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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

September 23, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Nebraska Avenue Center
Washington, D.C. 20528

The Honorable John F. Kerry
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable James Comey
Director
Federal Bureau of Investigation
601 Fourth Street, NW
Washington, D.C. 20535

Dear Secretaries Johnson and Kerry, Attorney General Lynch, and Director Comey:

I write today to ask vital questions about the national security vulnerabilities that have been created by this Administration's and your departments' handling of the Syrian refugee situation. The goals and policies developed by you and the President, which apparently seek to ensure the admission of tens of thousands of Syrian refugees over the next few years, have prioritized the needs of foreign nationals of unknown backgrounds, affiliations, and motivations over the safety and security of American citizens. Far more information is needed than what is currently available to permit this to continue.

The rise of the Islamic State of Iraq and Syria (ISIS) – for which this Administration bears significant blame¹ – has fueled a massive exodus of Syrians and other foreign nationals from the region. Many of those who are fleeing the barbarism of war-torn Syria have sought refuge in the

¹ See, e.g., Danielle Pletka, *What Obama Has Wrought in Iraq*, USNEWS.COM (Jun. 13, 2014) (noting how the Obama Administration pulled not only overt military support from a stabilizing Iraq, but also withdrew less visible counter-terrorism and intelligence tools from the Iraqi effort); Rebecca Kaplan, *Leon Panetta criticizes Obama for Iraq withdrawal*, CBSNEWS.COM (Oct. 2, 2014) (citing Panetta's comments about how President Obama's failure to fight for a status of forces agreement with the Iraqi government created the current vacuum); see also Jim Geraghty, *Remember When Obama Called ISIS 'Jayvee'?*, NATIONAL REVIEW (Aug. 6, 2014).

territories of welcoming Middle Eastern neighbors,² as well as the European Union (EU).³ The undeniable good will of these countries is being strained by both violence of the entering refugees⁴ and a more general overwhelming of their respective social welfare systems.⁵

While what is occurring in the Middle East and Europe is clearly a humanitarian problem, I have grave concern about what appears to be this Administration's headlong rush to import tens of thousands of individuals from Syria and elsewhere⁶ who have not been properly vetted. This scenario would be of grave concern even in the absence of specific commentary by ISIS, but there is good reason to believe that ISIS is trying to use the outflow of refugees from Syria to help send terror operatives into Europe and the United States.⁷ Given these and other circumstances,⁸ the refugee flow out of Syria must be treated as a substantial national security risk.

On Monday, a handful of Administration officials from your respective departments briefed congressional staff on the effort to bring tens of thousands of Syrian refugees to the United States. While we are grateful for this outreach, the briefing exposed significant vulnerabilities in the way the Administration has chosen to handle these refugees, raising the more fundamental

² See Michael Martinez, *Syrian refugees: Which countries welcome them, which ones don't*, CNN.COM (Sep. 10, 2015) (identifying Turkey, Lebanon, Jordan, and Egypt as Middle Eastern countries that are accepting refugees, but noting that Saudi Arabia, Kuwait, Qatar, and Bahrain refuse to accept *any* refugees); Jared Malsin, *Why Some Arab States Refuse to Accept Syrian Refugees*, TIME.COM (Sep. 8, 2015) (noting how the far wealthier Gulf States have generally balked at accepting refugees, despite strong cultural and linguistic ties).

³ See Francesco Guarascio and Alastair MacDonald, *EU refugee plan attacked on eve of crisis summit*, REUTERS (U.K.) (Sep. 22, 2015) (discussing internal EU resistance to a plan to distribute refugees evenly across the EU, and noting EU members' increasing frustration with refugees' free movement to preferred welfare-distributing nations within the EU).

⁴ See Julian Robinson, Flora Drury, and John Hall, *From one warzone to another: Bloody violence breaks out between Syrian and Afghan migrants as they fight to board trains across Croatia as the country's PM begs refugees to go elsewhere*, DAILY MAIL (U.K.) (Sep. 18, 2015).

⁵ See Donna Rachel Edmunds, *Migrants: We Don't Like Denmark Because 'Refugee Salaries' Are Too Low There*, BREITBART.COM (Sep. 14, 2015) (quoting refugees as expressing a preference for countries such as Sweden, Finland, and others because of their generous benefit and immigration policies); cf. Caroline May, *More Than 90 Percent of Middle Eastern Refugees on Food Stamps*, BREITBART.COM (Sep. 10, 2015) (citing Department of Health and Human Services' Office of Refugee Resettlement data showing that 91.4% of Middle Eastern refugees in the United States in FY 2013 received food stamps, 73.1% received Medicare or Refugee Medical Assistance, and 68.3% received cash welfare payments).

⁶ It is important to stress that, despite the Administration's broad-stroke characterizations of these refugees as Syrian, a significant number of refugees are citizens of Iraq, Afghanistan, and other Middle Eastern and North African countries. See, e.g., Michael Martinez, *Syrian refugees: Which countries welcome them, which ones don't*, CNN.COM (Sep. 10, 2015) (claiming that 3 million refugees have fled Iraq, and that Afghanistan is the "second-largest producer of asylum seekers"); see also Patrick Kingsley, *Refugee crisis: apart from Syrians, who is travelling to Europe?*, GUARDIAN (U.K.) (Sep. 10, 2015) (listing Eritreans, Nigerians, Somalians, Pakistanis, and Sudanese as populations that are also taking advantage of the refugee flow into Europe).

⁷ See, e.g., Michael Kaplan, *Refugee Crisis: ISIS Fighters in Europe? Islamic State Extremists Exploit Refugee Flow, Waiting to Launch Attacks, Militant Operative Says*, INTERNATIONAL BUSINESS TIMES (Sep. 7, 2015); see also Mike Giglio and Munzer al-Awad, *ISIS Operative: This Is How We Send Jihadis to Europe*, BUZZFEED.COM (Jan. 29, 2015) (quoting an anonymous, self-described ISIS operative in Turkey who provided detailed plans for European infiltration).

⁸ See Rachel Stoltzfoos, *UN: Migrants Fleeing To Europe Are Predominantly Adult Men*, DAILY CALLER (Sep. 9, 2015) (citing U.N. data showing approximately 70% of refugees entering Europe are adult men).

question of whether the Administration should be exerting such an effort to import potential national security threats.

In the current threat environment – with an Administration that seems more intent on responding to the interests of the world than the needs of the American people – Congress has an obligation to be vocal and, if necessary, resist this effort. To be clear, this has nothing to do with immigration policy and everything to do with national security. Congress needs much more information before we can allow the United States to engage in a process that could wind up spending taxpayer dollars to import terrorism, much less fund that process.

In light of the above, I therefore request that your departments engage in the following preservation efforts, effective immediately:⁹

1. Preserve all **classified and unclassified** paper-based documents, e-mail-based communications, e-mail-based calendar appointments, electronic documents, electronic communications (including voicemails, SMS (i.e., text) messages, and instant messages), and all other electronic data regardless of format, created since October 1, 2013, that:
 - a. Discuss or relate to any aspect of conflict in Syria and/or Iraq;
 - b. Discuss or relate to refugees originating from any Middle Eastern, African, or Central Asian country;
 - c. Are the records of General John Allen (USMC, Ret.), the Special Presidential Envoy for the Global Coalition to Counter ISIL, his staff, and any other federal personnel involved in this effort; and
 - d. Otherwise include the phrases or terms “Islamic State,” “Islamic State of Iraq and Syria,” or “Islamic State of Iraq and the Levant,” the words or acronyms “Daesh,” “ISIS,” or “ISIL,” or any related phrases, terms, words, or acronyms.
2. Exercise any and all reasonable efforts to identify and notify former department employees, contractors, subcontractors, grantees, subgrantees, and consultants who may have access to such electronic or non-electronic records that these records are also to be preserved.
3. If it is a practice of your department, any department component, any federal employee, any contract employee, any grantee or subgrantee, or any consultant to destroy or otherwise alter such electronic or non-electronic records, either halt such practices immediately, or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production if requested.

Please also provide the following unredacted documents and information for the time period from October 1, 2013, to the present (unless a different time period is specified below):

⁹ I would remind you, your agencies, and their officials, personnel, contractors, grantees, and consultants that violation of this preservation order is a violation of federal criminal law. See *generally* 18 U.S.C. § 1505.

1. Please provide a **detailed** description of the process that is used to vet the individuals seeking entry to the United States as refugees from Syria.
2. Please provide information regarding the different federal, state, and international anti-terrorism and criminal databases that are used to cross-check the possible terrorist or criminal backgrounds of individuals seeking entry to the United States as refugees from Syria.
3. If an individual who is seeking entry to the United States as a refugee from Syria does not register on any federal, state, or international anti-terrorism or criminal database, is it your respective departments' positions that such individual has zero involvement in terrorism and should enter the United States?
4. Given that the United States has virtually no military or intelligence presence in Syria at the present time, which in turn likely means it also has zero ability to verify the administrative or civilian records of individuals making assertions of Syrian citizenship, please explain what serves as the basis for refugee application approval and/or admission to the United States.
5. Can an individual seeking entry to the United States as a refugee from Syria have their refugee application approved and be admitted to the United States **solely** based on their own assertions of identity and nationality?
6. Please provide additional information on the number of individuals who have sought entry to the United States as refugees from Syria who:
 - a. Are males **under the age of 18 years old**;
 - b. Are males **18 years old and older**;
 - c. Have received or are receiving enhanced screening; and
 - d. Were approved and allowed to enter the United States **after** receiving enhanced screening.
7. Please indicate the nationalities of the individuals who are seeking entry to the United States as refugees from Syria (broken down by both raw numbers and percentages).
8. Do any of your departments make any efforts to apprehend (for federal prosecution or extradition) any individual seeking entry to the United States as a refugee from Syria if such individual is believed to be suspected of international terrorist or criminal activity? If the answer is no, please explain why.
9. Please provide the following additional information about the individuals seeking entry to the United States as refugees from Syria:

- a. What biographic and/or biometric information, if any, is collected for **adults**;
 - b. What biographic and/or biometric information, if any, is collected for **children**;
 - c. The degree to which such biographic and/or biometric information is saved and/or stored for future, domestic anti-terrorism and/or law enforcement purposes; and
 - d. Any agreements or memoranda of understanding (MOU) that restrict the ability of federal, state, and/or local law enforcement to access such biographic and/or biometric information.¹⁰
10. Regarding \$419 million that has been pledged by Secretary Kerry as refugee aid:¹¹
- a. The federal fund or account that is the source of that pledged amount; and
 - b. The names of the organizations that are recipients of this funding.
11. What special steps, if any, are being made to ensure that Syrian and Iraqi Christians and Jews, who are specifically being targeted by ISIS, are being prioritized at this time.
12. What special steps, if any, are being made to ensure that Syrian and Iraqi nationals who are awaiting receipt of legal permanent residence in the United States are being prioritized at this time.
13. What special steps, if any, is the United States government taking to engage the Gulf States who are minimally involved in the regional relief effort to get involved?
14. What role, if any, is the Department of Health and Human Services' Office of Refugee Resettlement playing in the vetting of individuals seeking entry to the United States as refugees from Syria?

I would also request that you provide us with any additional materials that fall into the above categories on a continuing basis but are created, written, or otherwise produced after the Department's initial receipt of this request.

Please provide the requested documents and information as soon as possible, but **no later than 9:00 a.m. on Wednesday, September 30, 2015**. When producing documents to the Committee, please deliver separate production sets to both the Majority Staff in Room 224 of the Dirksen Senate Office Building and the Minority Staff in Room 152 of the Dirksen Senate Office Building.

¹⁰ Please specifically provide *unredacted* copies of any such agreements or MOUs.

¹¹ See Carol Morello, *U.S. gives \$419 million more to aid Syrian refugees*, WASH. POST (Sep. 21, 2015) (noting the amount, and that "[t]he United States has been the single largest donor of humanitarian aid to Syrians").

The Honorable Jeh Johnson et al
September 23, 2015
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I appreciate your cooperation in this very important matter and look forward to receipt of the requested material at the stated date and time. Please contact Committee staff at (202) 224-5225 if you have any additional questions.

Sincerely,



Ted Cruz
Chairman
Subcommittee on Oversight, Agency Action,
Federal Rights and Federal Courts

cc: The Honorable Charles E. Grassley
Chairman
Senate Committee on the Judiciary

The Honorable Patrick J. Leahy
Ranking Member
Senate Committee on the Judiciary

The Honorable Christopher A. Coons
Ranking Member
Subcommittee on Oversight, Agency Action,
Federal Rights and Federal Courts

The Honorable Leon Rodriguez
Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security