP’T OF STATE, U.S. DEP’T OF HOMELAND SEC. & U.S. DEP’T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2014: REPORT TO CONGRESS 10–13 (2014), <https://www.state.gov/documents/organization/219137.pdf> [<https://perma.cc/5FK2-VB9Z>]. The U.S.-based relative must file an affidavit of relationship, which is processed by the DHS, and individuals must still meet all eligibility criteria. *An Overview of U.S. Refugee Law and Policy*, AM. IMMIGR. COUNCIL (Nov. 2015), <https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy> [<https://perma.cc/QC7Z-6EJP>].

130. *U.S. Refugee Resettlement Processing for Iraqi and Syrian Beneficiaries of an Approved I-130 Petition—Frequently Asked Questions*, U.S. DEP’T OF STATE (Mar. 11, 2016), <https://www.state.gov/j/prm/releases/factsheets/2016/254649.htm> [<https://perma.cc/3R2D-HY8K>]. Upon approval for resettlement, refugees under the Direct Access Program are eligible for the same services and benefits as refugees received through the USRAP.

131. See *U.S. Refugee Admissions Program*, U.S. DEP’T OF STATE, <http://www.state.gov/j/prm/ra/admissions/> [<https://perma.cc/MX66-U5BT>] (last visited Mar. 2, 2017);

port Center, funded by the State Department's PRM, interviews refugees and enters their information into the Worldwide Refugee Admissions Processing System database. The Center also compiles the refugee's background information and data for security screenings, which is "a joint responsibility of the Department of State and the Department of Homeland Security and includes the participation of multiple U.S. Government security agencies."¹³²

The Refugee Access Verification Unit of USCIS "track[s] and manage[s] the review of Affidavits of Relationship . . . filed by immediate family members . . . in the United States on behalf of overseas family members who seek consideration for refugee resettlement" under the Priority 3 category.¹³³ Officers with this unit "conduct background and security checks using DHS, [the State Department], and other federal databases, as necessary, to verify the claimed relationships . . . , identify any benefit applicants who may pose a risk to national security or public safety, and identify derogatory information that may affect eligibility for the benefit sought."¹³⁴

As a result of its rigorous screening process, the United States accepts only a relatively small subset of those referred to it for resettlement.¹³⁵ Indeed, government officials have called the USRAP the "toughest [immigration process] for any traveler to the United States."¹³⁶ A successful application takes, on average, between eighteen and twenty-four months to receive final approval.¹³⁷

Background Briefing on Refugee Screening and Admissions, supra note 88. See also U.S. DEP'T OF STATE, U.S. DEP'T OF HOMELAND SEC., & U.S. DEP'T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2015: REPORT TO THE CONGRESS, <https://www.state.gov/j/prm/releases/docsforcongress/231817.htm> [<https://perma.cc/9TNY-GLDD>].

132. *U.S. Refugee Admissions Program*, U.S. DEP'T OF STATE, <http://www.state.gov/j/prm/ra/admissions/> [<https://perma.cc/MX66-U5BT>] (last visited Mar. 2, 2017); *Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/VK3B-Z3VW>] (last visited Apr. 8, 2017).

133. U.S. DEP'T OF HOMELAND SEC., PRIVACY IMPACT ASSESSMENT FOR THE REFUGEE ACCESS VERIFICATION UNIT (RAVU)), DHS/USCIS/PIA-049 1 (Aug. 16, 2013), <https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-ravu-august2013.pdf> [<https://perma.cc/3P7X-7JKX>].

134. *Id.* at 5.

135. *Secretary Jeh Johnson & ATTN: Explain the Process of Screening Syrian Refugees*, YOUTUBE (Nov. 24, 2015), <https://www.youtube.com/watch?v=aQUixQ6TFZc> [<https://perma.cc/4G99-3N4Y>]. Of the approximately 23,000 Syrian refugees UNHCR referred to the United States for resettlement as of November 2015, only about 2,000 were eventually admitted to the United States.

136. *The Syrian Refugee Crisis and Its Impact on the Security of the U.S. Refugee Admissions Program: Hearing Before the Subcomm. on Immigr. and Border Security of the H. Comm. on the Judiciary*, 114th Cong. 64 (Nov. 19, 2015) (statement of Anne C. Richard, Assistant Sec'y for the Bureau of Population, Refugees, and Migration, Dep't of State), <https://2009-2017.state.gov/j/prm/releases/remarks/2014/219388.htm> [<https://perma.cc/K9JL-AK87>].

137. *Id.* at 3.

2. The Security Clearance Process

The National Counterterrorism Center, FBI, DHS, and the State Department, as well as the intelligence community, conduct security screenings for all refugee applicants.¹³⁸ Agencies look for information indicating that the individual is a security risk or has connections to suspected “bad” actors, outstanding warrants, or immigration or criminal violations.¹³⁹ These interagency security checks are repeated if new information is discovered during the application-review process or if any of the applicant’s information changes, such as new names or contact information.¹⁴⁰ The State Department prescreens and runs the names of all potential refugees through a Consular Lookout and Support System name check.¹⁴¹ This system provides access to critical information regarding immigration applications, including those who have been denied visas, have immigration violations or criminal histories, or pose terrorism concerns.¹⁴² The system contains records from numerous agencies and includes classified intelligence information.¹⁴³ The State Department conducts the name check using the applicant’s primary name and variations of the applicant’s name.¹⁴⁴

The State Department also initiates an interagency check, which screens biographic data such as the name and birthdate of applicants within designated age ranges.¹⁴⁵ In addition, applicants’ fingerprints are screened against the FBI’s biometric data, the DHS’s biometric database containing watch-list information and previous immigration encounters in the United States, and the Department of Defense’s biometric database, which includes previously collected fingerprint records.¹⁴⁶ The FBI and intelligence community also issue a Security Advisory Opinion for certain refugees who are members of a group or nationality for which the U.S. government has required a higher-level security screening.¹⁴⁷ Security checks continue through every step of the process detailed below, up to and including arrival at the U.S. port of entry.

138. Pope, *supra* note 125.

139. *Id.*

140. *Id.*

141. *Refugee Processing and Security Screening*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (Dec. 3, 2015), <https://www.uscis.gov/refugeescreening> [<https://perma.cc/5UY3-CSXJ>]. See also *Infographic: The Screening Process for Entry to the United States for Syrian Refugees*, CTR. FOR AM. PROGRESS (Nov. 18, 2015, 8:32 AM), <https://www.americanprogress.org/issues/immigration/news/2015/11/18/125812/infographic-the-screening-process-for-entry-to-the-united-states-for-syrian-refugees/> [<http://perma.cc/37XV-MTMT>].

142. *Refugee Processing and Security Screening*, *supra* note 141.

143. *Id.*

144. *Id.*

145. *Id.*

146. Pope, *supra* note 125. See also *Infographic: The Screening Process for Entry to the United States for Syrian Refugees*, *supra* note 141.

147. *Refugee Processing and Security Screening*, *supra* note 141.

3. Enhanced Review Process for Syrian Refugees

Syrian refugee applications are subject to an additional review process¹⁴⁸ and thus may take longer than the typical eighteen to twenty-four months for approval.¹⁴⁹ While details of the program remain classified, Syrian refugee applicants are afforded heightened levels of scrutiny and additional background investigation.¹⁵⁰ A Refugee Affairs Division (RAD) officer at USCIS headquarters conducts this enhanced review.¹⁵¹ The RAD Officer reviews information regarding, among other things, where the refugee has come from and what caused him or her to flee,¹⁵² as well as country conditions and regional activity, which are then used to assess the refugee's credibility and eligibility for protection.¹⁵³ Cases are then, where necessary, referred to the Fraud Detection and National Security Directorate of USCIS for additional scrutiny, with open-source and classified research compiled for review by a USCIS officer.¹⁵⁴ State Department officials have stated that "Syrians tend to be a very, very heavily documented population" compared with other refugee applicants, and these documents, or lack thereof, are carefully reviewed.¹⁵⁵

4. In-Person Interview

A USCIS officer interviews refugees applying for resettlement in person and is responsible for adjudicating applications for refugee status, conducting additional security checks, and reviewing case decisions.¹⁵⁶ Within USCIS, the Refugee Corps consists of a team of officers who go on "circuit rides," whereby officers travel multiple

148. *Background Briefing on Refugee Screening and Admissions*, *supra* note 88. See also Long, *supra* note 62.

149. See Long, *supra* note 62; *Infographic: The Screening Process for Entry to the United States for Syrian Refugees*, *supra* note 141.

150. *Background Briefing on Refugee Screening and Admissions*, *supra* note 88. See also Long, *supra* note 62.

151. *Background Briefing on Refugee Screening and Admissions*, *supra* note 88. See also *Infographic: The Screening Process for Entry to the United States for Syrian Refugees*, *supra* note 141.

152. *Background Briefing on Refugee Screening and Admissions*, *supra* note 88.

153. *Refugee Resettlement - Security Screening Information*, HUMAN RIGHTS FIRST (Apr. 2016), <http://www.humanrightsfirst.org/sites/default/files/SyrianRefugeesVettingFacts.pdf> [<https://perma.cc/U5WL-42LU>]. See also *Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<http://perma.cc/D9SZ-XCF3>] (last visited Mar. 3, 2017).

154. *Id.*

155. Long, *supra* note 62.

156. *The United States Refugee Admissions Program (USRAP) Consultation and Worldwide Processing Priorities*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (May 5, 2016), <https://www.uscis.gov/humanitarian/refugees-asylum/refugees/united-states-refugee-admissions-program-usrap-consultation-worldwide-processing-priorities> [<https://perma.cc/DA97-YKB5>].

times each year to Resettlement Support Centers to interview refugees for potential resettlement.¹⁵⁷

USCIS officers conduct these interviews to determine an applicant's eligibility for refugee status, including whether the applicant meets the criteria of the refugee definition¹⁵⁸ and is otherwise admissible under U.S. law.¹⁵⁹ Individuals can be excluded from refugee protection for a variety of reasons, including where they have "ordered, incited, assisted, or otherwise participated in persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."¹⁶⁰ In addition, individuals who have been "'firmly resettled' in a third country may not be admitted as a refugee."¹⁶¹ Furthermore, applicants for refugee protection are also subject to broad terrorism-related inadmissibility grounds (TRIG), as well as other "criminal, security, and public health [inadmissibility] grounds."¹⁶²

Certain limited exemptions are available to individuals who have "provided insignificant or 'certain limited' material support (including through routine commercial or social transactions, in the course of providing humanitarian assistance, or under sub-duress pressure), to undesignated terrorist organizations," and are determined not to pose a threat to the United States.¹⁶³ But the future of these exemptions is uncertain. The March 6 Executive Order specifically called on the Secretaries of State and Homeland Security to consider rescinding this discretionary exemption authority.¹⁶⁴

Interviews by RAD officers are critical to the U.S. security-screening process. RAD officers undergo extensive and specialized training, including comprehensive instruction on fraud detection and identifica-

157. Eliza Griswold, *Why Is It So Difficult for Syrian Refugees to Get Into the U.S.?*, N.Y. TIMES (Jan. 20, 2016), <http://www.nytimes.com/2016/01/24/magazine/why-is-it-so-difficult-for-syrian-refugees-to-get-into-the-us.html> [<https://perma.cc/Z9EE-VHJH>]. Officers that are permanently stationed overseas for USCIS also conduct refugee interviews.

158. The Immigration and Nationality Act, through the Refugee Act of 1980, defines a refugee as "any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1101(a)(42) (2012).

159. *Refugee Processing and Security Screening*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (Dec. 3, 2015), <https://www.uscis.gov/refugeescreening> [<https://perma.cc/PFQ8-VABL>].

160. U.S. DEP'T OF STATE, U.S. DEP'T OF HOMELAND SEC. & U.S. DEP'T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2017: REPORT TO THE CONGRESS 16, <https://2009-2017.state.gov/documents/organization/262168.pdf> [<https://perma.cc/2HT8-4T64>].

161. *Id.*

162. *Id.*

163. *Id.* at 16–17.

164. Exec. Order 13,780, § 7, 82 Fed. Reg. 13,209, 13,216 (Mar. 6, 2017).

tion of national security concerns.¹⁶⁵ During the interview, the RAD officer takes a photo of the applicant and collects fingerprints, which will be checked against various U.S. databases for biometric screening. The officer also begins biometric checks in order to confirm the applicant's identity, detect possible criminal history, and identify previous immigration data.¹⁶⁶

5. Approval and Admission to the United States

If the RAD officer determines that the refugee applicant meets the eligibility criteria, the officer conditionally approves the refugee's resettlement application and submits it to the State Department for final processing.¹⁶⁷ Approvals become final only once all security checks have been cleared.¹⁶⁸ Refugees approved for resettlement must also undergo a medical screening conducted by the International Organization for Migration.¹⁶⁹ Upon completion of these steps, the refugee is granted formal approval for resettlement.¹⁷⁰

Each refugee is then assigned to one of nine domestic resettlement agencies, most of which are faith based.¹⁷¹ The sponsor agency places the refugee with a local partner agency that will assist the refugee upon arrival.¹⁷² The resettlement agency assesses and determines the best location for the refugee to be resettled¹⁷³ based on "the particular

165. *Refugee Processing and Security Screening*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (Dec. 3, 2015), <https://www.uscis.gov/refugeescreening> [<https://perma.cc/5UY3-CSXJ>].

166. *See Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/6V5V-JA2A>] (last visited Mar. 3, 2017); *see also* Pope, *supra* note 125.

167. *See Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/6V5V-JA2A>] (last visited Mar. 3, 2017).

168. *Id.*

169. *Medical Screening of U.S.-Bound Refugees: Syrian Refugee Health Profile*, CTR. FOR DISEASE CONTROL AND PREVENTION (Jan. 10, 2017), <https://www.cdc.gov/immigrantrefugeehealth/profiles/syrian/medical-screening/index.html> [<https://perma.cc/PZX3-AVQ8>].

170. *Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/6V5V-JA2A>] (last visited Mar. 3, 2017).

171. *Id.* These agencies are Church World Service, Episcopal Migration Ministries, Ethiopian Community Development Council, HIAS, International Rescue Committee, Lutheran Immigration and Refugee Services, United States Conference of Catholic Bishops, World Relief Corporation, and U.S. Committee for Refugees and Immigrants. *Voluntary Agencies*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (July 17, 2012), <https://www.acf.hhs.gov/orr/resource/voluntary-agencies> [<https://perma.cc/N37V-3EYZ>].

172. *Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/6V5V-JA2A>] (last visited Mar. 3, 2017).

173. Pope, *supra* note 125.

needs of each incoming refugee,” if and where the refugee has relatives in the United States, and “the specific resources available in a local community.”¹⁷⁴ The resettlement agency sponsoring the refugee “decides on the best match between a community’s resources and the refugee’s needs.”¹⁷⁵ Refugees then generally complete a cultural-orientation class to prepare for resettlement to the United States.¹⁷⁶

Once a location is chosen, the International Organization for Migration arranges the refugee’s transportation to the United States, using a loan the refugee must begin repaying within six months of arrival.¹⁷⁷ The refugee remains subject to additional security checks by U.S. Customs and Border Protection’s National Targeting Center-Passenger, as well as the Transportation Security Administration’s Secure Flight program.¹⁷⁸

Security checks are valid only for a certain period of time.¹⁷⁹ If the applicant has not yet resettled in the United States and the checks expire, the checks must be re-run to ensure that information regarding the refugee is up to date.¹⁸⁰

B. *Obstacles to Efficient and Effective Overseas Refugee Processing and Recent Improvements*

As discussed further below, the main reasons cited for delays in refugee processing, especially with Syrians, include (a) backlogs due to delayed security checks and (b) challenges with conducting interviews due to staffing shortages and security concerns, among other obstacles. Flaws in the interview process itself, including interpretation

174. *The Reception and Placement Program*, U.S. DEP’T OF STATE, <http://www.state.gov/j/prm/ra/receptionplacement/> [<https://perma.cc/EKT6-DWHG>] (last visited Mar. 10, 2017).

175. *Id.*

176. *Security Screening of Refugees Admitted to the U.S.*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS, <http://refugees.org/explore-the-issues/our-work-with-refugees/security-screening/> [<https://perma.cc/6V5V-JA2A>] (last visited Mar. 3, 2017).

177. *Refugee Travel Loans Collection*, U.S. CONF. OF CATH. BISHOPS, <http://www.usccb.org/issues-and-action/human-life-and-dignity/migrants-refugees-and-travelers/refugee-travel-loans-collection/> (last visited Mar. 10, 2017). Sponsoring resettlement agencies routinely counsel refugees on how to arrange a more flexible repayment plan to suit their financial circumstances.

178. Pope, *supra* note 125.

179. *Security Screening of Refugees Admitted to the United States: A Detailed, Rigorous Process*, U.S. COMM. FOR REFUGEES AND IMMIGRANTS (2015), <http://refugeerights.org/wp-content/uploads/2015/11/Refugee-resettlement-step-by-step-USCRI.pdf> [<http://perma.cc/D9SZ-XCF3>].

180. *Oversight of the Administration’s FY 2016 Refugee Resettlement Program: Fiscal and Security Implications: Hearing on Refugee Admissions Fiscal Year 2016 Before the Subcomm. on Immigr. & the Nat’l Interest of the S. Comm. on the Judiciary*, 114th Cong. (2015) (statement of Larry Bartlett, Dir. of Admissions, Bureau of Population, Refugees, and Migration, U.S. Dep’t of State), <https://www.judiciary.senate.gov/imo/media/doc/10-01-15%20Bartlett%20Testimony.pdf> [<https://perma.cc/L3LC-7POX>].

problems and lack of counsel, as well as the vulnerable nature of refugees referred for resettlement, further exacerbate these problems.

In 2016, the Obama administration addressed many of these barriers to efficient refugee processing through a range of new initiatives designed to enhance the refugee admissions process.

Foremost among these new initiatives was the “surge” resettlement program implemented in 2016 to meet the President’s goal of admitting 10,000 Syrians in FY 2016.¹⁸¹ The “surge” aimed to decrease processing times for Syrian refugee applicants from the average wait of eighteen to twenty-four months by using measures such as new technology and additional personnel.¹⁸² It reduced lag time between each phase of processing by concentrating resources and personnel in one location. These efforts not only allowed PRM to meet the 10,000 benchmark but also resulted in several hundred more Syrian refugees being “travel ready” (i.e., successfully completing all security and medical checks and being accepted or “assured” sponsorship by one of the nine national resettlement agencies) in FY 2016.¹⁸³ In the first two months of FY 2017, a total of 2,625 Syrian refugees were admitted to the United States.¹⁸⁴

1. Security Checks and New Technology

Until 2016, the enhanced review process for Syrian refugees, along with CARRP- and TRIG-related issues, among other holds, had caused significant delays in the processing of Syrian refugee applications.¹⁸⁵ About 3,000 to 4,000 Syrian refugees were estimated to be in a “no decision” limbo as of January 2016.¹⁸⁶

Between January 2016 and December 2016, however, DHS officials reported significant progress with cases backlogged due to CARRP, TRIG, or other holds, with roughly 1,200 “workable” cases reviewed

181. Allie Malloy, Elise Labott & Laura Koran, *US Welcomes Its 10,000th Syrian Refugee Ahead of Schedule*, CNN (Aug. 29, 2016, 2:00 PM), <http://www.cnn.com/2016/08/28/politics/syrian-refugees-resettling-us-obama-administration/> [<http://perma.cc/2345-GPMX>].

182. Corinne Segal, *First Syrian Family from ‘Surge’ Resettlement Program Arrives in U.S.*, PBS NEWSHOUR (Apr. 7, 2016, 11:08 AM), <http://www.pbs.org/newshour/run-down/first-syrian-family-from-surge-resettlement-program-arrives-in-u-s/> [<http://perma.cc/66WG-B4W2>].

183. According to interviews with PRM officials, these refugees continued to be resettled through FY 2016 and into FY 2017. *PRM Interview*, *supra* note 4.

184. *Admissions & Arrivals*, REFUGEE PROCESSING CTR., <http://www.wrapsnet.org/admissions-and-arrivals/> [<https://perma.cc/ES66-2Q5J>] (last visited Mar. 3, 2017).

185. HUMAN RIGHTS FIRST, *THE SYRIAN REFUGEE CRISIS AND THE NEED FOR U.S. LEADERSHIP* 19 (2016) <http://www.humanrightsfirst.org/sites/default/files/HRF-SyrianRefCrisis.pdf> [<https://perma.cc/VW6W-CDVJ>] (“The factors hampering resettlement, which are outlined below, include the backlogs in review of ‘hold’ cases, the need for additional security vetting staff to timely conduct inquiries on both resettlement and SIV cases and the lack of space for resettlement interviewers at the U.S. Embassy in Beirut.”).

186. *Id.*

at the time the Syrian Refugee Resettlement Project conducted interviews.¹⁸⁷ DHS officials indicated that their goal for FY 2017 was to ensure that ninety percent of interagency checks are completed within thirty to sixty days.¹⁸⁸

Under the Obama administration's "surge" program, government officials centralized processing and implemented several improvements to expedite security checks while still assuring thorough security assessments.¹⁸⁹ In written testimony to the Senate Judiciary Committee, PRM Director Larry Bartlett explained that the administration was "reviewing the end-to-end processing workflow to identify where processing can be made more efficient" and was "also working to develop more rigorous data analytics to guide when checks should be re-requested to try to maximize the potential for an approved, cleared refugee to travel to the United States before another check expires."¹⁹⁰

Recurrent security assessments, known as the interagency check, helped ensure efficient processing.¹⁹¹ With "expanded Intelligence Community support" and coordination among partners to "launch [interagency check] recurrent vetting" in 2015, "any intervening derogatory information . . . identified after the initial check . . . cleared but before the applicant . . . traveled to the United States [was] shared with USCIS without the need for a subsequent query, making the process more efficient."¹⁹²

Other significant changes included modernizing the approval process through the contributions of the U.S. Digital Service, which helped identify choke points and prioritize cases for vetting agencies.¹⁹³ The U.S. Digital Service, for example, built a "digital [refugee]

187. See *USCIS Interview*, *supra* note 4.

188. *Id.*

189. *Id.*

190. *Oversight of the Administration's FY 2016 Refugee Resettlement Program: Fiscal and Security Implications: Hearing Before the Subcomm. on Immigr. & the National Interest of the S. Comm. on the Judiciary*, 114th Cong. (Oct. 1, 2015) (response of Larry Bartlett, Dir. of Admissions, Bureau of Population, Refugees and Migration, U.S. Dep't of State), <https://www.judiciary.senate.gov/imo/media/doc/10-01-15%20Bartlett%20Testimony.pdf> [<https://perma.cc/L3LC-7PQX>].

191. See Pope, *supra* note 125. See also Aliya Sternstein, *US Considers Using Portable DNA Labs, Iris Scans to Vet Syrian Refugees*, NEXTGOV (Dec. 16, 2015), <http://www.nextgov.com/defense/2015/12/us-plans-speed-syrian-refugee-screenings-new-tech/124532/> [<http://perma.cc/K46K-M79U>].

192. *Hearing on Refugee Admission FY 2017 and Refugee Security Screening Before the S. Comm. on the Judiciary, Subcomm. on Immigr. & the National Interest* (2016) (statement of Leon Rodriguez, Dir., U.S. Citizenship and Immigrant Services, Department of Homeland Security), <https://www.uscis.gov/tools/resources-congress/testimonies-and-speeches/hearing-refugee-admission-fy-2017-and-refugee-security-screening-senate-committee-judiciary-subcommittee-immigration-and-national-interest-september-28-2016-uscis-director-leon-rodriguez> [<https://perma.cc/JY8J-NQEU>].

193. *Reducing Inefficiency in the Refugee Admission Process*, U.S. DIGITAL SERV. (2016), <https://www.usds.gov/report-to-congress/2016/refugee-admissions/> [<https://perma.cc/Z6JA-9UCK>].

approval process” to allow for automated final case stamping for refugees who have already been interviewed in person and who have cleared all security and background checks. This digital process replaced the in-person ink stamping, which had caused significant delays due to challenges with travel to the region.¹⁹⁴ This digital-stamp approval process is a significant first step toward modernizing the refugee admissions process by increasing officers’ efficiency and reducing applicants’ wait time, while upholding rigorous security standards.¹⁹⁵

Still, challenges remain with regard to obtaining data on family members for security and credibility assessments, which can present obstacles to efficient and effective resettlement.¹⁹⁶ Every refugee family member must have his or her security check cleared at the same time for the family to resettle. Yet clearances for family members may not be processed simultaneously.¹⁹⁷ As a result, families may be left waiting for all family members’ security checks to be processed, risking the expiration of other security clearances during that period and thus leading to further delays.¹⁹⁸

194. *Id.*

195. *Our Work*, U.S. DIGITAL SERV., <https://www.usds.gov/work> [<https://perma.cc/76LA-LYPA>] (last visited Mar. 3, 2017).

196. UNHCR, *RESETTLEMENT HANDBOOK* 338–40 (2011), <http://www.unhcr.org/46f7c0ee2.pdf> [<http://perma.cc/S5US-N8GP>] (noting that field office staff members must “[v]erify and cross-check bio-data carefully, including date of birth, and spellings of names for all members of the case. Ensure consistency in the spelling of names between linked cases. Verify that the identity of each person on the case matches their photo . . . [which] are an important anti-fraud measure” and noting that “[e]nsuring that the details provided in this section are complete and accurate is important for retaining family unity, demonstrating linkages to individuals already resettled, and for future family reunification.” The Resettlement Handbook requires that the address and phone number of relatives be provided, if available, emphasizing that “Resettlement States note that this is especially important if the applicant has relatives already living in their country, as it helps facilitate the security screening.”).

197. Eliza Griswold, *Why Is It So Difficult for Syrian Refugees to Get Into the U.S.?*, N.Y. TIMES (Jan. 20, 2016), <http://www.nytimes.com/2016/01/24/magazine/why-is-it-so-difficult-for-syrian-refugees-to-get-into-the-us.html> [<https://perma.cc/Z9EE-VHJH>] (“Among Syrian refugees, ‘on hold’ is the most dreaded category. It is extremely difficult to get clear answers about why the hold has been applied or when it will be lifted. . . . It could be as simple as an applicant’s security clearance having expired while a family member waited to be vetted.”).

198. For a discussion of security clearances expiring in the resettlement process, see, e.g., *Vermont Hopes to Receive Syrian Refugees after Trump’s Executive Order Revision*, USCRI (Mar. 2017), <http://refugees.org/news/vermont-hopes-receive-syrian-refugees-trumps-executive-order-revision/> [<http://perma.cc/JJ5U-C5UN>]; Rachel Nusbaum, *Refugee Ban’s Devastating Impact*, HIAS (Feb. 1, 2017), <https://www.hias.org/blog/refugee-bans-devastating-impact> [<http://perma.cc/DQ9A-SMKW>] (“Many refugees have waited for years, even decades, to get a chance to come to the United States, . . . It is incredibly rare to make it through all of the checks and security hurdles to actually be accepted” and “because our security clearances are so stringent, the most stringent in the world, all the clearances expire and they are only good for a certain period of time.”).

2. Staffing Shortages, Security Concerns Regarding Travel to the Region, and Alternatives to In-Person Interviews

As noted above, RAD officers travel worldwide throughout the year to conduct interviews with refugee applicants, but until 2016 their trips were too infrequent to meet the “mounting backlog” of refugee applicants.¹⁹⁹ Due to violence and security concerns, trips to countries with populations of greatest need were often cancelled.²⁰⁰ For example, DHS suspended circuit rides to Lebanon, which hosts 1 million Syrian refugees, as well as to Iraq, which has a backlog of 57,000 cases.²⁰¹ In addition, RAD officer shortages and the length of the federal hiring process (up to nine months from application to completion of background checks and training) also caused delays, even when increased hiring was possible.²⁰² Accordingly, refugees in the most dangerous areas were hindered in their efforts to be considered for refugee processing and resettlement.²⁰³

In an effort to address these issues, the U.S. government in 2016 significantly increased the number of DHS staff in Jordan and Turkey as part of the “surge” resettlement operation, described above, to conduct Syrian refugee resettlement interviews.²⁰⁴ This increase in staffing led to an exponentially greater number of interviews and security checks conducted than in previous years.²⁰⁵ The State Department devoted more staff in Amman, Jordan to processing Syrian refugees because the International Organization for Migration’s Resettlement Support Center for the Middle East and North Africa—based in Amman—processed the majority of Syrians (eighty-seven percent) resettled in the United States in 2016.²⁰⁶ As the State Department’s

199. Letter from Sen. Cory Booker et al. to Sec’y Jeh Johnson (Oct. 6, 2015), https://www.peters.senate.gov/imo/media/doc/151006_Letter_DHS_Refugees.pdf [<https://perma.cc/CA66-S2E2>].

200. *Id.*

201. Press Release, Int’l Refugee Assistance Project, For the Hearing “Oversight of the Administration’s FY 2016 Refugee Resettlement Program: Fiscal and Security Implications” (Oct. 1, 2015).

202. *See USCIS Interview, supra* note 4.

203. *See* Letter from Sen. Cory Booker et al. to Sec’y Jeh Johnson (Oct. 6, 2015), https://www.peters.senate.gov/imo/media/doc/151006_Letter_DHS_Refugees.pdf [<https://perma.cc/CA66-S2E2>]. *See also* Press Release, Int’l Refugee Assistance Project, For the Hearing “Oversight of the Administration’s FY 2016 Refugee Resettlement Program: Fiscal and Security Implications” (Oct. 1, 2015).

204. *See USCIS Interview, supra* note 4. *See also* Press Release, Human Rights First, At Fiscal Year End, Obama Administration Meets Refugee Resettlement Goals (Sept. 30, 2016).

205. *See USCIS Interview, supra* note 4.

206. *U.S. Exceeds Resettlement Target of 10,000 Syrian Refugees*, INT’L OFFICE OF MIGRATION (Aug. 30, 2016), <https://www.iom.int/news/us-exceeds-resettlement-target-10000-syrian-refugees> [<http://perma.cc/QC8P-H4ZL>]; Kristina Wong, *State Seeks to Pick up Pace on Bringing Syrian Refugees to U.S.*, THE HILL (Apr. 16, 2016, 12:34 PM), <http://thehill.com/policy/defense/276441-state-seeks-to-pick-up-pace-on-bringing-syrian-refugees-to-us> [<https://perma.cc/7Z3A-BKZP>].

Director of the Office of Refugee Admissions Larry Bartlett noted, “By putting more officers in one place we can conduct more interviews.”²⁰⁷

With the goal of admitting 10,000 Syrian refugees prior to the end of FY 2016, DHS personnel interviewed an additional 12,000 refugee applicants referred by UNHCR in Jordan.²⁰⁸ DHS also opened a processing center in Erbil, Iraq, to meet the needs of Syrian refugees located there.²⁰⁹ The Obama administration increased the number of DHS officers tasked with interviewing Syrian refugees in the Middle East,²¹⁰ and in February 2016, the State Department opened “a new pathway for certain Syrians with relatives in the United States to apply for refugee resettlement.”²¹¹ This new pathway, known as the Direct Access Program, mentioned above, extended access to the USRAP to Syrian beneficiaries of approved relative petitions by U.S. citizens and lawful permanent residents, with processing available in Algeria, Bahrain, Egypt, Iraq, Israel, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.²¹² U.S. Resettlement Support Centers in the Middle East also increased

207. Kristina Wong, *State Seeks to Pick up Pace on Bringing Syrian Refugees to U.S.*, THE HILL (Apr. 16, 2016, 12:34 PM), <http://thehill.com/policy/defense/276441-state-seeks-to-pick-up-pace-on-bringing-syrian-refugees-to-us> [<https://perma.cc/7Z3A-BKZP>].

208. Julie Hirschfeld Davis, *U.S. Could Exceed Goal of Accepting 10,000 Syrian Refugees*, N.Y. TIMES (Aug. 5, 2016), <https://www.nytimes.com/2016/08/06/us/politics/us-could-exceed-goal-of-accepting-10000-syrian-refugees.html> [<http://perma.cc/UU57-JYQG>]. See also *Transcript of USCIS-DOS-HHS Press Call on Syrian Refugee Processing*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (Aug. 5, 2016), <https://www.uscis.gov/news/news-releases/transcript-uscis-dos-hhs-press-call-syrian-refugee-processing> [<https://perma.cc/98Y3-UAUM>].

209. See Julia Edwards, *Exclusive: U.S. to Open New Screening Centers for Syrian Refugees – State Department*, REUTERS (Nov. 6, 2015, 2:39 PM), <http://www.reuters.com/article/us-mideast-crisis-syria-usa-idUSKCN0SV2SE20151106> [<http://perma.cc/83FR-79LZ>]; Jared Goyette, *It’s Now Clear That Most of the Syrian Refugees Coming to the United States Are Women and Children*, PUB. RADIO INT’L (Aug. 8, 2016, 5:45 PM), <https://www.pri.org/stories/2016-08-08/it-s-now-clear-most-syrian-refugees-coming-united-states-are-women-and-children> [<http://perma.cc/4VVG-MCLL>].

210. HUMAN RIGHTS FIRST, *AT LEAST 10,000: A SIX-MONTH PROGRESS REPORT ON U.S. RESETTLEMENT OF SYRIAN REFUGEES 8* (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFReportAtLeastTenThousand-final.pdf> [<https://perma.cc/BXY3-QKN9>]. See also HUMAN RIGHTS FIRST, *THE SYRIAN REFUGEE CRISIS AND THE NEED FOR U.S. LEADERSHIP 19* (2016), <http://www.humanrightsfirst.org/sites/default/files/HRFSyrianRefCrisis.pdf> [<https://perma.cc/VW6W-CDVJ>].

211. Jared Goyette, *Canada Is Just Better at Welcoming Syrian Refugees, but the US Is Trying to Do More*, PUB. RADIO INT’L (Apr. 5, 2016, 3:30 PM), <https://www.pri.org/stories/2016-04-05/canada-just-better-welcoming-syrian-refugees-us-trying-do-more> [<http://perma.cc/S7MH-BU9Q>]. See also *U.S. Refugee Resettlement Processing for Iraqi and Syrian Beneficiaries of an Approved I-130 Petition—Frequently Asked Questions*, U.S. DEP’T STATE (Mar. 11, 2016), <https://www.state.gov/j/prm/releases/factsheets/2016/254649.htm> [<https://perma.cc/3R2D-HY8K>].

212. DEP’T OF STATE, *PROPOSED REFUGEE ADMISSIONS FY 2017: REPORT TO THE CONGRESS* (Sept. 15, 2016), <https://2009-2017.state.gov/j/prm/releases/docsforcongress/261956.htm> [<https://perma.cc/M66Y-BZN4>].

their processing of refugee applicants and their support for expanded circuit rides.²¹³

Other improvements to the system included an increase in staffing at Resettlement Support Centers, as well as an addition of U.S. Digital Service staff to PRM and USCIS, and a doubling of funding for the International Catholic Migration Commission and the UNHCR Deployment Scheme.²¹⁴ The Deployment Scheme is a collaboration between UNHCR and four implementing partners—International Catholic Migration Commission, RefugePoint, Danish Refugee Council, and International Refugee Assistance Project—which assists in properly identifying and referring refugees for resettlement.²¹⁵ The Deployment Scheme consists of 400 qualified humanitarian aid professionals from diverse backgrounds who have experience in refugee protection casework and who are ready to be temporarily deployed on short notice to UNHCR’s field offices to provide additional support.²¹⁶ As a result of this Deployment Scheme and increased staffing, NGOs increased their number of refugee referrals for resettlement, which contributed to higher resettlement numbers and greater attention to issues of equitable access to resettlement.²¹⁷ In order to further enhance overseas processing and allow for the ongoing adjudication of cases, DHS officials also considered the use of videoconferencing in limited circumstances where security concerns prevent RAD officers from traveling to certain locations.²¹⁸

Despite these improvements, there continue to be obstacles in the refugee adjudication process related to the availability of counsel and interpreters, and sensitivity toward applicants who have survived serious trauma.²¹⁹ Many refugee applicants do not speak English and

213. See HUMAN RIGHTS FIRST, *THE SYRIAN REFUGEE CRISIS AND THE NEED FOR U.S. LEADERSHIP* 19 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-SyrianRefCrisis.pdf> [<https://perma.cc/VW6W-CDVJ>].

214. See *USCIS Interview*, *supra* note 4; see also *PRM Interview*, *supra* note 4.

215. *Deployment Scheme*, UNHCR, <http://www.unhcr.org/en-us/resettlement-deployment-scheme.html> (last visited Mar. 3, 2017) [<http://perma.cc/32FY-XQPF>].

216. *ICMC-UNHCR Resettlement Deployment Scheme*, INT’L CATHOLIC MIGRATION COMM’N, <http://www.icmc.net/icmc-unhcr-resettlement-deployment-scheme> [<http://perma.cc/5U7E-N9VD>] (last visited Feb. 28, 2017).

217. Amy Slaughter, *How NGOs Have Helped Shape Resettlement*, 54 *FORCED MIGRATION REV.* 32, 33–34 (Feb. 2017), <http://www.fmreview.org/resettlement/slaughter.html> [<http://perma.cc/T642-BFF3>]. The Multifaith Alliance for Syrian Refugees has cited the need to “[t]rain and certify NGOs to originate referrals, including in bulk.” *Sources for Challenging Common Assumptions that Drive U.S. Policy*, MULTIFAITH ALLIANCE FOR SYRIAN REFUGEES, <http://www.multifaithalliance.org/policy> [<http://perma.cc/4SYS-4L8A>].

218. See *USCIS Interview*, *supra* note 4. See also Memorandum from the Int’l Refugee Assistance Project on The Use of Videoconferencing to Deal with Refugee Application Delays in Syria (Jan. 2012), https://refugeerights.org/wp-content/uploads/2012/01/IRAP_Syria_Videoconferencing-Memo.pdf [<http://perma.cc/J7W2-DRNG>] (recommending video interviews for Syrian refugees).

219. 8 C.F.R. § 292.5(b) (2016); Letter from William C. Hubbard, President, A.B.A., to Jeh Johnson, Sec’y of Homeland Sec., Alejandro Mayorkas, Deputy Sec’y

must rely on interpreters of varying quality,²²⁰ who may, for example, be uncomfortable discussing rape, HIV, or LGBTQI issues due to cultural factors or the interpreter's political and social views.²²¹ Refugees who experience post-traumatic stress disorder may face significant challenges recounting their experiences in interviews,²²² since post-traumatic stress disorder can make retelling a story in an interview a "painful and possibly traumatic event in itself."²²³ The combination of these factors can lead to errors in testimony and adverse outcomes for refugees in the adjudication process.²²⁴ Moreover, without legal representation, refugees may be confused by the bureaucratic and complex process of resettlement, unprepared for interviews with U.S. and United Nations officials, and unable to gather the corroborating docu-

of Homeland Sec., & León Rodríguez, Dir., U.S. Citizenship and Immigr. Servs. (July 24, 2015), http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015/july_24_counselrefugeeapplicants.authcheckdam.pdf [<http://perma.cc/4VFS-9RMX>] (Appendix B).

220. See U.S. CITIZENSHIP AND IMMIGR. SERVS., CROSS-CULTURAL COMMUNICATION AND OTHER FACTORS THAT MAY IMPEDE COMMUNICATION AT AN INTERVIEW 8 (Apr. 10, 2003); U.S. CITIZENSHIP AND IMMIGR. SERVS., INTERVIEWING PART IV: WORKING WITH AN INTERPRETER 12–13 (Sept. 14, 2006); Alison Parker, *Hidden in Plain View: Refugees Living without Protection in Nairobi and Kampala*, HUMAN RIGHTS WATCH 116 (2002).

221. Betsy Fisher, Comment, *The Case for Procedural Safeguards in the U.S. Refugee Admissions Program*, 20 MICH. J. GENDER & L. 329, 339–44 (2013); U.S. CITIZENSHIP AND IMMIGR. SERVS., INTERVIEWING PART IV: WORKING WITH AN INTERPRETER 14–15 (Sept. 14, 2006); Laurie Berg & Jenni Millbank, *Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants*, 22 J. REFUGEE STUD. 195, 196 (2009); U.S. CITIZENSHIP AND IMMIGR. SERVS., GUIDANCE FOR ADJUDICATING LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX REFUGEE AND ASYLUM CLAIMS 48 (2011), <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/Asylum%20Native%20Documents%20and%20Static%20Files/RAIO-Training-March-2012.pdf> [<https://perma.cc/2S43-52AG>].

222. See Fisher, *supra* note 221, at 337–38 (noting that the prevalence of post-traumatic stress disorder among refugee groups ranges between 39% and 100%). See also UNHCR, REFUGEE RESETTLEMENT: AN INTERNATIONAL HANDBOOK TO GUIDE RECEPTION AND INTEGRATION 194 (2002); Pilar Hernandez, *Trauma in War and Political Persecution: Expanding the Concept*, 72 AM. J. ORTHOPSYCHIATRY 16, 16 (2002); Claudia Maria Vargas, *War Trauma in Refugees: Red Flags and Clinical Principles*, 3 VISIONS J. 12, 12–13 (2007); Andres J. Pumariega et al., *Mental Health of Immigrants and Refugees*, 41 COMMUNITY MENTAL HEALTH J. 581, 588 (2005).

223. Fisher, *supra* note 221, at 338. See also U.S. CITIZENSHIP AND IMMIGR. SERVS., INTERVIEWING SURVIVORS OF TORTURE AND OTHER SEVERE TRAUMA 21 (Mar. 29, 2013); UNHCR, REFUGEE RESETTLEMENT: AN INTERNATIONAL HANDBOOK TO GUIDE RECEPTION AND INTEGRATION 233 (2002) (explaining that torture survivors may not trust individuals in power, including immigration authorities). USCIS officers who adjudicate refugee cases receive training in working with individuals who have undergone trauma and have PTSD and in utilizing sensitive elicitation techniques. Nonetheless, opening up and presenting a clear, consistent, and linear narrative is often very difficult for trauma survivors.

224. See Fisher, *supra* note 221, at 348–49. See also AMERICAN BAR ASSOCIATION, REFORMING THE IMMIGRATION SYSTEM: PROPOSALS TO PROMOTE INDEPENDENCE, FAIRNESS, EFFICIENCY, AND PROFESSIONALISM IN THE ADJUDICATION OF REMOVAL CASES 5–10 (2010).

mentation demanded by the adjudicator.²²⁵ Thus, as discussed further in the recommendations Section below, legal representation can improve the efficiency and speed of the adjudication process.²²⁶

Beyond these obstacles, PRM officials generally pointed to barriers after refugees were admitted to the United States as ongoing, key factors impeding robust resettlement.²²⁷ Among these barriers are pushback from certain politicians and states proactively seeking to limit or halt resettlement, often based on misinformation and misconceptions, as well as growing constraints on ORR funding to states and resettlement agencies for post-arrival resettlement services.²²⁸ The next Section examines the role of ORR and resettlement agencies, as well as public-private partnerships in resettlement and how the private partnership approach can build on the current USRAP model to ensure more effective and efficient processing.

VI. DOMESTIC RESETTLEMENT

The U.S. resettlement program provides refugees with a secure foundation for integration into American life, supporting refugees from the first day in their new communities until they obtain lawful permanent resident status and, eventually, naturalize as U.S. citizens. The domestic resettlement framework is built on a public-private partnership whereby federal government resources are leveraged by state and local, private, nonprofit, faith-based, and community-based groups to support refugees and their families. Refugees' eventual self-sufficiency, integration, and adaptation to their new home in the United States is the ultimate goal of all resettlement services.

225. See Fisher, *supra* note 221, at 348; AMERICAN BAR ASSOCIATION, REFORMING THE IMMIGRATION SYSTEM: PROPOSALS TO PROMOTE INDEPENDENCE, FAIRNESS, EFFICIENCY, AND PROFESSIONALISM IN THE ADJUDICATION OF REMOVAL CASES 5–10 (2010); HUMAN RIGHTS FIRST, RENEWING U.S. COMMITMENT TO REFUGEE PROTECTION: RECOMMENDATIONS FOR REFORM ON THE 30TH ANNIVERSARY OF THE REFUGEE ACT 21 (Mar. 2010); Katherine Reisner & Catherine Crooke, *Why Can't Refugees Get Lawyers?*, N.Y. TIMES (July 28, 2015), <https://www.nytimes.com/2015/07/28/opinion/why-cant-refugees-get-lawyers.html> [<http://perma.cc/VEH4-YAM8>].

226. See Fisher, *supra* note 221, at 348; AMERICAN BAR ASSOCIATION, REFORMING THE IMMIGRATION SYSTEM: PROPOSALS TO PROMOTE INDEPENDENCE, FAIRNESS, EFFICIENCY, AND PROFESSIONALISM IN THE ADJUDICATION OF REMOVAL CASES 5–10 (2010); HUMAN RIGHTS FIRST, RENEWING U.S. COMMITMENT TO REFUGEE PROTECTION: RECOMMENDATIONS FOR REFORM ON THE 30TH ANNIVERSARY OF THE REFUGEE ACT 21 (Mar. 2010); Katherine Reisner & Catherine Crooke, *Why Can't Refugees Get Lawyers?*, N.Y. TIMES (July 28, 2015), <https://www.nytimes.com/2015/07/28/opinion/why-cant-refugees-get-lawyers.html> [<http://perma.cc/VEH4-YAM8>].

227. See PRM Interview, *supra* note 4.

228. *Id.* See also Anastasia Brown & Todd Scribner, *Unfulfilled Promises, Future Possibilities: The Refugee Resettlement System in the United States*, 2 J. ON MIGRATION & HUM. SECURITY 101, 111 (2014) (discussing funding issues); Priscilla Alvarez, *What Should the U.S. Do about Refugee Resettlement?*, THE ATLANTIC (Mar. 29, 2016), <https://www.theatlantic.com/politics/archive/2016/03/refugee-resettlement-united-states/474939/> [<http://perma.cc/65EJ-B3CS>] (discussing political opposition to refugee resettlement).

In order to achieve such adaptation and integration, individual resettlement agencies, each with its own network of local partner organizations, collaborate with state and local officials and refugee-focused community-service providers. In keeping with the vision of the USRAP as a public-private partnership, local resettlement agencies engage volunteers to welcome and connect newcomers to the host communities. Previously resettled refugees play a significant role as interpreters, caseworkers, volunteers, and community group leaders. Housing, employment, language training, and physical and mental health care are all critical to integration.

However, interviews conducted with government officials for this Report highlighted often overlooked funding constraints and other obstacles facing the domestic resettlement system, discussed further below.²²⁹ Diminished funding from ORR negatively affects local resettlement agencies' staffing, as well as a state's ability to resource Refugee Cash Assistance, English classes, and employment-readiness programs to integrate refugee newcomers. Efforts to improve the refugee resettlement system and integration goals must address these funding constraints and must build on existing public-private partnerships to complement and enhance the current system. These partnerships are described in greater detail below. This Section of the Report first outlines the process for domestic resettlement and then describes the main obstacles. It concludes with a series of recommendations aimed at prompting the development of a uniform protocol for enhancing the efficiency and effectiveness of the resettlement process, thereby contributing to jobs and national security.

A. *The Process of Domestic Resettlement*

1. PRM's Reception and Placement Program

PRM's Reception and Placement Program, which funds resettlement agencies to prepare for the arrival of refugees, supports the USRAP by ensuring that refugees receive the services needed to begin settling into their new homes. The program prepares for refugees' resettlement by working with a refugee's family or friends, local-community sponsors, and volunteers who agree to assist resettlement-agency staff in the provision of "core services." These "core services," provided through national and local resettlement agencies, include case management and modest cash assistance for up to ninety days after arrival; assistance in securing housing, food, and clothing; and

²²⁹ See *PRM Interview*, *supra* note 4. Specifically, government officials reported that local resettlement agencies, state refugee coordinators, and other officials had indicated that they could not accept more than 110% of the overall arrivals they had projected being able to serve at the beginning of the fiscal year, due to funding constraints. See also *FY 2017 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP'T OF STATE (Mar. 21, 2016), <http://www.state.gov/j/prm/funding/fy2017/254909.htm> [https://perma.cc/536R-FYVC].

case management services to facilitate applying for Social Security cards, registering children for school, and arranging medical appointments, along with referrals to English classes and connections with relevant community service providers.²³⁰ As noted, through these public-private partnerships, state, private, nonprofit, faith-based, and community-based entities leverage federal funds to support refugees.²³¹

2. Department of Health and Human Services' ORR

The Department of Health and Human Services' ORR is tasked with the oversight of domestic refugee resettlement initiatives and works in collaboration with PRM.²³² The primary task of ORR is to provide for short- and long-term programs and resources, including case management, temporary cash assistance, health care (including mental health care), and other services such as employment readiness and job placement, all of which are necessary to assist refugees in integrating into their new communities.²³³ ORR programs focus on facilitating refugee integration and are generally structured to ensure an uninterrupted transition from PRM's Reception and Placement Program services to self-sufficiency. ORR also provides data to PRM to facilitate placement and planning decisions.²³⁴

230. *The Reception and Placement Program*, U.S. DEP'T OF STATE, <https://www.state.gov/j/prm/ra/receptionplacement/index.htm> [<https://perma.cc/5E8F-YTCK>] (last visited Apr. 9, 2017).

231. *See FY 2017 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP'T OF STATE (Mar. 21, 2016), <http://www.state.gov/j/prm/funding/fy2017/254909.htm> [<https://perma.cc/536R-FYVC>]. Prior to and upon their arrival in the United States, local resettlement office staff provide the Reception and Placement Program core services.

232. *The U.S. Refugee Resettlement Program—An Overview*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Sept. 14, 2015), <http://www.acf.hhs.gov/orr/resource/the-us-refugee-resettlement-program-an-overview> [<https://perma.cc/L5WQ-UHGL>]. Congress established the ORR as part of the Refugee Act of 1980 in order to standardize procedures for resettling refugees after the collapse of Vietnam. Immigration & Nationality Act, Pub. L. No. 96-212, § 411, 94 Stat. 102 (codified at 8 U.S.C. § 1521 (2012)). *See generally A Brief History of the Office of Refugee Resettlement (ORR)*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (July 2013), https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_brief_history_of_orr.pdf [<https://perma.cc/8L2U-GOCY>].

233. *The U.S. Refugee Resettlement Program—An Overview*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Sept. 14, 2015), <http://www.acf.hhs.gov/orr/resource/the-us-refugee-resettlement-program-an-overview> [<https://perma.cc/L5WQ-UHGL>]. *See also* Stella Burch Elias, *The Perils and Possibilities of Refugee Federalism*, 66 AM. U.L. REV. 353, 372 (2016).

234. *Coordinated Placement*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/orr/programs/coordinated-placement> [<https://perma.cc/PSX8-DSX3>] (last visited Mar. 6, 2017).

The Reception and Placement Program and ORR programs differ in their implementation. The Reception and Placement Program is structured to be implemented uniformly by resettlement agencies in each state, whereas ORR entrusts states with implementing programs according to each individual state's plans, which must be submitted to ORR for yearly approval.²³⁵ The state plans must designate the state resettlement agencies responsible for developing and administering the programs, and the governor must approve the plans before the state submits them to ORR.²³⁶

ORR's Division of Refugee Assistance supports state agencies in providing services to refugees, including through its Cash and Medical Assistance Program, which reimburses states for 100% of the services provided and for associated administrative costs.²³⁷ The Division of Refugee Health provides resources for refugees' physical and emotional well-being,²³⁸ and the Division of Resettlement Services works with public and private nonprofit resettlement agencies to assist refugees in attaining economic and social integration.²³⁹

ORR-funded programs include the following:

235. 45 C.F.R. § 400.8 (2016). States must submit their plans no later than 30 days after the beginning of each federal government fiscal year. 45 C.F.R. § 400.4 (2016). Wyoming is the only state that does not formally participate in the refugee resettlement program. *See generally* Suzan M. Pritchett, *From Refugees and Asylees to Citizens: Clarifying the Refugee Admissions Process*, 37 WYO. LAWYER 3 (June 2014).

236. 45 C.F.R. §§ 400.50, 400.70 (2016).

237. *Divisions—Refugee Assistance*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Oct. 3, 2012), <https://www.acf.hhs.gov/orr/resource/divisions-refugee-assistance> [<https://perma.cc/2T5U-R5MX>]. The other programs run by Division of Refugee Assistance are the Public/Private Partnership Program (allowing states to enter into partnerships with local refugee resettlement agencies to provide refugee cash assistance), the Wilson-Fish Alternative Program (*see infra* note 247), the Refugee Social Services Program (allocating funds to states to support recently resettled refugees), the Targeted Assistance Program (supporting jurisdictions with high concentrations of refugees), the Cuban Haitian Program (assisting states and programs serving Cuban and Haitian refugees), the Refugee School Impact Program (helping school districts to provide programming designed to integrate refugee students), the Services to Older Refugees Program (providing support for states and programs designed for refugees aged sixty and older), and the Targeted Assistance Discretionary Program. *Id.*

238. *Refugee Health*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/orr/programs/refugee-health> [<https://perma.cc/FU32-2BM4>] (last visited Mar. 6, 2017).

239. *Divisions—Resettlement Services*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Oct. 3, 2012), <http://www.acf.hhs.gov/orr/resource/divisions-community-resettlement> [<https://perma.cc/2TKE-8UTD>]. The Division of Resettlement Services administers eight programs: Voluntary Agencies Matching Grant Program, Preferred Communities Program, Refugee Agriculture Partnership, Individual Development Accounts, Microenterprise Development, Microenterprise Development—Home-Based Child Care, Ethnic Community Self-Help Program, and Supplemental Services to Newly Arriving Refugees. *Id.*

- Refugee Cash Assistance and Refugee Medical Assistance Programs, which provide funding directly to states to help refugees during their first eight months in the United States.²⁴⁰
- Targeted Assistance Grants, which include formula-allocation grants to areas with large numbers of refugees.²⁴¹ The grants are intended “primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency.”²⁴²
- The Refugee Social Services Program, which funds employability services and provides information about and referral to other community services that can help individuals both obtain and maintain employment.²⁴³
- The Matching Grant Program, which similarly provides funding for services to help ORR-eligible refugees become economically self-sufficient within 120 to 180 days of becoming eligible for the program.²⁴⁴ Grant recipients must provide in-house case management; employment services; and assistance with basic needs, such as vouchers for food, housing, and transportation, when needed.²⁴⁵ Other services, such as English-language training, health care, and job training, must be provided either in house or via referral.²⁴⁶
- Wilson-Fish programs, which are alternatives to traditional state-administered refugee resettlement programs that provide cash and medical assistance, as well as social services, directly to refugees.²⁴⁷

240. *About Cash & Medical Assistance*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/orr/programs/cma/about> [<https://perma.cc/36WL-HXFB>] (last visited Mar. 6, 2017).

241. *See* Immigration and Nationality Act §§ 412(a)(4)(B)(iii), 412(c)(2)(A) (codified at 8 U.S.C. § 1522 (2012)).

242. *Id.* at § 412(c)(2)(B)(i).

243. *About Refugee Social Services*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/programs/refugee-social-services/about> [<https://perma.cc/8PGH-VHY9>] (last visited Mar. 6, 2017).

244. *About the Voluntary Agencies Matching Grant Program*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, <http://www.acf.hhs.gov/programs/orr/programs/matching-grants/about> [<https://perma.cc/U92X-4MFP>] (Dec. 29, 2016).

245. *See* OFFICE OF REFUGEE RESETTLEMENT, VOLUNTARY AGENCIES MATCHING GRANT PROGRAM: FY 2014 PROGRAM GUIDELINES 5–9, https://www.acf.hhs.gov/sites/default/files/orr/fy_2014_matching_grant_mg_program_guidelines_for_grantees.pdf [<https://perma.cc/73ZQ-UTZY>] (last visited Mar. 6, 2017).

246. *See id.* at 11–12.

247. *About Wilson/Fish*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Jan. 23, 2017), <http://www.acf.hhs.gov/programs/orr/programs/wilson-fish/about> [<https://perma.cc/J8DL-T9T4>]. ORR currently funds thirteen Wilson-Fish programs in Alabama, Alaska, Colorado, Idaho, Kentucky, Louisiana, Massachusetts, Nevada, North Dakota, South Dakota, Tennessee, Vermont, and San Diego County, California. *Wilson-Fish Chart*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OF-

- The Ethnic Community Self-Help Program, which awards grants to support local ethnicity-based organizations that assist refugees in becoming well-integrated members of American society.²⁴⁸
- The Preferred Communities Program, which provides support to voluntary agencies that resettle over 100 refugees each year or are specifically qualified to assist refugees with special needs.²⁴⁹
- The Unaccompanied Refugee Minors Program, which facilitates foster-care placement for unaccompanied minor refugees and helps them “develop appropriate skills to enter adulthood and to achieve social self-sufficiency.”²⁵⁰

3. Role of NGOs and Private Organizations

PRM and ORR partner with nine domestic NGOs to resettle refugees: Church World Service, Episcopal Migration Ministries, Ethiopian Community Development Council, HIAS, International Rescue Committee, Lutheran Immigration and Refugee Service, United States Conference of Catholic Bishops, U.S. Committee for Refugees and Immigrants, and World Relief.²⁵¹ These resettlement agencies assist refugees in their short- and long-term integration, providing services through a network of about 350 affiliated offices across the

OFFICE OF REFUGEE RESETTLEMENT (Jan. 25, 2013), <https://www.acf.hhs.gov/orr/resource/wilson-fish-chart> [<https://perma.cc/66XC-YEQK>].

248. *About Ethnic Community Self-Help*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Dec. 29, 2016), <http://www.acf.hhs.gov/programs/orr/programs/ethnic-community-self-help/about> [<https://perma.cc/GQ2V-EYAY>]. In FY 2015, one and two-year grants ranging from \$125,000 to \$200,000 were awarded to twenty-seven organizations in seventeen states. *Ethnic Community Self-Help Grants: Fiscal Year 2014/2015*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Nov. 10, 2015), <https://www.acf.hhs.gov/orr/resource/ethnic-community-self-help-grants> [<https://perma.cc/8H3F-7EGM>].

249. *About Preferred Communities*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Nov. 8, 2016), <http://www.acf.hhs.gov/programs/orr/orr/programs/rph/about> [<https://perma.cc/U339-6FQL>].

250. *About Unaccompanied Refugee Minors*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Dec. 16, 2015), <http://www.acf.hhs.gov/programs/orr/programs/urm/about> [<https://perma.cc/NFY9-ZH9G>].

251. U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, ANNUAL REPORT TO CONGRESS FY 2014 1, A-1 (2016), https://www.acf.hhs.gov/sites/default/files/orr/orr_annual_report_to_congress_fy_2014_signed.pdf [<https://perma.cc/NS7T-GYQS>]. The exact identity of each refugee to be resettled in a given state is not known until the case is assigned to a local resettlement affiliate by its national agency, usually about a month in advance of when the local agency accepts the case. In the cases of refugees joining family members already in the United States, the local resettlement office already has a relationship with the U.S. “tie” relatives, as the family member’s affidavit of relationship is filed through the resettlement agency to the State Department.

United States.²⁵² Local resettlement agency staff are responsible for securing and furnishing appropriate housing prior to refugees' arrival in a new city. As noted above, they also provide food and clothing, cultural orientation, school registration for children, arrangement of medical appointments, referrals to English classes, and connections to other appropriate and relevant community service providers, among other services.²⁵³ A critical aspect of local resettlement is consultation and collaboration with state refugee coordinators and other relevant support networks to ensure that refugees are welcomed into their new communities.²⁵⁴

B. *Contributions of Refugees, Obstacles Facing Domestic Refugee Resettlement, and Proposals for Reform*

Refugees contribute substantially to their new communities. They revitalize cities and towns with dwindling populations, provide labor, help build local economies, and create jobs both through demand for resettlement services and through establishing their own businesses. As the mayor of Buffalo, New York, recently stated, "One of the reasons that Buffalo is growing, that Buffalo is getting stronger, that Buffalo is getting better, is because of the presence of our immigrant and our refugee community."²⁵⁵ Economists have noted that upfront resettlement costs are generally mitigated by refugees' contributions to communities.²⁵⁶ Cities in Vermont and Michigan have, for example, lobbied to bring in Syrian refugees to help them repopulate their towns and revitalize their economies.²⁵⁷

252. See U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729 1, 4-5 (July 2012); *Refugee Admissions*, U.S. DEP'T OF STATE, <https://www.state.gov/j/prm/ra/index.htm> [<https://perma.cc/M3E9-LJUF>] (last visited Mar. 3, 2017).

253. See U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729 1, 32 (July 2012); INTEGRATED REFUGEE AND IMMIGRANT SERVS., COMMUNITY CO-SPONSORSHIP PROGRAM MANUAL FOR REFUGEE RESETTLEMENT 10-11 (2016), <http://www.irisct.org/wp-content/uploads/2016/12/CO-SPONSORSHIP-MANUAL-Nov-2016.pdf> [<http://perma.cc/4HVV-6SVC>].

254. See U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729 1, 43 (July 2012); U.S. DEP'T OF STATE, U.S. DEP'T OF HOMELAND SEC. & U.S. DEP'T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2017: REPORT TO THE CONGRESS 1, <http://www.wrapsnet.org/s/Report-to-Congress-for-FY-2017-USRAP.pdf> [<https://perma.cc/6FGS-U7ZJ>].

255. Jesse McKinley, *A Surprising Salve for New York's Beleaguered Cities: Refugees*, N.Y. TIMES (Feb. 20, 2017), <https://www.nytimes.com/2017/02/20/nyregion/a-surprising-salve-for-new-yorks-beleaguered-cities-refugees.html> [<http://perma.cc/D2J3-N6VF>].

256. *Id.*

257. See, e.g., Nina Keck, *Vermont Mayor Seeks Syrian Refugees to Help Boost Small Town's Economy*, NPR (Jan. 25, 2017, 4:27 PM), <http://www.npr.org/2017/01/25/>

However, challenges remain, including budgetary constraints, a lack of robust data regarding refugee integration, and coordination gaps between federal and state resettlement agencies. This Section outlines the main obstacles to resettlement and provides proposals for reform. Updating the budgeting process to include a timeline for state reimbursements, closer tracking of secondary migration, and adjustments for cost of living, as well as improving data collection, are just a few examples of proposed changes to the domestic resettlement system that could help improve the efficiency and effectiveness of the resettlement process.

1. Budget Constraints

When the Refugee Act of 1980 established ORR, ORR's sole purpose was to assist refugees. Its mandate, however, has grown significantly over the past three decades: the populations it serves have become more varied, with their needs more complex and numbers more difficult to predict. In addition to refugees, ORR now serves Cuban and Haitian entrants, asylees, unaccompanied children, survivors of torture, special immigrant visa holders, and trafficking victims.²⁵⁸ As ORR noted in its FY 2014 Report to Congress, ORR-funded programs provided services to 97,530 people, a ten percent increase from the year before.²⁵⁹

511655853/vermont-mayor-seeks-syrian-refugees-to-help-boost-small-towns-economy [http://perma.cc/H33B-E7V3]; Dustin Walsh, *Local Biz Worries over Order's Effect*, CRAIN'S DETROIT BUSINESS (Feb. 6–12, 2017); Sherri Welch, *Resettlement Agencies Face Uncertain Future*, CRAIN'S DETROIT BUSINESS (Feb. 5, 2017, 7:00 AM), http://www.craindetroit.com/article/20170205/NEWS/170209888/resettlement-agencies-face-uncertain-future [https://perma.cc/BC6M-7VRS]

258. *Resources*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, https://www.acf.hhs.gov/orr/resource-library [https://perma.cc/W4XT-Z4EB] (last visited Mar. 3, 2017). Another prime example of ORR's expanded mandate is its responsibility to care for unaccompanied children. By law, the Department of Health and Human Services, through ORR, must provide for the custody and care of these children. In the Trafficking Victims Protection Reauthorization Act of 2008, which expanded and redefined the department's statutory responsibilities, Congress directed that each child must "be promptly placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232 (2012). An average of 7,000 to 8,000 children were served annually in ORR's Unaccompanied Children Program during its first nine years at ORR. Since FY 2012, this number has jumped dramatically. The Department of Health and Human Services referred a total of 13,625 children to ORR in FY 2012. The program then received 24,668 referrals in FY 2013, 57,496 referrals in FY 2014, and 33,726 referrals in FY 2015. The majority of unaccompanied children come from Guatemala, Honduras, and El Salvador. *Fact Sheet*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Jan. 2016), https://www.acf.hhs.gov/sites/default/files/orr/orr_uc_updated_fact_sheet_1416.pdf [https://perma.cc/AK79-TJT9].

259. U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, ANNUAL REPORT TO CONGRESS FY 2014 1, 3 (2016), https://www.acf.hhs.gov/sites/default/files/orr/orr_annual_report_to_congress_fy_2014_signed.pdf [https://perma.cc/NS7T-GYQS].

Nonetheless, ORR's budget has not kept pace with its expanded responsibilities, its evolving challenges, the increased cost of living, or inflation.²⁶⁰ ORR has not experienced a budget increase equal to that of PRM's Reception and Placement Program, whose budget doubled in FY 2010.²⁶¹ In addition, regulations for Refugee Cash Assistance payment levels, which are tied to a state's Temporary Assistance for Needy Families ("TANF") program, were written without considering cost-of-living increases or the poverty-level index.²⁶² As a result, ORR has been forced to redirect funds away from refugee resettlement services to address unanticipated needs.²⁶³

260. Liza Lieberman, *What Does the President's Budget Mean for Refugees?*, HIAS (Feb. 9, 2016), <http://www.hias.org/blog/what-does-presidents-budget-mean-refugees> [<http://perma.cc/MMQ2-26BR>].

261. Office of the Spokesman, *Increase to the Refugee Reception and Placement Per Capita Grant*, U.S. DEP'T OF STATE (Jan. 25, 2010), <https://2009-2017.state.gov/r/pal/prs/ps/2010/01/135800.htm> [<https://perma.cc/S35M-5Y7G>].

262. 45 C.F.R. § 400.66 (2015). See *Wilson-Fish Alternative Program Guidelines for Fiscal Year 2015–2016*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (June 30, 2015), <https://www.acf.hhs.gov/orr/resource/wilson-fish-alternative-program-guidelines-for-fiscal-year-2015-2016> [<https://perma.cc/4FYT-8S2F>]; Megan Stanley, Ife Floyd & Misha Hill, *TANF Cash Benefits Have Fallen by More Than 20 Percent in Most States and Continue to Erode*, CTR. ON BUDGET AND POL'Y PRIORITIES (Oct. 17, 2016), <http://www.cbpp.org/research/family-income-support/tanf-cash-benefits-have-fallen-by-more-than-20-percent-in-most-states> [<http://perma.cc/S2EH-8A8F>].

263. *Hearing on Review of the President's Emergency Supplemental Request for Unaccompanied Children and Related Matters before the S. Appropriations Comm.*, 113th Cong. (2014) (statement for the Record of Refugee Council USA), <https://www.appropriations.senate.gov/imo/media/doc/hearings/RCUSA%20Senate%20Appropriations%20Supplemental%20Hearing%20Statement%20Final,%207-9-14.pdf> [<https://perma.cc/W3NN-X78W>]. An analysis of ORR appropriations from FY 2007 to FY 2016 demonstrates that the largest increase in ORR's budget has gone to meeting the needs of unaccompanied children, including \$94 million which had originally been allocated to assist newly arrived refugees. In its FY 2016 budget, the Obama administration requested contingency funding and base funding for several agencies in the event of another surge of unaccompanied children. For the Department of Health and Human Services, the administration requested \$948 million for base funding (the same as FY 2015) and \$19 million for contingency funding for ORR's Unaccompanied Children Program (within the Refugee and Entrant Assistance Program). Congress met the base funding request but appropriated no monies for contingency funding. See WILLIAM A. KANDEL, CONG. RESEARCH SERV., UNACCOMPANIED ALIEN CHILDREN: AN OVERVIEW 1, 16 (Jan. 18, 2017), <https://fas.org/sgp/crs/homsec/R43599.pdf> [<https://perma.cc/JY38-4CFP>]; ANDORRA BRUNO, CONG. RESEARCH SERV., REFUGEE ADMISSIONS AND RESETTLEMENT POLICY 1, 10 (Nov. 30, 2016), <https://www.fas.org/sgp/crs/misc/RL31269.pdf> [<https://perma.cc/4DPB-GPTU>]. At the time interviews were conducted for this Report, ORR officials reported experiencing their biggest arrivals of unaccompanied children thus far, as well as significant increases in referrals from the Department of Health and Human Services. See U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, JUSTIFICATION OF ESTIMATES FOR APPROPRIATIONS COMMITTEES 239–43 (2017), https://www.acf.hhs.gov/sites/default/files/olab/final_cj_2017_print.pdf [<https://perma.cc/MEQ5-F9D6>]. See also *ORR Interview*, *supra* note 4.

Government officials are well aware of the pressures on ORR's budget.²⁶⁴ Congress passed a short-term continuing resolution to avoid a government shutdown and to continue funding for federal programs and services until April 28, 2017. It authorized an increase in ORR funding, including "a provision allowing additional funding, if needed, for the housing and care of [unaccompanied children] after February 1, 2017."²⁶⁵ To ensure that ORR has the requisite budget to provide the services needed by the increasingly diverse population of refugees, asylees, Special Immigrant Visa recipients, unaccompanied children, and others in its care, Congress should stabilize ORR's budget by funding a contingency account, as recommended in the FY 2017 budget.

ORR's budget constraints, paired with the funding and defunding of public and private resettlement efforts, result in a cycle of job creation and job loss. As noted above, resettlement agencies receive funding from the government based on the number of refugees they resettle. When the two Executive Orders were issued, these agencies started laying off employees. Given the Trump administration's goal of preserving and creating jobs, the role of refugee resettlement and integration in job creation is a factor that should be considered in policy decisions, along with the administrative costs of hiring, training, firing, and rehiring of staff and the loss of knowledge due to layoffs.

2. Tracking Secondary Migration and Improving the Timing and Flexibility of Funding

Government officials interviewed for this Report repeatedly cited the need to update funding-allocation calculations to account for secondary migration, which is the movement of refugees from their city of resettlement placement to another city.²⁶⁶ Counties that see a sig-

264. See *ORR Interview*, *supra* note 4; see also *Refugee Coordinator Interviews*, *supra* note 4. Several interviewees noted that ORR's budget has not experienced an increase commensurate with that of PRM's Reception and Placement Program, which doubled in FY 2010. Indeed, PRM's per capita funding for the Reception and Placement Program is now \$2,025 for a three-month service period. In comparison, the per capita for ORR's Matching Grant Program is currently \$2,200 for a six-month service period and must, as its name implies, be matched in a \$2 to \$1 ratio by private resources. See *FY 2017 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP'T OF STATE (Mar. 21, 2016), <https://www.state.gov/j/prm/funding/fy2017/254909.htm> [<https://perma.cc/TC3G-SXAF>]; *About the Voluntary Agencies Matching Grant Program*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (Dec. 29, 2016), <https://www.acf.hhs.gov/orr/programs/matching-grants/about> [<https://perma.cc/VXK4-FA7V>].

265. *Short-Term Continuing Resolution to Maintain Government Operations Re-leased*, H.R. COMM. ON APPROPRIATIONS (Dec. 6, 2016), <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394665> [<https://perma.cc/M8M9-NBK3>].

266. U.S. GOV'T ACCOUNTABILITY OFFICE, *REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM*

nificant uptick in secondary migrants²⁶⁷ may not receive the Targeted Assistance Grants and Refugee Social Service grants they need, as secondary migration is difficult to track and therefore not counted in the formulas for these grants.

ORR's grant-cycle timeline also needs to be updated. Currently, the government allocates grants and contracts to states every fiscal year based on the number of refugees who arrived within the previous thirty-six months and who continue to reside in the state at the beginning of that Fiscal Year.²⁶⁸ This approach fails to account for areas that experience significant increases in refugee arrivals via secondary migration in short periods of time.²⁶⁹

Realigning the timeline of the resettlement-planning process could help address some of these challenges. Typically, the President produces a federal budget proposal in February or March, requesting allocations for the resettlement program for the following fiscal year. Meanwhile, resettlement agencies are generally required to submit their proposal requests to the State Department for the Reception and Placement Program for the following fiscal year between May and June.²⁷⁰ These proposals include a projected placement plan for each resettlement site, whose drafting requires each local resettlement office to consult with its state refugee coordinator and other stakehold-

23 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>].

267. There may be many reasons why refugees choose to move, just as is true for the general population, but most often secondary migration is due to the presence of relatives whose location was not known to the refugee during the Resettlement Support Center interview in overseas processing. See Jeffrey Bloem & Scott Loveridge, *The Secondary Migration of Refugees Resettled in the US*, 54 FORCED MIGRATION REV. 26–28 (Feb. 2017), <http://www.fmreview.org/en/resettlement/bloem-loveridge.pdf> [<http://perma.cc/8E3L-ZS3A>].

268. Anastasia Brown & Todd Scribner, *Unfulfilled Promises, Future Possibilities: The Refugee Resettlement System in the United States*, 2 J. ON MIGRATION & HUM. SEC. 101, 115 (2014).

269. See U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM 20–21 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>] (“Migration from one community to another after initial resettlement—referred to as secondary migration—can unexpectedly increase the refugee population in a community, and communities that attract large numbers of secondary migrants may not have adequate, timely funding to provide resettlement services to the migrants who need them. According to ORR, refugees relocate for a variety of reasons: better employment opportunities, the pull of an established ethnic community, more welfare benefits, better training opportunities, reunification with relatives, or a more congenial climate.”).

270. This projection process occurs each year as part of the annual Notice of Funding Opportunities for PRM's Reception and Placement Program in the form of the Proposed Consolidated Placement Plan that each applicant must submit, and which is created in consultation with local resettlement officials and stakeholders. See *FY 2017 Notice of Funding Opportunity for Reception and Replacement Program*, U.S. DEP'T OF STATE (Mar. 21, 2016), <http://www.state.gov/j/prm/funding/fy2017/254909.htm> [<https://perma.cc/536R-FYVC>].

ers regarding the projected number and nationality of refugees to be resettled in the coming year. However, the President's consultation with Congress to determine the number of refugees who may be admitted during the following fiscal year does not generally take place until September or October.²⁷¹ Resettlement agencies must therefore make a calculated guess as to the overall number of refugees who will arrive in a given locale, in turn making it difficult for states to plan appropriately. A more effective timeline would schedule the congressional consultation for February or March, concurrent with the budgetary proposal that the President submits to Congress. Resettlement agencies would then be required to submit their proposals to the State Department sometime thereafter.²⁷² This timeline would also ensure that states have better information when planning their ORR budget requests.

Furthermore, increasing flexibility in grant allocation would help address budgetary constraints and allow ORR to be more proactive than reactive. Many state refugee coordinators cited Refugee Social Service grants as an example of a funding stream where changing the scope of eligibility would allow states to reprogram those dollars for other necessary services or underserved refugee groups.²⁷³ Currently, these ORR grants are limited to funding employment services for refugees in their first year of arrival in the United States. Reprogramming these funds would allow states to better meet the receiving communities' needs by both tailoring the allocation of resources and providing funding on a more appropriate timeline.

State refugee coordinators also cited the need for more regularity in ORR's payments to the states, because states currently have no guar-

271. Andorra Bruno, *Refugee Admissions and Resettlement Policy*, CONG. RESEARCH SERV. (NOV. 30, 2016), <https://fas.org/sgp/crs/misc/RL31269.pdf> [<https://perma.cc/4DPB-GPTU>].

272. Brown & Scribner, *supra* note 268.

273. *See Refugee Coordinator Interviews*, *supra* note 4. Interviewees suggested other needs that could be met by reprogramming Refugee Social Services grants:

- services for older high school students who have aged out of high school at the time of their arrival or are forced to go to work instead of finishing school;
- creation of housing subsidies to increase availability of and access to affordable and sustainable lower- and middle-income housing;
- school grants geared toward serving refugee children beyond their first year of enrollment; and
- funding for community development or receiving communities to help build support for welcoming refugees.

Id. *See also* 45 C.F.R. § 400.146 (2015) (“The State must use its social service grants primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Social service funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.”).

antee that they will receive the estimate in their budget requests to ORR.²⁷⁴ Moreover, if a state needs to exceed its projected budget (for example, in the case of increased refugee arrivals), there is no written guarantee from ORR to authorize that spending. This uncertainty regarding reimbursement contributes to the perceived problem that states do not have the “capacity” to accept more refugees, when, in fact, states cannot rely on regular reimbursements from ORR.²⁷⁵

3. Data Tracking and Outcomes

Refugee advocates (including ORR itself), as well as detractors, have noted the lack of data regarding integration and the successes and challenges faced by refugees in the United States.²⁷⁶ The lack of data-tracking mechanisms hinders ORR’s ability to integrate metrics and develop new and responsive programs. For example, Refugee Cash Assistance payment levels are tied to what states pay for non-refugee specific cash assistance, but those systems, such as TANF, do not track refugees as a separate data point, so that data is unavailable.²⁷⁷ Some interviewees suggested that TANF and Refugee Cash

274. See *Refugee Coordinator Interviews*, *supra* note 4.

275. *Id.* These hurdles with reimbursements are particularly acute for states that operate Wilson-Fish programs—in other words, states that have opted out of administering the resettlement program and where ORR contracts directly with a designated service provider to carry out the functions of a state refugee coordinator and state-funded refugee cash and medical assistance programs. In Wilson-Fish states, ORR previously provided the service provider with 100% of the funding up front. Now, ORR disburses only 20% of the grant at the beginning of the fiscal year, mostly as a hedge against the likelihood that ORR will need to reallocate dollars. One state refugee coordinator confirmed, for example, that ORR was late in remitting a Wilson-Fish reimbursement for the fourth quarter of the fiscal year. These delays make it difficult to plan for contingencies. Accordingly, ORR should take steps to better align its funding mechanisms with the needs of the service providers tasked with refugee resettlement and integration.

276. See *ORR Interview*, *supra* note 4. See also U.S. GOV’T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM 23 (2012) (“Without comprehensive secondary migration data, ORR cannot target supplemental assistance to communities and refugees in a timely way. Currently, the data that PRM and ORR collect on secondary migration are limited and little is known about secondary migration patterns. PRM collects data from local voluntary agencies regarding the number of refugees who move away from a community within the first 90 days after arrival, but does not collect data on the estimated number of refugees who enter the community during the same time period. PRM officials said that they use these out-migration data to assess the success of refugee placement decisions. In contrast, ORR collects secondary migration data annually from each state, but does not collect community-level data. Specifically, ORR collects information on the number of refugees who move into and out of each state every year. However, ORR officials explained that they can only collect these data when secondary migrants access services. As a result, refugees who move into or out of a state but do not use refugee services in their new communities are not counted. Even so, these refugees access other community services and their communities may need additional assistance to meet their needs.”).

277. See U.S. DEP’T OF HEALTH AND HUM. SERVS. OFFICE OF FAMILY ASSISTANCE, CHARACTERISTICS AND FINANCIAL CIRCUMSTANCES OF TANF RECIPIENTS

Assistance could be decoupled in order to eliminate competing Refugee Cash Assistance and TANF administrative systems and thereby potentially solve data-gathering issues.²⁷⁸

New data-tracking mechanisms could also help address this information gap. The Department of Health and Human Services should perform more individualized data collection in order to better identify programmatic outcomes for refugees. Indeed, ORR officials have noted that integrating metrics and creating an academic partnership to capture and quantify outcomes and show long-term successes would be a “game-changing” improvement to the domestic resettlement system.²⁷⁹

4. Cross-Cultural Challenges and Language Issues in Health Care

ORR has taken important steps in recent years to strengthen refugee integration through initiatives that support refugees’ health and wellness.²⁸⁰ Improvements include health-related outreach and education, mental health videos, suicide prevention efforts, and the strengthening of existing resources within communities.²⁸¹ However, these improvements may be limited in their effectiveness due to language barriers that can diminish a refugee’s ability to navigate the complex health care system.²⁸² ORR needs to pay greater attention to language access and cultural sensitivity, especially in the health care system, to ensure that refugees are receiving the necessary health care and mental health services.

5. Coordination Among Stakeholders and the Need for Great Collaboration

In recent years, ORR has worked to expand collaboration at the local, state, and federal levels, including through joint stakeholder meetings with PRM, city and state officials, and local resettlement agencies.²⁸³ Despite these strides, interviews with stakeholders re-

FY 2015 (Aug. 18, 2015), https://www.acf.hhs.gov/sites/default/files/ofa/characteristics_and_financial_circumstances_of_tanf_recipients.pdf [http://perma.cc/W5KB-4CSV]; U.S. DEP’T OF HEALTH AND HUM. SERVS. OFFICE OF FAMILY ASSISTANCE, CHARACTERISTICS AND FINANCIAL CIRCUMSTANCES OF TANF RECIPIENTS, FY 2015, https://www.acf.hhs.gov/sites/default/files/ofa/characteristics_and_financial_circumstances_tanf_recipients_fy_2015.xlsx [https://perma.cc/4EB2-ME8J]. The statistics collected refer broadly to “immigrants,” which includes refugees, asylees, noncitizens who are legal permanent residents, individuals paroled in the United States for at least one year, individuals whose deportations are being withheld, individuals granted conditional entry, Cuban or Haitian entrants, and certain abused individuals. *Id.*

278. See *Refugee Coordinator Interviews*, *supra* note 4.

279. See *ORR Interview*, *supra* note 4.

280. *Id.*

281. *Id.*

282. Brown & Scribner, *supra* note 268.

283. Additionally, ORR has expanded its regional representatives, adding four new offices in Boston, Chicago, Dallas, and San Francisco. These offices allow regional

flected the need for better coordination between federal, state, and local agencies with receiving communities.²⁸⁴

Statutory provisions require that the ORR director consult “with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities,” as well as regarding “policies and strategies for the placement and resettlement of refugees within the United States.”²⁸⁵

However, the annual ORR National Consultation has not convened since 2012 due to budget cuts.²⁸⁶ These consultations were historically the only opportunity for all sectors of the USRAP—including federal agencies, state refugee coordinators, national and local resettlement staff, and refugees themselves—to gather nationally as a community to strategize and collaborate. As one state refugee coordinator noted, “Consultations matter and messaging matters, and we need to fortify

representatives to “conduct broad local outreach and engagement with refugees and resettlement stakeholders, and work with federal, state, and local partners to align services and ensure that services are being provided with the best interests of refugees in mind.” U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, ANNUAL REPORT TO CONGRESS FY 2014 4–5 (2016), <https://www.acf.hhs.gov/orr/resource/office-of-refugee-resettlement-annual-report-to-congress-2014> [<https://perma.cc/WK6Y-SMPB>].

284. *See, e.g.*, U.S. GOV’T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM (2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>] (“Voluntary agencies consider various factors when determining where refugees will be placed, but few agencies we visited consulted relevant local stakeholders, which posed challenges for service providers. When deciding how many refugees to place in each community, some voluntary agencies prioritize local agency capacity, such as staffing levels, while others emphasize community capacity, such as housing availability. Although the Immigration and Nationality Act states that it is the intent of Congress for voluntary agencies to work closely with state and local stakeholders when making these decisions, the Department of State’s Bureau of Population, Refugees, and Migration (PRM) offers limited guidance on how this should occur. Some communities GAO visited had developed formal processes for obtaining stakeholder input after receiving an overwhelming number of refugees, but most had not, which made it difficult for health care providers and school systems to prepare for and properly serve refugees.”). For example, U.S. law provided for the presidential appointment of a U.S. coordinator for refugee affairs, 8 U.S.C. § 1525 (repealed 1994), but the statute was repealed and the role was shifted to the Secretary of State in 1994, so the coordination role never materialized. 8 U.S.C. § 1521 (1994). Footnote 1 of paragraph (1) of § 162(n) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Pub. L. 103-236, 108 Stat. 409, Apr. 30, 1994), substituted a reference to the secretary of state with a reference to the U.S. coordinator for refugee affairs; paragraphs (2) and (3) of that section deleted subsequent references to the coordinator in § 412 and § 413. Authorization for Programs for Domestic Resettlement of and Assistance to Refugees, § 412 (codified at 8 U.S.C. § 1522(a)(2)(B) (2012)).

285. 8 U.S.C. § 1522(a)(2)(B) (2012).

286. Memorandum from Jeffrey D. Zients to the Heads of Exec. Dep’t & Agencies on Promoting Efficient Spending to Support Agency Operations (May 11, 2012), <https://www.nrc.gov/docs/ML1412/ML14128A234.pdf> [<https://perma.cc/LL8H-9YJ2>].

these efforts. How do we give credit to communities and stakeholders to continue building goodwill?"²⁸⁷

In addition to greater consultation and collaboration, a structural status change for ORR may be necessary to increase its leverage in interagency discussions and in the Executive Branch, given that its place within the hierarchy of the Department of Health and Human Services is not the same as PRM's position within the State Department.²⁸⁸

6. Building on Existing Public-Private Partnerships and Expanding the Role of Private Organizations in Resettlement

The contributions of private actors, including faith communities, businesses, civic groups, individual volunteers, local organizations, and philanthropic organizations, are highly visible representations of the support that Americans offer to welcome refugees as they rebuild their lives in communities across the United States. These individuals and institutions have served as vital partners in refugee resettlement, both formally and informally, working alongside national and local resettlement agencies as mentors, friends, and advocates for newly arrived refugees.²⁸⁹

In recent years, the private sector, NGOs, and government officials have shown a great deal of interest in expanding public-private partnerships to address the plight of Syrian refugees.²⁹⁰ These proposals,

287. See *Refugee Coordinator Interviews*, *supra* note 4.

288. ORR is one of twenty-one offices within the Administration for Children and Families, whereas PRM falls under the purview of the Assistant Secretary of State. Legislation introduced previously in Congress attempted to address this difference in hierarchy by elevating the director of ORR to the level of assistant secretary of the Department of Health and Human Services. See Domestic Refugee Resettlement Reform and Modernization Act of 2013, S.883, 113th Cong. (2013–14), <https://www.congress.gov/bill/113th-congress/senate-bill/883/text> [<https://perma.cc/C29S-CAM9>]; see also *World Refugee Day: Advocacy Toolkit*, REFUGEE COUNCIL USA 17 (2015), http://www.interfaithimmigration.org/wp-content/uploads/2015/03/RCUSA-2015-World-Refugee-Day-Advocacy-Toolkit_04.28.15.pdf [<http://perma.cc/6NLZ-ZTTC>].

289. The United States has a long history of public-private partnerships in refugee resettlement, beginning with the coordination of the federal government and voluntary organizations around refugees during the late 1930s and in the post-war period. These early efforts laid the groundwork for the public-private partnerships that developed in later decades, often on the heels of newly emergent refugee crises, such as with the assistance provided to hundreds of thousands of Southeast Asian refugees in the 1970s by private ethnic and religious organizations. Brown & Scribner, *supra* note 268.

290. This interest includes the commitments pledged by fifty-one businesses as announced in President Obama's September 2016 call to action to the private sector to take action on the global refugee crisis, as well as a pledge by the State Department in conjunction with Refugee Council USA to pilot a private resettlement project. *Fact Sheet: White House Announces Commitments to the Call to Action for Private Sector Engagement on the Global Refugee Crisis*, THE WHITE HOUSE, PRESIDENT BARACK OBAMA (Sept. 20, 2016), <https://www.whitehouse.gov/the-press-office/2016/09/20/fact-sheet-white-house-announces-commitments-call-action-private-sector> [<https://perma.cc/6DD9-CJJE>]; Anne Richard et al., *Becca Heller Pushes for Private Sponsorship at*

however, should be considered carefully in light of the problems that arose during the discontinued Private Sector Initiative launched under President Ronald Reagan, including unpredictable medical costs, steep financial requirements, difficulties with job placement, and significant bureaucracy.²⁹¹

Any efforts to further incorporate the involvement of the private sector should build on, rather than duplicate, the current practice of co-sponsorship already embedded within PRM's cooperative agreement for the Reception and Placement Program. In this co-sponsorship model, resettlement agencies work with "an established community group, such as a church congregation or service organization,"²⁹² which "co-sponsors" a refugee family, with the resettlement agency as the sponsor. The cooperative agreement between PRM and resettlement agencies serves as the guideline for implementation of the Reception and Placement Program and outlines very specifically the roles and responsibilities of co-sponsors, as well as those of the refugee's U.S. relatives, in relation to the role of the resettlement agency.²⁹³

Traditionally utilized mostly by faith-based resettlement agencies, co-sponsors, as defined under the agreement, "differ from volunteers in that they agree in writing to accept responsibility for performing certain services."²⁹⁴ These services can include assisting the resettle-

Concordia Summit, URBAN JUSTICE CTR. (Sept. 27, 2016), <https://refugeerights.org/becca-heller-pushes-for-private-sponsorship-at-concordia-summit/> [<http://perma.cc/TW9K-97MC>]. It should be further noted that despite recent comments by the State Department regarding a pilot private resettlement project, subsequent interviews with key stakeholders indicated that this had not moved past the preliminary discussion stage. See INT'L REFUGEE ASSISTANCE PROJECT, URBAN JUSTICE CTR., & HUMAN RIGHTS FIRST, PRIVATE SPONSORSHIP OF REFUGEE RESETTLEMENT IN THE UNITED STATES: GUIDING PRINCIPLES AND RECOMMENDATIONS 17 (2016), https://www.refugeerights.org/wp-content/uploads/2016/10/Private-Sponsorship-of-Refugees-in-the-United-States_White-Paper.pdf [<http://perma.cc/98MV-SLNW>]; see also David Bier & Matthew La Corte, *Privately Funded Refugee Resettlement: How to Leverage American Charity to Resettle Refugees*, NISKANEN CTR. 5 (Mar. 22, 2016), <https://niskanencenter.org/wp-content/uploads/2016/03/NiskanenPrivateRefugee.pdf> [<http://perma.cc/X74E-YRQC>].

291. David Bier & Matthew La Corte, *Private Refugee Resettlement in U.S. History: America's Private Sector Has Shown It Can Support Refugees*, NISKANEN CTR. 13 (Apr. 26, 2016), <https://niskanencenter.org/wp-content/uploads/2016/04/PrivateRefugeeHistory.pdf> [<http://perma.cc/ZRE9-6B8K>].

292. *FY 2008 Reception and Placement Basic Terms of the Cooperative Agreement Between the Government of the United States of America and the (Name of Organization)*, U.S. DEP'T OF STATE (Jan. 17, 2008), <https://2001-2009.state.gov/g/prm/rls/2008/99438.htm> [<https://perma.cc/E5VG-WQ2A>].

293. *FY 2011 Reception and Placement Basic Terms of the Cooperative Agreement Between the Government of the United States of America and the (Name of Organization)*, U.S. DEP'T OF STATE (Jan. 6, 2011), <http://www.state.gov/j/prm/releases/sample/181172.htm> [<https://perma.cc/WZ5A-K4M9>].

294. *FY 2008 Reception and Placement Basic Terms of the Cooperative Agreement Between the Government of the United States of America and the (Name of Organization)*, U.S. DEP'T OF STATE (Jan. 17, 2008), <https://2001-2009.state.gov/g/prm/rls/2008/>

ment agency (the sponsor) in providing refugees with basic necessities, including housing, school enrollment, and financial support; specific core services, including orientation to community and health services, during their initial resettlement period; job training and placement; and assistance in achieving economic self-sufficiency.²⁹⁵ A common function of co-sponsors is to act as a “welcome wagon” for newly arriving refugees, offering an early opportunity to connect with American friends and mentors. These co-sponsorships are usually arranged for one to six months, but the relationships that form often outlast the initial welcoming phase.

The private sector has shown a great deal of interest in assisting Syrian refugees in particular, reflected in commitments pledged by fifty-one businesses, as announced in President Obama’s call to action to the private sector to address the global refugee crisis in September 2016.²⁹⁶ Proposals put forth by Human Rights First, the Urban Justice Center’s International Refugee Assistance Project, and the Niskanen Center have also called for the creation of a private resettlement program; and the State Department, in conjunction with Refugee Council USA, had, under the Obama administration, pledged to pilot a private resettlement project.²⁹⁷

99438.htm [https://perma.cc/E5VG-WQ2A]. The agreement states that the responsibilities of the resettlement agency can be delegated only to an affiliate specified in the approved proposal, “who may re-delegate such responsibilities to a local co-sponsor, provided such co-sponsor is identified on the applicable assurance form.” *Id.* Further, despite any delegation, the resettlement agency remains responsible for the service. *Id.* If there is an agreement between the affiliate of a resettlement agency and a co-sponsor regarding the provision of basic support or core services, the affiliate retains responsibility for ensuring that the services are provided. *Id.* The agreement requires that the resettlement agency train the co-sponsor prior to the arrival of the sponsored refugees, ensuring that the co-sponsor understands the overall sponsorship process, the resettlement agency’s role, and the responsibilities of the co-sponsor. *Id.* The agreement states that “training must be provided in person by a representative of the Recipient or its affiliate to any local co-sponsor that has not resettled a refugee who arrived in the United States within the past two years.” *Id.*

295. *Id.* See also *FY 2017 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP’T OF STATE (Mar. 21, 2016), <http://www.state.gov/j/prm/funding/fy2017/254909.htm> [https://perma.cc/536R-FYVC].

296. *Fact Sheet: White House Announces Commitments to the Call to Action for Private Sector Engagement on the Global Refugee Crisis*, THE WHITE HOUSE, PRESIDENT BARACK OBAMA (Sept. 20, 2016), <https://www.whitehouse.gov/the-press-office/2016/09/20/fact-sheet-white-house-announces-commitments-call-action-private-sector> [https://perma.cc/6DD9-CJJE].

297. See Anne Richard et al., *Becca Heller Pushes for Private Sponsorship at Concordia Summit*, URBAN JUSTICE CTR. (Sept. 27, 2016), <https://refugeerights.org/becca-heller-pushes-for-private-sponsorship-at-concordia-summit/> [http://perma.cc/TW9K-97MC]; *RCUSA Statement on Increasing the Role of Private Actors in Refugee Resettlement*, REFUGEE COUNCIL USA (Sept. 20, 2016), <http://www.rcusa.org/blog/rcusa-statement-on-increasing-the-role-of-private-actors-in-refugee-resettlement> [http://perma.cc/47FH-BE7R]; INT’L REFUGEE ASSISTANCE PROJECT, URBAN JUSTICE CTR., & HUMAN RIGHTS FIRST, *PRIVATE SPONSORSHIP OF REFUGEE RESETTLEMENT IN THE UNITED STATES: GUIDING PRINCIPLES AND RECOMMENDATIONS 2–4* (2016),

Unfortunately, discussions about the need for a private resettlement program often fail to account for the strong role that private partnerships already play in the current system.²⁹⁸ In interviews conducted for this Report, state refugee coordinators, resettlement agency staff, and federal partners alike expressed concern that creating a new private resettlement program would undermine the existing refugee resettlement structure and potentially duplicate efforts.²⁹⁹ They advocated instead for the expansion of the current co-sponsorship model and highlighted the need to harness the support of individuals and the private sector to expand support for long-term refugee-integration efforts.³⁰⁰ As one state refugee coordinator noted, “[P]ublic-private partnership already exists. . . . [W]hy aren’t we already tapping into that to put the private resources [in]to the current system?”³⁰¹ Indeed, all state refugee coordinators agreed that private sponsorship should be implemented as a supplement to, not a substitute for, government action.

The current public-private partnership embedded in the USRAP should be expanded to build further on existing refugee integration efforts, with private sponsors’ services complementing resettlement agencies’ services by welcoming refugees, acting as conduits to employment opportunities, and generally serving as guides and mentors “while the refugees adjust to their new communities.”³⁰² In addition, sponsors could cover refugee travel costs and reimburse the International Organization for Migration and PRM directly instead of having refugees repay their travel loan.

Drawing on private individuals, companies, and philanthropies in cities that are building an infrastructure to properly welcome and assist refugees on their path to integration could be a useful innovation:

in-the-United-States_White-Paper.pdf [<http://perma.cc/98MV-SLNW>]; see also David Bier & Matthew La Corte, *Privately Funded Refugee Resettlement: How to Leverage American Charity to Resettle Refugees*, NISKANEN CTR. (Mar. 22, 2016), <https://niskanencenter.org/wp-content/uploads/2016/03/NiskanenPrivateRefugee.pdf> [<http://perma.cc/X74E-YRQC>].

298. See *FY 2011 Reception and Placement Basic Terms of the Cooperative Agreement Between the Government of the United States of America and the (Name of Organization)*, U.S. DEP’T OF STATE (Jan. 6, 2011), <http://www.state.gov/j/prm/releases/sample/181172.htm> [<http://perma.cc/B5HB-DTP2>]; *FY 2017 Notice of Funding Opportunity for Reception and Placement Program*, U.S. DEP’T OF STATE (Mar. 21, 2016), <http://www.state.gov/j/prm/funding/fy2017/254909.htm> [<http://perma.cc/P28J-FPMZ>] (supporting the proposition that federal funding is meant to “augment” or “supplement” private resources).

299. *PRM Interview*, *supra* note 4; *USCIS Interview*, *supra* note 4; *ORR Interview*, *supra* note 4; *Refugee Coordinator Interviews*, *supra* note 4.

300. *PRM Interview*, *supra* note 4; *USCIS Interview*, *supra* note 4; *ORR Interview*, *supra* note 4; *Refugee Coordinator Interviews*, *supra* note 4.

301. See *Refugee Coordinator Interviews*, *supra* note 4.

302. *RCUSA Statement on Increasing the Role of Private Actors in Refugee Resettlement*, REFUGEE COUNCIL USA (Sept. 20, 2016), <http://www.rcusa.org/blog/rcusa-statement-on-increasing-the-role-of-private-actors-in-refugee-resettlement> [<http://perma.cc/47FH-BE7R>].

“Municipalities and the private sector could establish group resettlement programs to fund the resettlement of groups of refugees in a particular area, with the possibility of special job opportunities. Educational institutions could sponsor resettlement for qualified refugees to continue their studies.”³⁰³

Enlisting community ambassadors to serve as private sponsors could go a long way toward mobilizing wider community support for Syrian refugees in particular, and refugee resettlement in general. Rather than focusing on private resettlement as a way to augment the number of refugees processed for resettlement, it could instead be leveraged to increase the capacity of receiving communities to welcome larger numbers of refugees.

VII. RECOMMENDATIONS

The United States has, as described above, implemented a series of critical improvements to the refugee resettlement process in recent years to facilitate better coordination among stakeholders and better screening of refugees. This Section provides further recommendations for improvements to the refugee resettlement process in order to advance the dual goals of protecting national security while also enhancing job creation. Our hope is that these recommendations will lead to the development of a uniform protocol that can be adopted to facilitate greater efficiency and effectiveness in refugee processing overseas, as well as better adaptation and integration of refugees in the United States.

Refugees still face significant hurdles in resettling,³⁰⁴ and continued improvements are needed to further enhance the resettlement process’s efficiency and effectiveness. These improvements include increased staffing and training, better coordination and data gathering, advancements in technology, and budgetary reallocations and flexibility. These improvements will be critical to ensuring the creation of an infrastructure that welcomes refugees into local communities, resolving backlogs in processing, and implementing new procedures and supports to improve and expedite the security assessment process.

303. INT’L REFUGEE ASSISTANCE PROJECT, URBAN JUSTICE CTR., & HUMAN RIGHTS FIRST, *PRIVATE SPONSORSHIP OF REFUGEE RESETTLEMENT IN THE UNITED STATES: GUIDING PRINCIPLES AND RECOMMENDATIONS* (2016), https://www.refugeerights.org/wp-content/uploads/2016/10/Private-Sponsorship-of-Refugees-in-the-United-States_White-Paper.pdf [<http://perma.cc/98MV-SLNW>]; see also David Bier & Matthew La Corte, *Privately Funded Refugee Resettlement: How to Leverage American Charity to Resettle Refugees*, NISKANEN CTR. (Mar. 22, 2016), <https://niskanencenter.org/wp-content/uploads/2016/03/NiskanenPrivateRefugee.pdf> [<http://perma.cc/X74E-YRQC>].

304. Bill Frelick, *Refugee Resettlement Isn’t a Trojan Horse (or a bowl of Skittles)*, HUMAN RIGHTS WATCH (Nov. 22, 2016, 12:00 AM), <https://www.hrw.org/news/2016/11/22/refugee-resettlement-isnt-trojan-horse-or-bowl-skittles> [<https://perma.cc/7UN5-DENU>].

A. To the Department of Homeland Security

1. Increase RAD Staffing

Ideally, Refugee Corps officers would be responsible for most of the workload of USCIS's RAD, and temporarily deployed asylum officers would manage the rest.³⁰⁵ Building on RAD's recent hiring by increasing the number of refugee officers and circuit rides completed per year would contribute to more rapid screening and resettlement. Likewise, increasing U.S. refugee processing capacity in Lebanon, Jordan, and Turkey would allow for the screening of 40,000 additional refugees deemed vulnerable and in need of resettlement by UNHCR.³⁰⁶ Maintaining U.S. assistance to UNHCR could also "stabilize and improve conditions in refugee camps in front line states," where refugees are in the most danger.³⁰⁷

2. Utilize Videoconferencing Where There Is No Other Alternative

The use of videoconferencing for refugee interviews should be considered as an alternative to or in conjunction with in-person interviews where circuit rides have been suspended due to dangerous conditions.³⁰⁸ Interviews conducted via videoconference in these limited circumstances would provide a commonsense alternative where "security concerns most inhibit circuit rides and endanger refugees."³⁰⁹ Current U.S. practice prevents interviewers from using videoconferencing in initial interviews with resettlement applicants.³¹⁰ As a result,

305. See OMBUDSMAN, U.S. DEP'T OF HOMELAND SEC. OFFICE OF THE CITIZENSHIP AND IMMIGR. SERVS., ANNUAL REPORT 2016 14 (June 29, 2016), <https://www.dhs.gov/sites/default/files/publications/DHS%20Annual%20Report%202016.pdf> [<https://perma.cc/726U-WTJV>]; Fisher, *supra* note 221, at 336.

306. See Michael Ignatieff et al., *The United States and the Syrian Refugee Crisis: A Plan of Action*, HARV. KENNEDY SCH. SHORENSTEIN CTR. ON MEDIA, POLITICS AND PUB. POL'Y (Jan. 27, 2016, 3:00 PM), <http://shorensteincenter.org/united-states-syrian-refugee-crisis-plan-action/> [<https://perma.cc/7ZW6-DPB3>].

307. *Id.*

308. U.N. HIGH COMM'R FOR REFUGEES, OPERATIONAL GUIDANCE NOTE ON CONDUCTING RESETTLEMENT INTERVIEWS THROUGH VIDEO CONFERENCING 2 (2013), <http://www.unhcr.org/51de6e1c9.pdf> [<http://perma.cc/HGX8-GXM4>]; Memorandum from the Int'l Refugee Assistance Project on The Use of Videoconferencing to Deal with Refugee Application Delays in Syria (Jan. 2012), https://refugeerights.org/wp-content/uploads/2012/01/IRAP_Syria_Videoconferencing-Memo.pdf [<http://perma.cc/J7W2-DRNG>].

309. Letter from U.S. Sens. Tammy Baldwin (D-WI), Richard Blumenthal (D-Conn.), Cory Booker (D-N.J.), Chris Coons (D-DE), Barbara Mikulski (D-MD), Chris Murphy (D-Conn.), and Gary Peters (D-MI) to Jeh Johnson, Sec'y of Homeland Sec. (Oct. 6, 2015), https://www.peters.senate.gov/imo/media/doc/151006_Letter_DHS_Refugees.pdf [<https://perma.cc/CA66-S2E2>].

310. Memorandum from the Int'l Refugee Assistance Project on The Use of Videoconferencing to Deal with Refugee Application Delays in Syria (Jan. 2012), https://refugeerights.org/wp-content/uploads/2012/01/IRAP_Syria_Videoconferencing-Memo.pdf [<http://perma.cc/J7W2-DRNG>].

many refugees awaiting resettlement face processing delays due to the inability of RAD officers to conduct an interview.³¹¹

Resettlement is especially pressing due to the risks inherent in refugees' current conditions, and videoconferencing would allow the United States to screen applicants in particularly vulnerable circumstances without placing RAD officers at risk. This capability already exists. The U.S. Embassy in Damascus, for example, had the resources to conduct four to five videoconference interviews of Iraqis per day in 2012.³¹² While videoconferencing generally presents serious due process challenges, in these limited circumstances government officials should consider it a feasible option for refugees in dire need of resettlement from the most dangerous regions.³¹³

3. Expand Access to Counsel

Another obstacle in the resettlement program is the limitation on access to counsel for refugees seeking resettlement in the United States, which the American Bar Association has asked DHS to review and reverse.³¹⁴ Currently, the United States recognizes refugees' right to have counsel at their adjudication interviews only in highly limited circumstances.³¹⁵ The assistance of counsel would enhance U.S. offi-

311. *Id.* See also George Packer, *Powerful Gestures*, NEW YORKER (Nov. 9, 2015), <http://www.newyorker.com/magazine/2015/11/09/powerful-gestures> [<http://perma.cc/Q4WZ-2HE6>]; Somini Sengupta & Anne Barnard, *Refugees, Stuck in Grinding U.S. Process, Wait and Hope*, N.Y. TIMES (Oct. 10, 2015), <https://www.nytimes.com/2015/10/11/world/middleeast/refugees-stuck-in-grinding-us-process-wait-and-hope.html> [<http://perma.cc/U6P4-49L6>]; Natasha Hall, *Refugees Are Already Vigorously Vetted. I Know Because I Vetted Them*, WASH. POST (Feb. 1, 2017), https://www.washingtonpost.com/posteverything/wp/2017/02/01/refugees-are-already-vigorously-vetted-i-know-because-i-vetted-them/?utm_term=.6089aae2b023 [<http://perma.cc/B6J8-E3FW>].

312. Memorandum from the Int'l Refugee Assistance Project on The Use of Videoconferencing to Deal with Refugee Application Delays in Syria (Jan. 2012), https://refugeerights.org/wp-content/uploads/2012/01/IRAP_Syria_Videoconferencing-Memo.pdf [<http://perma.cc/J7W2-DRNG>].

313. See U.N. HIGH COMM'R FOR REFUGEES, OPERATIONAL GUIDELINES NOTE ON CONDUCTING RESETTLEMENT INTERVIEWS THROUGH VIDEO CONFERENCING 2 (Feb. 2013), <http://www.unhcr.org/51de6e1c9.pdf> [<http://perma.cc/HGX8-GXM4>]; IMMIGR. AND REFUGEE BD. OF CAN., IMMIGRATION AND REFUGEE BOARD RESPONSE TO THE REPORT ON VIDEOCONFERENCING IN REFUGEE HEARINGS (2016), <http://www.irb-cisr.gc.ca/Eng/transp/ReviewEval/Pages/VideoRespRep.aspx> [<http://perma.cc/E2PK-HDA5>].

314. Letter from William C. Hubbard, president, ABA, to Jeh Johnson, Sec'y of Homeland Sec., Alejandro Mayorkas, Deputy Sec'y of Homeland Sec., & León Rodríguez, Dir., U.S. Citizenship and Immigr. Servs. (July 24, 2015), http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015july24_counselrefugeeapplicants.authcheckdam.pdf [<http://perma.cc/4VFS-9RMX>].

315. Legislation allows for Iraqi P-2 applicants to have counsel at their interviews. U.S. CITIZENSHIP AND IMMIGR. SERVS., U.S. DEP'T OF HOMELAND SECURITY, ADJUDICATOR'S FIELD MANUAL § 12.1 n.2 (2012), https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-2201/Chptr12_1.html [<https://perma.cc/9SC3-3SHK>]; Michelle Mangan & Dana Montalto, *US Must Honor Its Commitment to Iraqi and Other Refugees*, CHRISTIAN SCI. MONITOR (Dec. 21, 2011), <http://www.csmonitor.com/>

cials' ability to properly screen refugees, since many eligible refugees may not otherwise succeed in effectively presenting their claims due to their unfamiliarity with foreign legal standards, difficulties in maneuvering English-language applications, and lack of guidance on the legal complexities they must navigate.³¹⁶ Allowing refugees to have representation would also improve the fairness of the process and lead to a more efficient and accurate admissions process.³¹⁷ Representation can also help with “bridging linguistic, cultural, and psychological gaps” in the resettlement process;³¹⁸ “orient[ing] applicants to the resettlement process[;] advis[ing] them of the expected timeline[;] aid[ing] them in obtaining proper documentation[;] and prepar[ing] them to answer sensitive questions during interviews.”³¹⁹

4. Limit the Application of TRIG and Maintain Exemptions to Provide Protection to Bona Fide Refugees

The bars to refugee protection should be interpreted in a manner consistent with U.S. obligations under the 1980 Refugee Act and the 1967 Protocol Relating to the Status of Refugees. DHS, working together with other relevant agencies and government officials, should issue new interpretative statements or policies to limit the designation of groups as terrorist organizations—for example, by removing from the list organizations that are defunct or have given up violence—and should exclude activities conducted under duress from the definition of “terrorist activity.”

Commentary/Opinion/2011/1221/US-must-honor-its-commitment-to-Iraqi-and-other-refugees [<http://perma.cc/PP7W-XSC5>]; 8 C.F.R. § 292.5(b) (excluding “applicant[s] for admission” from right to representation). See also Emily Creighton & Robert Pauw, *Right to Counsel before DHS*, AM. IMMIGR. LAWYER'S ASS'N 7–8 (2011).

316. Michelle Mangan & Dana Montalto, *US Must Honor Its Commitment to Iraqi and Other Refugees*, CHRISTIAN SCI. MONITOR (Dec. 21, 2011), <http://www.csmonitor.com/Commentary/Opinion/2011/1221/US-must-honor-its-commitment-to-Iraqi-and-other-refugees> [<http://perma.cc/PP7W-XSC5>]; Jaya Ramji-Nogales et al., *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295, 340 (2007); John R. Mills et al., “Death is Different” and a Refugee’s Right to Counsel, 42 CORNELL INT’L L.J. 361, 375–76 (2009); HUMAN RIGHTS FIRST, RENEWING U.S. COMMITMENT TO REFUGEE PROTECTION: RECOMMENDATIONS FOR REFORM ON THE 30TH ANNIVERSARY OF THE REFUGEE ACT 21 (2010), <https://www.humanrightsfirst.org/wp-content/uploads/pdf/30th-AnnRep-3-12-10.pdf> [<http://perma.cc/343B-DUCL>].

317. Fisher, *supra* note 221, at 348.

318. Letter from William C. Hubbard, President, ABA to Jeh Johnson, Sec’y of Homeland Sec., Alejandro Mayorkas, Deputy Sec’y of Homeland Sec., & León Rodríguez, Dir., U.S. Citizenship and Immigr. Servs. (July 24, 2015), http://www.americanbar.org/content/dam/aba/unacategorized/GAO/2015july24_counselrefugeeapplicants.authcheckdam.pdf [<http://perma.cc/4VFS-9RMX>].

319. Michelle Mangan & Dana Montalto, *US Must Honor Its Commitment to Iraqi and Other Refugees*, CHRISTIAN SCI. MONITOR (Dec. 21, 2011), <http://www.csmonitor.com/Commentary/Opinion/2011/1221/US-must-honor-its-commitment-to-Iraqi-and-other-refugees> [<http://perma.cc/PP7W-XSC5>].

TRIG exemptions protect refugees for actions taken under duress, as well as for humanitarian reasons, and should not be rescinded.³²⁰ These exemptions provide one of the only protections for a refugee who was, for example, forced at gunpoint to give a cigarette, a sandwich, emergency medical assistance, or money to a Free Syrian Army soldier.³²¹

In order to facilitate refugee resettlement, DHS and the State Department should continue to work with UNHCR, as they have done in recent years, to “best address potential TRIG issues” and to identify cases “most suitable for referral to the United States.”³²² This includes continued application of the referral framework, which prioritizes “cases of particularly vulnerable refugees who do not appear to present TRIG issues” and “cases where existing TRIG exemption authority may apply (e.g., material support provided under duress, medical services),” and also allows for consideration of “sympathetic cases where new TRIG exemption authority might be required.”³²³

B. *To the Department of State*

1. Continue Technological Advancement

The State Department should continue to work with other agencies, including DHS and the FBI, to implement new technologies to enhance refugee security checks, building on the 2016 technological advances, which allow for more efficient screening while still safeguarding national security. Greater biometric sharing and interoperability between the United States and UNHCR, subject to U.S. compliance with UNHCR’s data-protection policies, could also facilitate more efficient and effective security assessments.³²⁴

320. In his January 27 and March 6 Executive Orders, President Trump called on the Secretary of State and the Secretary of Homeland Security to consider rescinding any discretionary authority relating to the terrorism grounds of inadmissibility. Exec. Order No. 13,769, 82 Fed. Reg. 8,977 (Jan. 27, 2017); Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).

321. Teresa Pham Messer, *Barred from Justice: The Duress Waiver to the Material Support Bar*, 6 HOUS. L. REV. 63, 72 (2015).

322. Written testimony of PLCY Office of Immigration and Border Security Acting Deputy Assistant Sec’y Molly Groom for a Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights, *Hearing on the Syrian Refugee Crisis*, Jan. 7, 2014.

323. *Id.*

324. See UNHCR, POLICY ON THE PROTECTION OF PERSONAL DATA OF PERSONS OF CONCERN TO UNHCR (2015), <http://www.refworld.org/docid/55643c1d4.html> [<http://perma.cc/5F23-ZFQ7>]; Katie Worth, *Can Biometrics Solve the Refugee Debate?*, FRONTLINE (Dec. 2, 2015), <http://www.pbs.org/wgbh/frontline/article/can-biometrics-solve-the-refugee-debate/> [<http://perma.cc/XT4Y-4PDC>] (“‘The great benefit is the ability to confirm identity without relying on pieces of plastic or paper.’ . . . ‘The scans are quick, painless, and require less technology and skill than you need for fingerprints.’”); UNHCR, BIOMETRIC IDENTITY MANAGEMENT SYSTEM, ENHANCING REGISTRATION AND DATA MANAGEMENT (2015).

2. Prioritize and Improve Interagency Coordination

The State Department should prioritize and improve coordination across agencies.³²⁵ Government agencies in the resettlement system do not always share information adequately throughout the screening process and at times fail to efficiently coordinate their activities.³²⁶ Increasing communication among agencies would enhance the efficiency of the resettlement process and resolve logistical problems that refugees may face along the way.³²⁷ For example, due to confidentiality concerns, the State Department does not currently share information with resettlement agencies regarding the sexual or physical abuse of children.³²⁸ Yet sharing information across agencies regarding the mental health and conditions of vulnerable populations could help facilitate the provision of services and ensure that refugees are placed in locations where adequate support and mental health care are available.³²⁹ Improving interagency and Executive Branch coordination can be achieved by instituting an annual meeting on protection matters and refugee resettlement.³³⁰

Another example of the need for interagency coordination relates to the security-assessment process. There are many inefficiencies in the current vetting process caused by a number of factors, among these: each agency uses its own protocol for its refugee vetting, and while one agency completes its part of the vetting, the approval of another agency may lapse, meaning that the refugee must completely restart the approval process.³³¹ These inefficiencies are largely responsible for extending the vetting process to two years or more.³³² By implementing better coordination among the agencies conducting security checks, the validity periods for various checks can be harmo-

325. HUMAN RIGHTS FIRST, HOW TO REPAIR THE U.S. ASYLUM AND REFUGEE RESETTLEMENT SYSTEMS 20 (2012).

326. Brown & Scribner, *supra* note 268.

327. *Id.*

328. *Id.* at 115.

329. *Id.*; Kate E. Murray et al., *Review of Refugee Mental Health Interventions Following Resettlement: Best Practices and Recommendations*, 80 AM. J. ORTHOPSYCHIATRY 4 (2010).

330. HUMAN RIGHTS FIRST, HOW TO REPAIR THE U.S. ASYLUM AND REFUGEE RESETTLEMENT SYSTEMS 17 (Dec. 2012).

331. U.S. DEP'T OF HOMELAND SECURITY, WRITTEN TESTIMONY OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES, REFUGEE, ASYLUM & INTERNATIONAL OPERATIONS DIRECTORATE REFUGEE AFFAIRS DIVISION CHIEF BARBARA STRACK FOR A HOUSE COMMITTEE ON HOMELAND SECURITY, SUBCOMMITTEE ON COUNTERTERRORISM AND INTELLIGENCE HEARING TITLED "TERRORIST EXPLOITATION OF REFUGEE PROGRAMS" (Dec. 4, 2012), <https://www.dhs.gov/news/2012/12/04/written-testimony-uscis-house-homeland-security-subcommittee-counterterrorism-and> [<https://perma.cc/2EEU-WUFZ>].

332. See Haeyoun Park & Larry Buchanan, *Refugees Entering the U.S. Already Face a Rigorous Vetting Process*, N.Y. TIMES (Jan. 29, 2017), <https://www.nytimes.com/interactive/2017/01/29/us/refugee-vetting-process.html> [<http://perma.cc/29SG-S55M>] ("Sometimes, the [vetting] process . . . takes up to two years.").

nized and the security screening streamlined to reduce unnecessary delays, without compromising the program's overall integrity.

3. Expand Other Visa Categories

In addition to enhancing the efficiency of the current refugee resettlement system, the State Department should continue to explore other possible avenues that facilitate the entry of refugees, including Syrians, into the United States in order to help maintain regional stability and respond to refugees' humanitarian needs.³³³ Further expansion of visa categories such as visitor visas, education visas, and temporary work permits could provide a possible recourse.³³⁴ Although these visas would allow only a temporary stay, their availability might nonetheless dovetail with the interests of refugees, including Syrians, who eventually want to return to their home countries once conflict ends.³³⁵ The U.S. government issued visas to a number of Syrians outside of Syria after the U.S. embassy closed in Damascus in 2012.³³⁶ Yet little, if any, information is available as to whether those visas were issued to refugees. It is important to note that applicants for such visas are likely subject³³⁷ to the same TRIG bars discussed above, and therefore expanding these categories may not provide solutions for individuals improperly barred from refugee protection for those reasons.

333. HUMAN RIGHTS FIRST, *THE SYRIAN REFUGEE CRISIS AND THE NEED FOR U.S. LEADERSHIP* 5 (2016), <http://www.humanrightsfirst.org/sites/default/files/HRF-SyrianRefCrisis.pdf> [<https://perma.cc/VW6W-CDVJ>].

334. Sarah Bidinger et al., *Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing*, B.U. SCH. OF L. 11 (July 2015); UNHCR, *SUMMARY OF KEY OUTCOMES: 30 MARCH 2016 HIGH LEVEL MEETING ON GLOBAL RESPONSIBILITY SHARING THROUGH PATHWAYS FOR ADMISSION OF SYRIAN REFUGEES* (Mar. 30, 2016), <http://www.unhcr.org/571dd1599.pdf> [<https://perma.cc/8TVT-QRXG>]; *Geneva Conference on Syrian Refugees Ends with New Pledges of Places, Recognition of Challenges Ahead*, UNHCR (Mar. 30, 2016), <http://www.unhcr.org/en-us/news/press/2016/3/56fc0cf06/geneva-conference-syrian-refugees-ends-new-pledges-places-recognition-challenges.html> [<https://perma.cc/DW8X-2YH2>]; UNHCR, *EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME, STANDING COMMITTEE, 66TH MEETING, UPDATE ON RESETTLEMENT 6* (May 31, 2016).

335. Sarah Bidinger et al., *Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing*, B.U. SCH. OF L. 9 (July 2015).

336. Anthony Shadid, *U.S. Embassy in Syria Closes as Violence Flares*, N.Y. TIMES (Feb. 6, 2012); U.S. DEP'T OF STATE, *REPORT OF THE VISA OFFICE 2015*, <https://travel.state.gov/content/visas/en/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2015.html> [<https://perma.cc/Q2UN-QW7V>].

337. *Terrorism-Related Inadmissibility Grounds (TRIG)*, U.S. CITIZENSHIP AND IMMIGR. SERVS. (Mar. 28, 2016), <https://www.uscis.gov/laws/terrorism-related-inadmissibility-ground/terrorism-related-inadmissibility-ground-trig#Inadmissibility> [<https://perma.cc/4UW7-HJVN>].

C. To the Department of Health and Human Services

1. Adjust Funding Cycles

The number of refugees who arrive in each state over a thirty-six month period and “who continue to reside in each state at the beginning of the fiscal year” dictates how ORR distributes its grants and contracts in a given fiscal year.³³⁸ Yet, this approach fails to account for communities that experience significant increases in refugee arrivals in short time periods due to secondary migration, among other reasons, and creates major obstacles to resettlement for areas that experience dramatic increases in refugee populations.³³⁹ A “more flexible, forward-looking” approach to funding would likely be more “responsive to secondary migration flows.”³⁴⁰ State refugee coordinators interviewed for this Report repeatedly suggested that ORR allocate funding based on projected refugee populations for the subsequent year.³⁴¹ By adjusting ORR’s funding schema to better meet receiving communities’ needs, ORR may be able to provide necessary resources along a more appropriate timeline.

2. Define “Integration”

Even though integration is a major stated goal of the U.S. resettlement program, ORR regulations lack a definition of integration,³⁴² making it difficult to measure success. This is true not only for ORR but also for coordinating agencies, such as state and local resettlement offices that assist ORR in its efforts to integrate refugees. ORR should thus incorporate a definition of integration into its regulations,

338. Brown & Scribner, *supra* note 268.

339. In Michigan, for example, the percentage of refugee arrivals increased by 400% between FY 2006 and FY 2008. Due to the funding schema, however, allocations of refugee social services in Michigan increased by only 72% between FY 2007 and FY 2009, leaving Michigan without many of the resources necessary to meet the needs of this population. Brown & Scribner, *supra* note 268; GEO. U. L. CENT., HUMAN RIGHTS INST., REFUGEE CRISIS IN AMERICA: IRAQIS AND THEIR RESETTLEMENT EXPERIENCE 34 (2009), http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1001&context=hri_papers.

340. S. REP. NO. 111-52, ABANDONED UPON ARRIVAL: IMPLICATIONS FOR REFUGEES AND LOCAL COMMUNITIES BURDENED BY A U.S. RESETTLEMENT SYSTEM THAT IS NOT WORKING (July 21, 2010), <https://www.gpo.gov/fdsys/pkg/CPRT-111SPRT57483/pdf/CPRT-111SPRT57483.pdf> [<https://perma.cc/BA5F-9SD7>].

341. See *Refugee Coordinator Interviews*, *supra* note 4.

342. U.S. GOV’T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 31 (2012) (noting that “there is no single, generally accepted definition of integration in the literature”). One of ORR’s major stated goals is to “provide assistance to refugees and other eligible persons through its various programs and grants, so that they can achieve self-sufficiency and integration within the shortest time period after arriving in the United States.” *Id.* at 32. See *Fact Sheet*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (2014), https://www.acf.hhs.gov/sites/default/files/assets/2015factsheets_orr.pdf [<https://perma.cc/K3GZ-PP7K>].

which may be modeled after the GAO definition developed while reviewing ORR's 2012 practices.

The GAO defines integration as “a dynamic, multidirectional process in which newcomers and the receiving communities intentionally work together, based on a shared commitment to acceptance and justice, to create a secure, welcoming, vibrant, and cohesive society.”³⁴³ ORR's Integration Working Group has adopted this definition as well, identifying the following key components of integration: “health/well-being; language; economic opportunity; civic values/participation/engagement; education; housing; social connections; and belonging/safety.”³⁴⁴ By adopting a clear definition of integration that focuses on the five pillars of housing, work, education, language, and trauma counseling, ORR could provide concrete direction for organizations working toward this goal.³⁴⁵

3. Measure Success in Integration

Greater data collection and reporting regarding secondary migration and integration would provide ORR with a more comprehensive picture of secondary migration and allow for the provision of funds in line with these trends. In addition, ORR should expand its collection of comprehensive data about mental and physical health and housing needs, as well as on refugee employment and self-sufficiency.

ORR should collect longitudinal information relating to refugee self-sufficiency, integration, and employment status during the initial

343. See U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 32 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>].

344. INSTITUTE FOR SOCIAL AND ECONOMIC DEVELOPMENT, REPORT OF THE INTEGRATION WORKING GROUP TO THE OFFICE OF REFUGEE RESETTLEMENT iii (Jan. 17, 2007), <http://ised-sow3.org.s56263.gridserver.com/sites/default/files/Report%20of%20the%20IWG.pdf> (“In June 2006, the Office of Refugee Resettlement (ORR) announced that an Integration Working Group would be formed to review and provide limited analysis of the process of integration of refugee populations into local communities throughout the U.S. This decision coincided with the creation of The Task Force on New Americans by President Bush's Executive Order # 13404 on June 6, 2006, tasked to strengthen the efforts of federal, state, and local agencies to help legal immigrants embrace the common core of American civic culture, learn our common language, and become fully Americans.”). The Obama administration recognized three pillars of integration: linguistic, civic, and economic. Felicia Escobar, *Strengthening Communities Through Immigrant and Refugee Integration*, THE WHITE HOUSE, PRESIDENT BARACK OBAMA (July 16, 2014, 6:39 PM), <https://obamawhitehouse.archives.gov/blog/2014/07/16/strengthening-communities-through-immigrant-and-refugee-integration> [<https://perma.cc/MXV2-LXRL>].

345. See *Refugee Coordinator Interviews*, *supra* note 4; see also U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 34 (July 2012); UNHCR, UNHCR RESETTLEMENT HANDBOOK 34–35 (2011), <http://www.unhcr.org/46f7c0ee2.pdf> [<http://perma.cc/S5US-N8GP>] (providing the United Nation's definition of “integration”).

years of refugee arrival and should, in coordination with PRM, “collect best practices related to the implementation of the guidance on stakeholder consultation on refugee resettlement from voluntary agencies and [s]tate refugee coordinators and disseminate such best practices to such agencies and coordinators.”³⁴⁶

In addition, ORR should develop better metrics for evaluating individual refugee integration across the four main dimensions of integration: (1) “[m]eans and [m]arkers: [whether] the resettled refugee[s] [are] achieving outcomes comparable to the general population in employment, housing, education[,] and healthcare”; (2) “[s]ocial [c]onnections: [whether] the refugee[s] [are] developing relationships with other members of the refugees’ ethnic group (bonds), developing relationships with other Americans (bridges), and accessing social services (links)”; (3) “[f]acilitators: [whether] the refugee[s] [are] gaining language skill, cultural knowledge, and feeling safe, as well as the development of reciprocal understanding by the receiving community about refugees’ cultures”; and (4) “[f]oundations: [whether] the refugee[s] [are] having basic citizenship and rights for equal engagement in the new society.”³⁴⁷

To address the lack of information regarding refugee integration and the successes and challenges faced by refugees in the United States, ORR should develop comprehensive data collection mechanisms, tracking refugee program outcomes and the needs and contributions (particularly to local economies and communities) of refugee populations. This information should be distributed in a regular and timely manner to resettlement agencies, co-sponsors, and Congress to guide future initiatives and investment in resettlement. In order to facilitate the data collection, integration of metrics, and capture of outcomes, ORR should seek out academic partnerships, as well as the support of the U.S. Digital Service.

As data becomes more robust and quantifiable, these metrics can be put to greater use in creating more high-level public goodwill, including among members of Congress and the Executive Branch, which could go a long way toward combating the anti-refugee and anti-Mus-

346. S. 1615, 114th Cong. § 6 (2015); H.R. 2839, 114th Cong. § 6 (2015); H.R. 1784, 113th Cong. § 8 (2013); see U.S. GOV’T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 28 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>].

347. Jessica A. Marks, *Rural Refugee Resettlement: Secondary Migration and Community Integration in Fort Morgan, Colorado*, UNHCR 5 (Mar. 2014), <http://www.unhcr.org/5326c7cd9.pdf> [<http://perma.cc/RB7P-D3JE>] (citing Alastair Ager & Alison Strang, *Indicators of Integration: Final Report*, HOME OFFICE DEVELOPMENT AND PRACTICE REPORT (2004), <http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs04/dpr28.pdf> [<https://perma.cc/manage/create>]). See also Farida Fozdar & Lisa Hartley, *Refugee Resettlement in Australia: What We Know and Need to Know*, 32 REFUGEE SURV. Q. 23, 25 (2013).

lim sentiment that diminishes support for the refugee resettlement program.

4. Measure Success Longitudinally

ORR's performance measures should shift from focusing on early self-sufficiency and short-term goals to a successful long-term integration model that advances U.S. security and economic interests. ORR emphasizes refugees' early attainment of employment and requires grantees, for example, to measure employment after six months for Matching Grant Programs and after eight months for statewide cash-assistance programs.³⁴⁸ This emphasis on short-term goals, however, encourages service providers to focus on helping refugees gain and maintain employment quickly—at the expense of more sustainable long-term opportunities for the refugee population.³⁴⁹

Because of these short-term priorities, service providers may ignore additional job or vocational training that could significantly boost the income of the refugee or provide long-term benefits after the initial employment period. For refugees who arrive with little skill or training, language acquisition and skill development may be essential in helping them attain viable employment to provide long-term for their families. For refugees who arrive with training or experience, including, for example, Syrian doctors and medical workers, service providers may not be able to help them earn equivalent credentials in the United States or place them in positions appropriate for their qualifications without additional resources to devote to the process.³⁵⁰

348. U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 85 (July 2012); *see also Divisions: Refugee Assistance*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT (2012), <https://www.acf.hhs.gov/orr/resource/divisions-refugee-assistance> [<https://perma.cc/2T5U-R5MX>].

349. U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 85 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>]; *see also* FAITH NIBBS, FORCED MIGRATION UPWARD MOBILITY PROJECT, MOVING INTO THE FASTLANE: UNDERSTANDING REFUGEE UPWARD MOBILITY IN THE CONTEXT OF RESETTLEMENT 48–50 (2016); LOUISE OLLIFF, REFUGEE COUNCIL OF AUSTRALIA, WHAT WORKS: EMPLOYMENT STRATEGIES FOR REFUGEE AND HUMANITARIAN ENTRANTS 71–73 (2010), https://www.refugeecouncil.org.au/docs/resources/reports/What_Works.pdf [<http://perma.cc/TKX9-DA6C>] (recommending stronger longer-term support systems and vocational training for refugees); U.S. DEP'T OF HEALTH AND HUMAN SERVS., REFUGEE ECONOMIC SELF-SUFFICIENCY: AN EXPLORATORY STUDY OF APPROACHES USED IN OFFICE OF REFUGEE RESETTLEMENT PROGRAMS 66–70 (2008) (depicting common challenges to refugee economic self-sufficiency).

350. U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 30 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [<https://perma.cc/7WML-BCX8>]; *see also* Linda Rabben, *Credential Recognition in the United States for Foreign Professionals*, MIGRATION POL'Y INST. (May 2013),

ORR does not allow skills-certification training to exceed one year and requires that refugees be employed when receiving training.³⁵¹ In addition, ORR's employment measures may not allow service providers and other volunteer agencies to report on long-term or non-employment-related outcomes related to their other services.³⁵² Accordingly, ORR does not sufficiently emphasize services such as skills and English-language training, services to help refugees earn equivalent credentials (including for Syrian doctors and medical workers), and mental health services.³⁵³ By creating better ways to follow up with refugees over a longer timeframe and restructuring its emphasis to prioritize more sustainable options for refugees, ORR may establish better pathways to success for newly arriving refugees.

5. Ensure Coordination and Information Sharing

A full-time USRAP interagency coordinator office should be developed. The coordinator would lead the effort to improve information collecting and sharing among USRAP stakeholders, including information directly related to refugee integration (e.g., demographic information, issues that receiving communities should be aware of in preparation for new refugee arrivals, etc.). The coordinator could also help reinstate the annual ORR consultations.³⁵⁴ In addition, the coordinator could mitigate much of the bureaucracy at the federal level for more adaptability at the state level.³⁵⁵

A structural "status" change for ORR may also be essential, given that its place in the agency hierarchy within the Department of Health and Human Services is not the same as PRM's position within the State Department. This difference in "status" can hamper ORR's visibility in relation to other federal agencies that form the USRAP, which can in turn hinder its leverage and the extent to which its concerns and interests are addressed in interagency discussions.

tionpolicy.org/research/credential-recognition-united-states-foreign-professionals [http://perma.cc/7VBQ-JWXJ].

351. U.S. GOV'T ACCOUNTABILITY OFFICE, REFUGEE RESETTLEMENT: GREATER CONSULTATION WITH COMMUNITY STAKEHOLDERS COULD STRENGTHEN PROGRAM, GAO-12-729, 30 (July 2012), <http://www.gao.gov/assets/600/592975.pdf> [https://perma.cc/7WML-BCX8].

352. *Id.*

353. *Id.*; see also DEMETRA SMITH NIGHTINGALE, THE LEWIN GROUP, A FRAMEWORK FOR CONTINUOUS EVALUATION OF OFFICE OF REFUGEE RESETTLEMENT FORMULA PROGRAMS SUPPORTING EMPLOYABILITY SERVICES 17–18 (Mar. 2008), <https://www.acf.hhs.gov/sites/default/files/orr/continuousevaluationreport.pdf> [https://perma.cc/S248-BZFR] (recommending the restructuring of refugee ESL programs and testing different employment and vocational strategies).

354. See *Refugee Coordinator Interviews*, *supra* note 4.

355. *Id.*

D. To Congress

1. Amend the INA

As noted above, refugee applications often face delays due to security concerns. In order to ensure that the bars to refugee protection are not applied indiscriminately and too broadly, Congress should consider removing the Tier III designation for terrorist organizations in the INA, which defines terrorist organizations as “a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, [a terrorist activity].”³⁵⁶ Tier I and Tier II organizations are designated by the Secretary of State in consultation with the attorney general and Department of Homeland Security and are “subject to public scrutiny” when published in the Federal Register. Tier III determinations, however, are not subject to these checks and balances.³⁵⁷

As a result of improper application of the material support provision, many bona fide refugees who are not security threats are excluded from protection; calls for the designation’s removal from the INA should therefore be heeded.³⁵⁸ Reducing the breadth of the material support bar—in particular by limiting the scope of “material support” and “terrorist activity” and allowing for a coercion or duress defense—would also be a positive step to properly defining TRIG.³⁵⁹

2. Amend ORR’s Budget

To ensure that ORR can provide the services needed by the increasingly diverse population of refugees and others in its care, Congress should stabilize ORR’s financing by including funding for a contingency account.³⁶⁰ Notably, ORR’s budget has not experienced an increase equal to that of PRM’s budget for the Reception and Placement Program, which doubled in FY 2010.³⁶¹

356. 8 U.S.C. § 1182(a)(3)(B)(iv) (2012).

357. See Won Kidane, *The Terrorism Bar to Asylum in Australia, Canada, the United Kingdom, and the United States: Transporting Best Practices*, 33 FORDHAM INT’L L.J. 300, 320 (2009).

358. See, e.g., *Denial and Delay: The Impact of the Immigration Law’s “Terrorism Bars” on Asylum Seekers and Refugees in the United States*, HUMAN RIGHTS FIRST 1, 2 (2009), <http://www.humanrightsfirst.org/wp-content/uploads/pdf/RPP-DenialandDelay-2page-summary-111009-web.pdf> [<http://perma.cc/SVW6-N9TV>] (recommending that Congress eliminate the Tier III definition in the INA).

359. See *Unintended Consequences: Refugee Victims of the War on Terror*, GEO. U. L. CTR. HUM. RTS. INST. 29 (2006), http://scholarship.law.georgetown.edu/cgi/view-content.cgi?article=1000&context=hri_papers (proposing a time bar that would exclude material support provided beyond a certain time limit; therefore, support provided over a threshold amount of time, such as ten years in the past, would not bar an otherwise eligible applicant).

360. U.S. DEP’T OF HEALTH AND HUMAN SERVS., FISCAL YEAR 2017 BUDGET IN BRIEF 132 (2017).

361. U.S. DEP’T OF STATE, U.S. DEP’T OF HOMELAND SEC. & U.S. DEP’T OF HEALTH AND HUMAN SERVS., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR

3. Realign the Consultation and Presidential Determination Timeline

Information provided to resettlement agencies and local community stakeholders needs to be in tune with the process for submitting annual placement plans and budget proposals to the State Department. To achieve this, Congress should realign the timeline for consultation with the President, scheduling the congressional consultation in February or March, concurrent with the budgetary proposal that the President submits to Congress.³⁶² This modification to the timeline would allow for more accurate budget projections and would afford states better data to plan for refugee arrivals during the upcoming fiscal year.

E. *To Resettlement Agencies*

National resettlement agencies should strive for a more diverse network of local affiliates, particularly in locations that are not traditional resettlement sites. Smaller cities and towns experiencing population loss and mayors motivated to support immigration and resettlement could provide new capacity for expanding local networks.

As noted, public-private partnerships could draw further on private individuals, companies, or philanthropies in cities that are still building an infrastructure to properly welcome and assist refugees on their path to integration. Municipalities and the private sector could establish group-resettlement programs, and educational institutions could sponsor qualified refugees to continue their studies.³⁶³ In this way, private resources could be leveraged, in conjunction with public funding, to increase receiving communities' capacity to welcome larger numbers of refugees. In addition, individual donors, companies, and philanthropies could cover travel costs so that refugees are not burdened by repayment of the refugee travel loan.

Proposals put forth by Human Rights First, the Urban Justice Center's International Refugee Assistance Project, and the Niskanen Center, which draw on Canada's approach to private resettlement as a model, also bear further examination. It is necessary to assess how they might complement and strengthen the current resettlement system in order to avoid duplicating existing efforts and creating unnecessary and redundant structures.

A pilot program could model what a modernized resettlement infrastructure would look like. This pilot program could establish an ideal

2014: REPORT TO THE CONGRESS, <https://www.state.gov/documents/organization/219137.pdf> [<https://perma.cc/5FK2-VB9Z>].

362. Brown & Scribner, *supra* note 268.

363. *Private Sponsorship of Refugee Resettlement in the United States: Guiding Principles and Recommendations*, HUMAN RIGHTS FIRST (Oct. 2016), <http://www.humanrightsfirst.org/resource/private-sponsorship-refugee-resettlement-united-states> [<http://perma.cc/98MV-SLNW>].

environment, with the full complement of ORR-funded services (psychosocial, youth, elderly, school impact grants, English as a second language, employment, urban agriculture, single-case management, etc.),³⁶⁴ which are not all currently available in all states or communities. It could include affordable and appropriate housing that engages community partnerships (e.g., with Habitat for Humanity).³⁶⁵ From the beginning, metrics could be built into the program to ensure comprehensive data collection regarding outcomes that could support the case for replicating or modifying the model. Given the marked lack of data collection in resettlement, new data gathering efforts will be critical to enhancing future resettlement initiatives.³⁶⁶

F. *To Refugee Advocates*

Utilizing anti-immigrant and anti-Muslim rhetoric, individuals who oppose refugee resettlement are making their voices heard loudly and frequently to policymakers. Groups like Refugee Resettlement Watch, Numbers USA, the Center for Immigration Studies, and the Center for Security Policy oppose resettlement and are fostering hostile atmospheres for newcomers.³⁶⁷ In addition, some governors have opposed resettlement to their states,³⁶⁸ and various state legislatures have proposed legislation that would enact harmful policies toward refugees.³⁶⁹ It would, however, enhance U.S. security interests if these

364. See *ORR Benefits-at-a-Glance*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. ADMIN. FOR CHILDREN AND FAMILIES OFFICE OF REFUGEE RESETTLEMENT, https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_benefits_at_a_glance.pdf (last visited Jan. 2017) [<https://perma.cc/5HTH-FHLH>].

365. See, e.g., *Habitat for Humanity Lebanon*, HABITAT FOR HUMANITY, <https://www.habitat.org/where-we-build/lebanon> [<http://perma.cc/438K-YJPF>] (last visited on Apr. 7, 2017).

366. Eleanor Ott, *Get Up and Go: Refugee Resettlement and Secondary Migration in the USA*, UNHCR 2 (Sept. 2011).

367. See, e.g., Ann Corcoran, *About*, REFUGEE RESETTLEMENT WATCH (Apr. 26, 2015), <https://refugeeresettlementwatch.wordpress.com/about/> [<http://perma.cc/R554-PAFX>]; Jeremy Beck, *Refugee Resettlement Isn't an Option for Majority of the Displaced*, NUMBERSUSA (Jan. 31, 2017, 8:49 AM), <https://www.numbersusa.com/blog/refugee-resettlement-isnt-option-majority-displaced> [<http://perma.cc/EWQ4-K7BP>]; Steven A. Camarota & Karen Zeigler, *The High Cost of Resettling Middle Eastern Refugees*, CTR. FOR IMMIGR. STUD. BACKGROUNDER (Nov. 2015), http://cis.org/sites/cis.org/files/camarota-refugees-15_0.pdf [<http://perma.cc/3J8D-BUHT>]; *Dismantling the Foreign Refugee Resettlement Program*, CTR. FOR SECURITY POL'Y: SECURE FREEDOM RADIO (Sept. 18, 2015), <http://www.centerforsecuritypolicy.org/2015/09/18/dismantling-the-foreign-refugee-resettlement-program/> [<http://perma.cc/UN2W-U5B8>].

368. See Arnie Seipel, *30 Governors Call For Halt to U.S. Resettlement of Syrian Refugees*, NPR (Nov. 17, 2015, 9:50 AM), <http://www.npr.org/2015/11/17/456336432/more-governors-oppose-u-s-resettlement-of-syrian-refugees> [<http://perma.cc/7C7K-8TTC>].

369. See *Nationwide Anti-Refugee Legislation by State*, AM. CIVIL LIBERTIES UNION, <https://www.aclu.org/map/nationwide-anti-refugee-legislation-state> (last visited Mar. 7, 2017) [<http://perma.cc/4SU2-RC3G>].

governors could be convinced that it behooves them to be more receptive to refugees.

It is critical that policymakers learn about the importance of resettlement from refugees themselves and from supportive community members.³⁷⁰ As pro-refugee legislation is introduced, refugee advocates will have to rally their constituencies to support these measures and foster a welcoming environment for refugee resettlement in the United States. Advocates can work together with policymakers to further highlight the existing measures that safeguard national security while still allowing for refugee resettlement and processing. Advocates can also bring more attention to bear on the national-security objectives of the refugee resettlement program and the program's important work in protecting and advancing U.S. interests domestically and internationally.

Furthermore, advocates can continue to build on existing public-private partnerships to marshal more resources for resettlement and can better identify and track refugees' substantial contributions to local economies and communities.

370. *Toolkit for Local Congressional Visits: Increasing Resources for Refugee Protection & Resettlement 2016*, REFUGEE COUNCIL USA 1 (2016), https://static1.square-space.com/static/577d437bf5e231586a7055a9/t/5810d165cd0f6878e6d16087/1477497191862/RCUSA+Updated+FY17+Appropriations+Toolkit_10.26.16.pdf [<http://perma.cc/6TD4-JDDY>] (“When policy makers know that their constituents care about refugees, they will increasingly vote for increased funding for refugee protection and resettlement, as well as productive policies that help refugees.”).