

United States Senate

WASHINGTON, DC 20510

November 6, 2019

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

The Honorable Kevin McAleenan
Acting Secretary
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528

Dear Secretary Pompeo and Acting Secretary McAleenan:

We write to urgently request a briefing about the Trump administration's recently announced Presidential Determination on Refugee Admissions for Fiscal Year 2020.¹

In addition to establishing the lowest refugee admissions goal in the history of the United States Refugee Admissions Program (USRAP),² the Trump administration is pursuing modifications to the refugee resettlement process that could effectively—and perhaps intentionally—damage our long-term capacity to resettle refugees in the United States. Given vocal, bipartisan warnings about the dire consequences of the Trump administration's FY 2020 plans for USRAP,³ we, as members of the Senate committee of jurisdiction over refugee and immigration policy, request an in-person briefing to address our most serious concerns, outlined in this letter.

First, the sheer decrease in overall admissions could effectively end USRAP. USRAP relies on the services of resettlement agencies, which provide critical on-the-ground services to welcome and settle arriving refugees. The Trump administration's efforts to hollow out our refugee admissions have already begun starving the infrastructure built by resettlement agencies to help refugees integrate into U.S. communities. Indeed, it was recently reported that a Church World Service resettlement office in Richmond, Virginia—which has provided critical services to refugees for 57 years—was forced to close.⁴ As of April 2019, approximately 100 offices operated by refugee resettlement agencies have closed or suspended their operations.⁵ With even

¹ The White House, Presidential Determination on Refugee Admissions for Fiscal Year 2020 (Nov. 1, 2019), available at <https://www.whitehouse.gov/presidential-actions/presidential-determination-refugee-admissions-fiscal-year-2020/>.

² Aris Folley, The Hill, *Trump approves plan for record low number of refugee admissions* (Nov. 3, 2019), available at <https://thehill.com/homenews/administration/468761-trump-approves-plan-for-record-lower-number-of-refugee-admissions>.

³ Senator James Lankford, *Senators Lankford, Coons Lead Letter on Concerns to Eliminate Refugee Cap* (Aug. 5, 2019), available at <https://www.lankford.senate.gov/news/press-releases/senators-lankford-coons-lead-letter-on-concerns-to-eliminate-refugee-cap>.

⁴ Alvarez, Priscilla, CNN, *Resettlement offices close as fewer refugees are allowed into the US* (Sept. 20, 2019), available at <https://www.cnn.com/2019/09/20/politics/refugee-resettlement/index.html>.

⁵ *Id.*

more sudden and significant declines in the volume of refugee admissions, we face the grave reality that the Trump administration's short-term decisions could have debilitating long-term consequences on USRAP and our ability to resettle refugees in the United States.

Second, the administration's allocation of refugee admissions among particular categories of individuals could render it impossible to meet even the depressed cap of 18,000 refugees. The administration has reserved 4,000 refugee slots for Iraqis who have supported the United States military, 1,500 for people from Central America, 5,000 for people persecuted on account of their religion, and 7,500 for other refugees.⁶ Refugee resettlement agencies have expressed that the allocations are likely untenable. For example, although the administration has proposed that 4,000 refugee admissions be reserved for Iraqis that assisted the U.S. military, it does not appear to have accounted for the lengthy security check process that has prevented otherwise qualifying individuals from securing the necessary approvals to enter the United States.⁷ In fact, only 153 Iraqi refugees whose applications were deemed "high priority" were admitted under USRAP during the previous fiscal year.⁸ Thousands more—many of whom risked their lives providing wartime assistance to our troops—wait in dangerous limbo because of these processing delays. In addition, the administration's reservation of 7,500 refugee admissions for other categories of individuals, including those seeking family reunification, appears to largely exclude individuals referred by the United Nations—a measure that could have serious impacts on both USRAP and the refugee resettlement agencies' operations.

Third, we are deeply troubled that the allocations appear to exclude significant vulnerable populations in need of resettlement, including unaccompanied refugee minors and populations previously admitted to USRAP under the Priority 2 (P2) category for groups of special humanitarian concern. P2 status protects specific groups identified by the Department of State as being in need of resettlement, generally because their ethnic, religious or national identity has led to persecution or oppression on a group-wide basis. For example, this priority status protects groups of ethnic minorities from Burma and Congolese refugees fleeing ethnic conflict. It is absolutely critical that the administration clarify whether its allocations effectively cut off entire vulnerable populations from USRAP.

Finally, the administration's executive order stating that refugees may only be resettled "in those jurisdictions in which both the State and local governments have consented to receive refugees" presents serious risks to the continued operation of USRAP.⁹ This requirement will undoubtedly cause disruptions and disputes in the refugee resettlement process—which, incidentally, already includes a consultation process with state and local officials. Moreover, permitting state and

⁶ Shear, Michael D., Zolan Kanno-Youngs, New York Times, *Trump Slashes Refugee Cap to 18,000, Curtailing U.S. Role as Haven* (Sept. 26, 2019), available at <https://www.nytimes.com/2019/09/26/us/politics/trump-refugees.html>.

⁷ See, e.g., NPR, *Trump Administration Has Drastically Dropped Visas For Afghan And Iraqi Interpreters* (May 1, 2019), available at <https://www.npr.org/2019/05/01/718927688/no-visas-for-afghan-and-iraqi-interpreters>.

⁸ Lara Jakes, New York Times, *Under Trump, Iraqis Who Helped U.S. in War Are Stalled in Refugee System* (Nov. 2, 2019), available at <https://www.nytimes.com/2019/11/02/world/middleeast/trump-refugees-iraq.html>.

⁹ The White House, *Executive Order on Enhancing State and Local Involvement in Refugee Resettlement* (Sept. 26, 2019), available at <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-state-local-involvement-refugee-resettlement/>.

local jurisdictions to drive refugee policy subverts over a century of binding Supreme Court precedent. The Supreme Court has repeatedly recognized that immigration policy is intimately tied to foreign relations and is therefore uniquely within the purview of the federal government¹⁰ because of the “[n]ation’s need to ‘speak with one voice’ in immigration matters.”¹¹ Indeed, the Trump administration has invoked this bedrock principle to support its efforts to impose draconian immigration policies and nullify conflicting state efforts.¹² As the Supreme Court has explained, where a state inserts itself into immigration enforcement, “a single State can, at her pleasure, embroil us in disastrous quarrels with other nations.”¹³ Notwithstanding the clearly established supremacy of federal over state law in this space, this executive order turns established precedent on its head in service of empowering what will amount to state and local refugee bans.¹⁴

We are facing the most significant displacement and refugee crisis in modern history.¹⁵ Reaffirming our historic role as the world’s humanitarian leader in this moment is not just about promoting our values. It is about protecting our security interests. Dozens of military leaders have spoken out to identify the critical importance of a robust refugee resettlement program to our military, national security and foreign policy interests,¹⁶ in part explaining why USRAP has enjoyed widespread bipartisan support from Congress and the Executive Branch during the nearly 40 years of its existence.

The Trump administration’s sweeping, structural changes to our refugee admissions and resettlement process merit thorough deliberations between Congress and the Executive Branch—more than just a single meeting that checks the consultation box. Therefore, we request an in-person briefing to our Committee no later than November 21st, 2019, so that we can better understand the potential consequences of the Trump administration’s decisions on a program that is so vital to our nation’s interests and identity.

¹⁰ *Arizona v. United States*, 567 U.S. 387, 394 (2012) (“The Government of the United States has broad, undoubted power over the subject of immigration”).

¹¹ *Zadvydas v. Davis*, 533 U.S. 678, 700 (2001); *Am. Ins. Ass’n v. Garamendi*, 539 U.S. 396, 414 (2003).

¹² *United States v. California*, 2018 WL 1473199 (E.D. Cal. 2018) (DOJ relying on *Arizona* decision arguing that California law preventing employers from cooperating with ICE workplace raids was preempted by Federal Law).

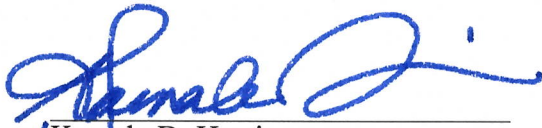
¹³ *Chy Lung v. Freeman*, 92 U.S. 275, 280 (1875).

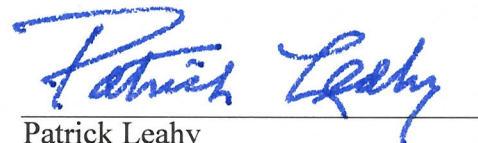
¹⁴ See, e.g., Manuel Madrid, Miami New Times, *Florida Cities Would Need Governor's Permission to Resettle Refugees Under New Trump Order* (Sept. 30, 2019), available at <https://www.miaminewtimes.com/news/under-trump-order-florida-refugee-resettlement-could-depend-on-gov-ron-desantis-11279090>.

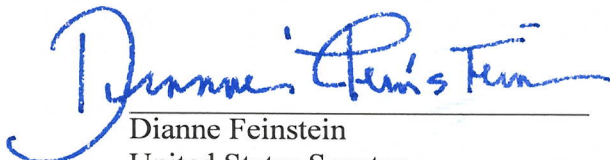
¹⁵ UNHCR, *Worldwide displacement tops 70 million*, UN Refugee Chief urges greater solidarity in response (June 19, 2019), available at <https://www.unhcr.org/news/press/2019/6/5d03b22b4/worldwide-displacement-tops-70-million-un-refugee-chief-urges-greater-solidarity.html>; Stef W. Kight, Axios, *Refugee crisis: Chart shows staggering rise of displaced people in the world* (May 18, 2019), available at <https://www.axios.com/refugee-population-world-9d7e786e-3773-4d17-ac0b-5baa3bee031e.html>.

¹⁶ Letter to President Donald J. Trump (Sept. 3, 2019), available at <https://int.nyt.com/data/documenthelper/1694-generals-letter-refugee/46f652adbef5a13c2c0/optimized/full.pdf#page=1>.


Sincerely,

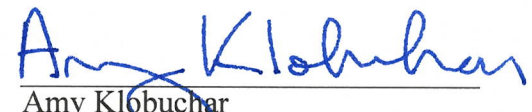

Kamala D. Harris
United States Senator

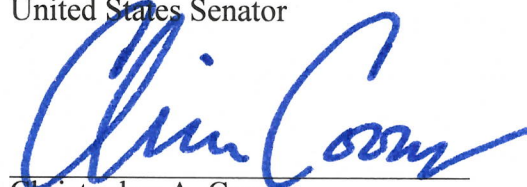

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United States Senator


Dianne Feinstein
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Richard J. Durbin
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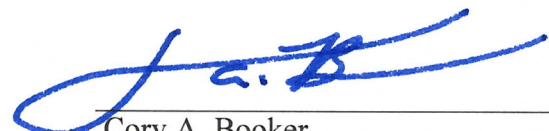

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