



America's Refugee, Asylum, and Visa Waiver Programs: Our Entire Access System is Broken

Foreigners, including refugees, have no basic or universal right to enter the United States; that entry is granted as a privilege. In today's complex and dangerous environment, and in light of the growing worldwide terror threat, entry into this country is a matter of national security. Lawmakers and the immigration and refugee agencies have the responsibility to design and implement programs that protect the homeland.

President Obama has consistently downplayed the terror risks involved in the refugee crisis. Speaking shortly after the Paris terror attacks led to widespread reluctance to admit these refugees into the U.S., Obama admonished his critics: "We are not well served when, in response to a terrorist attack, we descend into fear and panic. We don't make good decisions if it's based on hysteria or an exaggeration of risks."¹

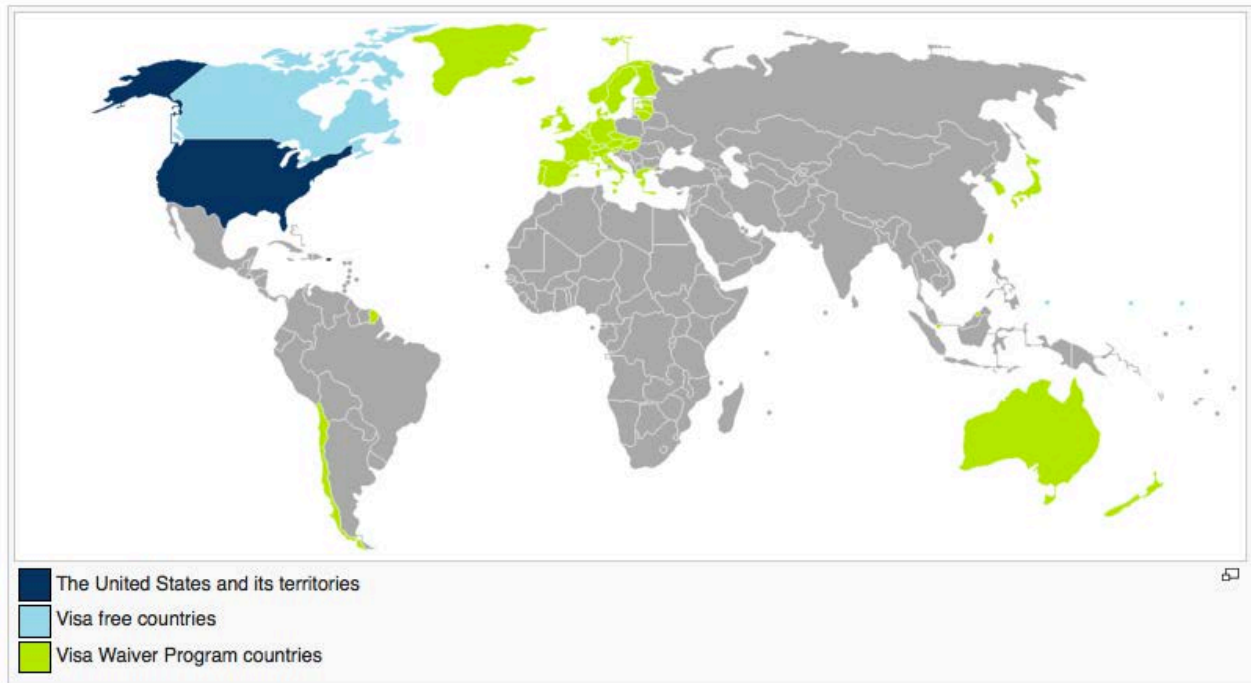
It is highly doubtful, however, that critics of Obama's plan really are exaggerating the risks, since there are multiple cases of individuals coming to the U.S. as refugees only to get involved in terrorist activity later. In addition, the U.S. refugee system already is overtaxed and could be overloaded to the point of breakdown with the new refugee influx. Moreover, it is not just America's refugee program that is vulnerable: virtually every aspect of our apparatus for immigration, particularly our systems for granting asylum and refugee status, including the Visa Waiver Program, is broken and on the verge of collapse.

This report will examine three potential points of entry into the U.S. – the Visa Waiver Program, the system for admitting refugees, and the system for granting asylum – to show how terrorists are taking advantage of weaknesses in each, and will recommend how each can be repaired.

¹ Dan Roberts and Tom McCarthy, "'Offensive and hysterical': Obama lashes Republicans over Syrian refugees," *The Guardian*, November 17, 2015, <http://www.theguardian.com/us-news/2015/nov/17/republicans-congress-syrian-refugees-us-paris-attacks>.



I. The Visa Waiver Program



(map source: Wikipedia)

Security risks and terrorist use of the Visa Waiver Program

The Visa Waiver Program (VWP) enables citizens of 38 designated countries to travel visa-free to the United States for up to 90 days.² These countries are Andorra, Australia, Austria, Belgium, Brunei, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom. This program is an extremely popular method of entering the United States: **over 21 million people entered the U.S. from VWP countries in 2013 alone.**³

The VWP gives travelers the privilege of bypassing the State Department's visa screening process and presenting themselves to U.S. border officials for admission into the country at any port of entry without a background check conducted overseas. Citizens of foreign countries

² Visa Waiver Program (VWP) Countries, U.S. Customs and Border Protection, Last updated November 13, 2015, https://help.cbp.gov/app/answers/detail/a_id/1550/~/visa-waiver-program-%28vwp%29-countries.

³ Department of Homeland Security, Office of Immigration Statistics, 2013 Yearbook of Immigration Statistics, August 2014, http://www.dhs.gov/sites/default/files/publications/ois_yb_2013.pdf.



who are not part of the VWP, in contrast, need to go to a U.S. Embassy or Consulate abroad and file Department of State Form 156 (DS-156) or DS-160 – a non-immigrant visa application. Pursuant to Title 8 of the Code of Federal Regulations (CFR), Section 217.2(b)(1), each VWP applicant needs to present a valid, unexpired passport from a VWP country, as well as Department of Homeland Security (DHS) form 6059B (Customs Declaration) and DHS form I-94W (non-immigrant alien arrival/departure record) upon entry to the U.S. Prior to boarding their flight abroad, visa waiver travelers must also obtain Electronic System for Travel Authorization (ESTA).

Terrorists have frequently exploited the VWP to gain entry into the U.S. Officials must be on guard against ISIS sneaking people into the U.S. by means of refugee programs, as occurred in the November 2015 Paris terror attacks, where at least one of the perpetrators was a refugee who had just arrived in Europe in October. Even worse, however, is the fact that the rest of the Paris jihadis were naturalized citizens, so they could have come to the U.S. as part of the Visa Waiver Program.

On November 30, 2015, the Obama administration tightened VWP requirements, allowing for the possibility of increased fines for airlines that do not verify the true identities of their passengers, and improved sharing of information between countries. Administration officials admitted, however, that these improvements were limited in scope, and that legislation would be needed to fix all the weaknesses of the program that terrorists exploit.⁴

CBP's own website indicates that the electronic travel authorization can be obtained seconds before boarding, but applying 72 hours before traveling is recommended.⁵ This is entirely too quick and leaves room for terrorist exploitation. The largest flaw with the Visa Waiver Program is that it relies on the applicant to self-report derogatory information. Therefore, the need for VWP to share access to criminal history and biometric information in their country is essential to ensure the program is not manipulated by terrorists as it has been in the past.

This terrorist exploitation of the VWP has been going on for years. Zacarias Moussaoui, a French citizen of Moroccan descent, entered the U.S. under the VWP on February 23, 2001. Moussaoui flew from London to Chicago and then on to Oklahoma City, where he attended flight school.⁶ Moussaoui was arrested by the INS in Minneapolis on August 16, 2001 as a visa waiver

⁴ Gardner Harris and Michael S. Schmidt, "U.S. Tightens Visa-Waiver Program in Bid to Deter Militants," *New York Times*, November 30, 2015, <http://www.nytimes.com/2015/12/01/us/politics/01visa.html>.

⁵ Customs and Border Protection, "ESTA – Length of Approval," https://help.cbp.gov/app/answers/detail/a_id/1126/~/esta---length-of-approval

⁶ DHS – OIG. An Evaluation of the Security Implications of the Visa Waiver Program. DHS-OIG report #: OIG-04-26. April 2004. <http://www.gao.gov/new.items/d0338.pdf>.



overstay. He was subsequently tried and convicted of conspiring to kill Americans as part of the terrorist attacks of September 11, 2001.⁷ Moussaoui will spend the rest of his life in jail.

On December 22, 2001, Richard Reid, using a British passport issued to him in Amsterdam, boarded American Airlines Flight 63 from Paris to Miami and attempted to light explosives in his shoes during the flight, but was subdued by passengers and crew. The flight was diverted to Boston, and Reid was arrested.⁸

The European Union (EU) Terrorism Situation and Trend Report of 2007 stated that several Islamic terrorist suspects were arrested in VWP countries in 2006: one was arrested in Belgium; nine in Denmark; 139 in France; 11 in Germany; 34 in Italy; 51 in Spain; three in Slovakia; and three in Sweden.⁹

Stolen passports reveal another weakness of the VWP. A December 2004 report by the Department of Homeland Security (DHS) Office of the Inspector General (OIG) indicated that 708 blank passports were stolen from an undisclosed VWP country on June 6, 2001.¹⁰ The significance of this theft is that it occurred in a city “that was also the location of the Al Qaeda cell that played a significant role in providing financial and logistical support for the September 11th terrorists.”

What is unacceptable about this incident is that the VWP country did not report the theft of these passports to the U.S. until April 2004.¹¹ The Enhanced Border Security and Visa Entry Reform Act of 2002 required VWP countries to report in a timely manner the theft or loss of unassigned passports. Noncompliance of a VWP country is a threat to U.S. national security.

The Inspector General’s report revealed that an INTERPOL database contained approximately 1.6 million lost/stolen passport records from 41 countries and that only seven of the then-27 VWP countries (there are now 38 countries in the program) participated in the INTERPOL lost/stolen passport database. A May 2007 *Washington Post* article indicated that the INTERPOL database had risen to 6.7 million records of lost or stolen passports, of which 2.8 million

⁷ Jury Verdict Form, *U.S. v. Moussaoui*, 01-cr-455 (E. D. Va., April 3, 2006).

⁸ Government Sentencing Memorandum, *U.S. v. Reid*, 02-cr-10013, (D. Mass. January 17, 2003).

⁹ EUROPOL, European Union (EU) Terrorism Situation and Trend Report – 2007,

<https://www.europol.europa.eu/content/publication/te-sat-2007-eu-terrorism-situation-trend-report-1467>.

¹⁰ DHS – OIG, “A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States,” DHS-OIG report #: OIG-05-07, December 2004, https://www.oig.dhs.gov/assets/Mgmt/OIG_05-07_Dec04.pdf.

¹¹ *Ibid.*



records were from VWP countries.¹² Each one of these stolen/lost passports from VWP countries poses a national security risk to the United States.

Another theft of blank passports discussed in the Inspector General's report, 46 taken from an undisclosed VWP country in 1999, was directly connected to a significant attack in Afghanistan.

On September 9, 2001, Commander Ahmad Shah Massoud, military chief of the National Alliance in Afghanistan, was killed in an Al-Qaeda suicide car bombing by two Moroccan terrorists posing as journalists. Each had one of the stolen passports. In addition, six other individuals tried to enter the U.S. using more of the stolen passports from 1999.¹³

Terrorists' use of manipulated VWP passports is most disturbingly demonstrated by the entry of Ahmed Ajaj to the U.S. using a photo-substituted Swedish passport on September 1, 1992. Ajaj was sent to secondary inspection by the Immigration and Naturalization Service (INS) after arriving at New York's JFK International Airport on a flight from Peshawar, Pakistan. Inspectors found six bomb-making manuals, notes that Ajaj had taken during explosives courses, videotapes calling for terrorist attacks against the U.S., and multiple fake passports and identification documents. Ajaj was arrested for passport fraud and illegal entry and spent six months in jail.

From his cell, Ajaj took part in the planning of the first bombing of the World Trade Center, which occurred on February 26, 1993.¹⁴ After the bombing, the investigation revealed that from jail Ajaj had over 20 conversations (in Arabic) with Ramzi Yousef and other individuals involved in the World Trade Center bombing. Yousef, the nephew of 9/11 mastermind Khalid Sheik Mohammed, traveled to the U.S. on the same flight as Ajaj. Yousef boarded the flight with a fake British passport, yet presented an Iraqi passport and requested asylum upon entry to the U.S.

[The 9/11 Commission Staff Report on Terrorist Travel](#) noted:

Once terrorists had entered the United States, their next challenge was to find a way to remain here. Their primary method was immigration fraud. For example, Yousef and Ajaj concocted bogus political asylum stories when they arrived in the United States.

¹² Spencer Hsu, "U.S. to use INTERPOL passport database for screening." *Washington Post*, May 6, 2007 <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/05/AR2007050500770.html>.

¹³ DHS – OIG, "A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States," DHS-OIG report #: OIG-05-07, December 2004, https://www.oig.dhs.gov/assets/Mgmt/OIG_05-07_Dec04.pdf

¹⁴ Steven A. Camarota, "The Open Door: How Militant Islamic Terrorists Entered and Remained in the United States, 1993-2001", Center for Immigration Studies, May 2002, <http://www.cis.org/articles/2002/theopendoor.pdf>



Mahmoud Abouhalima, involved in both the World Trade Center and landmarks plots, received temporary residence under the Seasonal Agricultural Workers (SAW) program, after falsely claiming that he picked beans in Florida.¹⁵

Failures of the Electronic System for Travel Authorization (ESTA)

A potential disaster lies within the Electronic System for Travel Authorization (ESTA), automated system for determining the eligibility of applicants to travel to the U.S. under the VWP. Since January 2009, all countries that are part of the VWP have been required to obtain travel authorization using ESTA prior to traveling to the U.S. Yet this form relies on travelers to self-report if they have been arrested, or for that matter, committed espionage or terrorist acts, after they have been issued travel authorization.

Travelers also are expected to self-report if any of their answers to the eight travel authorization questions have changed since they received travel authorization.

It is highly unlikely that the names and identifiers of VWP travelers in ESTA are shared via automation with the criminal history database and/or fingerprint database of the traveler's home country. Such access might be one of the few ways (minus a confession) to identify if a VWP traveler is making a false statement on an ESTA.

¹⁵ Staff Report of the National Commission on Terrorist Attacks Upon the United States, "9/11 and Terrorist Travel," page 47, http://www.9-11commission.gov/staff_statements/911_TerrTrav_Monograph.pdf ("9/11 Commission Staff Report on Terrorist Travel").



II. The system for refugees and asylum seekers

Immigration statistics on refugees

Both refugees and asylum seekers are generally processed through the Office of Refugee Resettlement (ORR), a program of the Department of Health and Human Services (HHS)'s office of Administration for Children and Families (ACF). In this work, the ORR partners not only with various other HHS agencies, but with DHS, the State Department, and the Justice Department.

The term "*refugee*," according to statute, designates someone who is outside the country of his or her nationality and is unable to return due to persecution or a "well-founded fear of persecution" based on race, religion, nationality, membership in a particular social group, or political opinion. Refugees are processed outside the U.S., while asylum seekers have already entered the country. While asylum seekers fit the definition of a refugee, they are already here, and their cases are processed while they are inside the U.S.

The United States admitted 588,364 refugees between 2004-13, an average of 58,836 per year. However, between 2009 and 2013, the U.S. admitted 36 or fewer Syrian refugees each year.¹⁶ As of August 2014, the State Department had 2,500 Syrian referrals for the refugee program and anticipated similar numbers in 2016.¹⁷ The administration now wants 10,000 Syrian refugees resettled in America.¹⁸ That is a 277-fold increase over the 2013 total (when only 36 were admitted into the country). Additionally, the administration plans to increase the number of refugees it brings into the country each fiscal year from 70,000 in 2015 to 85,000 in 2016 and 100,000 in 2017. These numbers represent a 42.8 percent increase between 2015 and 2017.

Also of concern is Canada's determination to admit 25,000 refugees in 2016: some of these will no doubt make their way south over a border that is not difficult to traverse.¹⁹ The Canadian

¹⁶ DHS, Yearbook of Immigration Statistics: 2013 Refugees and Asylees, Table 14, <http://www.dhs.gov/publication/yearbook-immigration-statistics-2013-refugees-and-asylees>

¹⁷ U.S. State Department, Proposed Refugee Admissions for Fiscal Year 2015, <http://www.state.gov/j/prm/releases/docsforcongress/231817.htm>

¹⁸ Migration Policy Institute, "Refugees and Asylees in the United States, October 28, 2015. <http://www.migrationpolicy.org/article/refugees-and-asylees-united-states>

¹⁹ CBC News, "Justin Trudeau justifies refugee delay, says Liberals want it 'done right,'" November 25, 2015, <http://www.cbc.ca/news/canada/toronto/programs/metromorning/justin-trudeau-interview-refugees-1.3333632>



government's stated preference for refugee women and children will not prevent terrorists from attempting to gain entry among the refugees.²⁰

Refugees, asylum seekers and terrorism

For enemies of the United States, including terrorists, gaming the immigration benefit system is nothing new. It has been going on for decades, as long as there have been formal immigration benefits.²¹ The 9/11 Commission Staff Report on Terrorist Travel noted:

Terrorists in the 1990s, as well as the September 11 hijackers, needed to find a way to stay in or embed themselves in the United States if their operational plans were to come to fruition....[T]his could be accomplished legally by marrying an American citizen, achieving temporary worker status, or applying for asylum after entering. In many cases, the act of filing for an immigration benefit sufficed to permit the alien to remain in the country until the petition was adjudicated. Terrorists were free to conduct surveillance, coordinate operations, obtain and receive funding, go to school and learn English, make contacts in the United States, acquire necessary materials, and execute an attack.²²

The mastermind of the 1993 terror bombing of the World Trade Center, blind sheikh Omar Abdel Rahman, and two other terrorists who were involved in that attack sought asylum in the U.S.²³ The 9/11 and Terrorist Travel report explains in detail how the 1993 WTC attack plotters manipulated the refugee and asylum systems:

Rahman was issued several visas on different passports to travel to the United States, although he was a known radical in Egypt. He was later granted legal permanent residency as a "Special Immigrant, Religious Teacher." This status was later revoked on grounds of polygamy. Rah men [sic] then filed an application for asylum, which was also

²⁰ Rosemary Barton, "Canada's Syrian refugee plan limited to women, children and families," CBC News, November 22, 2015, <http://www.cbc.ca/news/politics/canada-refugee-plan-women-children-families-1.3330185>.

²¹ The Center for Immigration Studies and Study of Terrorism and Responses to Terrorism at the University of Maryland has done excellent work analyzing terrorism travel and immigration statistics. See, e.g., Steven A. Camerota, "How the Terrorists Get in," *The Public Interest*, Fall 2012, <http://cis.org/HowTerroristsGetIn>. The University of Maryland published a report in November 2012 about terrorist travel, http://www.start.umd.edu/sites/default/files/files/publications/START_BorderCrossingsTerroristAttacks.pdf, which was a follow-up to the 9/11 Commission Supplement 9/11 and Terrorist Travel.

²² The 9/11 Commission Staff Report on Terrorist Travel, page 98, http://www.9-11commission.gov/staff_statements/911_TerrTrav_Monograph.pdf.

²³ Janice L. Kephart, Testimony before Senate Judiciary Committee, "The Border Security, Economic Opportunity, and Immigration Modernization Act, S.744," April 22, 2013, <http://www.aila.org/File/Related/04-22-13KephartTestimony.pdf> ("Kephart Testimony").



denied after the attack on the World Trade Center (see text box on the Blind Sheikh). Siddig Ibrahim Siddig Ali, the mastermind of the plot, married an American. Mohammed Saleh, who provided fuel from his Yonkers gas station to make bombs, obtained legal permanent residency by marrying an American. Ibrahim Ilgabrownny passed messages between conspirators and obtained five fraudulent Nicaraguan passports for his cousin, El Sayyid Nosair, and his family. Nosair, convicted of conspiracy, married an American in 1982 and became a citizen in 1989. He was also convicted of a gun charge in the killing of Rabbi Meir Kahane in 1990. Amir Abdelgani picked up fuel and helped determine targets; he, too, was married to an American. His cousin, Fadil Abdelgani, mixed explosives; he overstayed his 1987 tourist visa and obtained legal residency by marrying an American. Others who had married Americans included Tarig Elhassan, who also mixed explosives, and Fares Khallafall, who bought fertilizer for the bombs.²⁹ Biblal Alkaisi initially filed an application for temporary protected status, using what turned out to be a fake Lebanese birth certificate. He then filed an application for political asylum but failed to appear for the interview. Matarawy Mohammed Said Saleh was supposed to get stolen cars for the plot; he married two American women in an effort to gain legal permanent residency.²⁴

Many other terrorists have also taken advantage of the weakness of the refugee and asylum system, including:

- Pakistani asylum seeker Mir Amal Kanshi, who killed two people outside CIA Headquarters in January 1993.²⁵
- Wadi El Hage, who was involved in the 1998 Africa Embassy bombings and was the personal secretary of Osama bin Laden. He worked at Al Kifah refugee center in New York. Al Kifah has been described as “al-Qaeda’s recruitment center in the US”²⁶
- Fawaz Damrah, who was an imam at the Islamic Center of Cleveland and a chief fundraiser for Palestinian Islamic Jihad. He was charged with criminal naturalization fraud; among his false statements was his concealment of the activities of Al Kifah Refugee Center in New York.²⁷

²⁴ The 9/11 Commission Staff Report on Terrorist Travel, page 49, http://www.9-11commission.gov/staff_statements/911_TerrTrav_Monograph.pdf.

²⁵ Kephart Testimony, page 21, <http://www.aila.org/File/Related/04-22-13KephartTestimony.pdf>

²⁶ Janice Kephart, “Immigration and Terrorism, Moving Beyond the 9/11 Staff Report on Terrorist Travel,” Center for Immigration Studies, September 2005, page 15, <http://www.cis.org/sites/cis.org/files/articles/2005/kephart.pdf>.

²⁷ *U.S. v. Damrah*, 1:03-cr-484, Indictment, (N. D. Ohio, December 16, 2003).



[The 9/11 Commission Staff Report on Terrorist Travel](#) detailed numerous examples of instances where terrorists not only made use of visa and immigration benefit fraud to enter the United States, but also to remain here. The Commission here explains how they did it:

The attempted operations were valuable to those carrying them out despite their lack of success: they gave Islamic terrorists critical operational experience in entering and “embedding” in the United States. Although there is evidence that some land and sea border entries without inspection occurred, these conspirators mainly subverted the legal entry system by entering at airports. In doing so, they relied on a wide variety of fraudulent documents, on aliases, and on government corruption. Because terrorist operations were not suicide missions in the early to mid-1990s, once in the United States terrorists and their supporters tried to get legal immigration status that would permit them to remain here, primarily by committing serial, or repeated, immigration fraud, by claiming political asylum, and by marrying Americans. Many of these tactics would remain largely unchanged and undetected throughout the 1990s and up to the 9/11 attack.

Thus, abuse of the immigration system and a lack of interior immigration enforcement were unwittingly working together to support terrorist activity. It would remain largely unknown, since no agency of the United States government analyzed terrorist travel patterns until after 9/11. This lack of attention meant that critical opportunities to disrupt terrorist travel and, therefore, deadly terrorist operations were missed.²⁸

Recent examples include two Iraqi refugees who were arrested in Bowling Green, Ky. in 2009 after authorities discovered that their fingerprints matched those found on an Improvised Explosive Device (IED) in Iraq.²⁹ Both men admitted to attacking U.S. troops in Iraq and were convicted of attempting to provide material support to terrorists.³⁰

Boston Marathon bombers Tamerlan and Dzhokhar Tsarnaev came to the United States as children and received asylum through their parents. A set of Albanian brothers of Macedonian origin involved in the foiled plot against soldiers at Fort Dix in New Jersey were from a refugee family who came to the U.S. illegally as minor children with their parents. Their father reportedly sought asylum in 1984 but his asylum application was ignored for two decades.

²⁸ The 9/11 Commission Staff Report on Terrorist Travel, page 98.

²⁹ The IED had been fingerprinted by the Terrorist Explosive Device Analytical Center (TEDAC) in Quantico, VA.

³⁰ Plea Agreements, *U.S. v. Alwan and U.S. v. Hammadi*, 1:11cr-13, U.S. District Court for W. D. Ky, Dec. 16, 2011, http://www.investigativeproject.org/documents/case_docs/2875.pdf

(Alwan), and Aug. 21, 2012 (Hammadi). Initially charged together, http://www.investigativeproject.org/documents/case_docs/1570.pdf (Indictment, May 26, 2011), the cases proceeded separately. See generally <http://www.investigativeproject.org/case/545/us-v-alwan-et-ano>.



In November 2015, U.S. Sen. Jeff Sessions, R-Ala., released a list of 12 refugees³¹ who had passed through the vetting process and been admitted into the United States and had then joined jihad plots to kill Americans. These included:

Liban Haji Mohamed, a Somali native who entered the United States as a refugee, and was then granted Lawful Permanent Resident status and finally U.S. citizenship. Mohamed was found to be supporting the terror group Al-Shabaab, which he eventually traveled to East Africa to try to join.

Abdinassir Mohamud Ibrahim, another Somali who entered the U.S. as a refugee and was later granted Lawful Permanent Resident status, was found guilty of supporting Al-Shabaab and lying both in his request for refugee status and on his application for citizenship. He was sentenced to fifteen years in prison.

Abdullah Ramo Pazara, a Bosnian native, also entered the U.S. as a refugee, and then gained Lawful Permanent Resident status and ultimately U.S. citizenship. Just eleven days after being granted citizenship, Pazara traveled to Syria to join ISIS; he is believed to have been killed there.

Ramiz Zijad Hodzic, another refugee from Bosnia, was charged on February 5, 2015 with conspiring to provide material support and resources to terrorists, providing material support to terrorists, and conspiring to kill and maim persons in a foreign country.

Sedina Unkic Hodzic, Ramiz Zijad Hodzic's wife, who entered the U.S. as a refugee with him and aided him in sending funds to terrorists outside the country.

Armin Harcevic, another Bosnian who entered the U.S. as a refugee and was later granted Lawful Permanent Resident Status, and was also charged with aiding terrorists.

Nihad Rosic, a Bosnian who entered the country as a refugee and then gained Lawful Permanent Resident status and U.S. citizenship, who was also charged with conspiring to provide material support and resources to terrorists, providing material support to terrorists, and conspiring to kill and maim persons in a foreign country.

Mediha Medy Salkicevic, still another Bosnian who came to the U.S. as a refugee and then gained Lawful Permanent Resident status and citizenship, and who also got

³¹ Leada Gore, "26 terror plots in US tied to immigrants, Sen. Jeff Sessions says: 'Screening is very poor'," *Alabama Media Group*, November 17, 2015, http://www.al.com/news/index.ssf/2015/11/26_terror_plots_in_us_tied_to.html



involved with conspiring to provide material support and resources to terrorists, and providing material support to terrorists.

Jasminka Ramic, also a Bosnian who came here as a refugee, gained Lawful Permanent Resident status, and then became a U.S. citizen. She also was charged with conspiring to provide material support and resources to terrorists, and providing material support to terrorists.

Abdurahman Yasin Daud, a Kenyan who came to the U.S. as a child refugee and then gained Lawful Permanent Resident status, and was later was charged attempting to aid ISIS.

Guled Ali Omar, another Kenyan refugee who first gained Lawful Permanent Resident status and then citizenship, and also attempted to aid ISIS.

Fazliddin Kurbanov, an Uzbek native who entered the U.S. as a refugee³² and was later charged with attempting to provide material support to a designated foreign terrorist organization, the Islamic Movement of Uzbekistan, and possessing an unregistered destructive device.³³ He was planning to carry out a terror attack inside the U.S.

III. Structural weaknesses in the system

“The benefit of the doubt” policy

The Visa Waiver Program and the refugee and asylum programs in general have functioned poorly for decades, during both Democratic and Republican administrations. During the Obama administration, these programs’ inadequacy has only increased.

To a tremendous degree, this dysfunction can be attributed to the policy of the United Nations High Commissioner for Refugees (UNHCR) of taking purported refugees’ stories at face-value,

³² Neil Munro, “Sen. Sessions Reveals 12 Refugee-Jihadis Charged This Year. Hopes to Shrink Obama’s 2016 Refugee Budget,” Breitbart.com, November 24, 2015, <http://www.breitbart.com/big-government/2015/11/24/sen-sessions-reveals-15-refugee-jihadis-hopes-shrink-obamas-2016-refugee-budget/>

³³ *U.S. v. Kurbanov*, 1:13-cr-00120, Superseding Indictment, November 14, 2014, http://www.investigativeproject.org/documents/case_docs/2578.pdf.



without going to a tremendous effort to verify their veracity. The UNHCR's *Handbook And Guidelines On Procedures And Criteria For Determining Refugee Status*³⁴ instructs U.N. interviewers to give refugees "the benefit of the doubt." If the U.N. gives a refugee "the benefit of the doubt" and doesn't articulate its suspicions, concerns, or issues, this could present a vulnerability during the refugee's next interview with U.S. officials. It would be beneficial for the U.S. government to request that the U.N. require its workers to specifically articulate any doubts, issues, or concerns that they may have had during the course of an interview – especially if the refugee is ultimately referred to and processed by Citizenship and Immigration Services (CIS) with a "benefit of the doubt."

Asylum and refugee officers are not trained investigators. Although it may be true that refugee officers have advanced degrees, they are hired by Citizenship and Immigration Services – an agency whose primary purpose is to grant immigration benefits. In 2012, CIS' denial rate for immigration forms was just 7.15 percent.³⁵ This low denial rate marked a decrease from 2011, when 9 percent of applications were denied.³⁶ During Congressional testimony on October 1, 2015 (before the Paris and San Bernardino terrorist attacks) regarding Syrian refugee vetting, a CIS official stated that the current approval rate for Syrian refugees was 90 percent. That rate may come down with applications pending. The official also confirmed that the overall approval rate for refugees was 80 percent.³⁷ These high approval rates from CIS tend to be synonymous with the "benefit of the doubt" policy that the U.N. has documented in its handbook.

From 2010 to 2014, an average of 75 people lost their asylum status due to fraud each year.³⁸ Further highlighting vetting concerns is a just released GAO report that states that CIS and the Executive Office of Immigration Review (EOIR) "have limited capabilities to detect fraud"³⁹ and

³⁴ UNCHR, "Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status," page 39, December 2011, <http://www.unhcr.org/3d58e13b4.pdf>;

³⁵ David North, "USCIS Sheds a Little Light on Denial Rates," Center for Immigration Studies, November 21, 2012, <http://cis.org/north/uscis-sheds-little-light-denial-rates>.

³⁶ USCIS chart, "Applications for Immigration Benefits," August 2012, http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/N-400%20and%20Application%20for%20Benefits/2012/APPLICATIONS%20FOR%20IMMIGRATION%20BENEFITS_Aug2012.pdf.

³⁷ Testimony of Barbara Strack, USCIS Refugee Affairs Division Chief, "Oversight of the Administration's FY 2016 Refugee Resettlement Program: Fiscal and Security Implications," Senate Judiciary Subcommittee on Immigration and the National Interest." October 1, 2015, <http://www.c-span.org/video/?328475-1/hearing-fiscal-year-2016-refugee-resettlement-program>.

³⁸ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," December 2015, page 2, <http://www.gao.gov/assets/680/673941.pdf>.

³⁹ *Ibid.*



“have failed to develop agency-wide policies and procedures to identify and prevent asylum fraud.”⁴⁰

⁴⁰ News release, “Goodlatte: GAO Report Adds to Mounting Evidence on Administration’s Failure to Address Asylum Fraud,” U.S. Rep. Bob Goodlatte, R-Va., December 2, 2015, <http://judiciary.house.gov/index.cfm/press-releases?id=F7A2B482-1BDC-4116-94AD-6514C1B2F58C>.



Weaknesses in the current code of federal regulations regarding refugees

Under federal law, refugees can obtain Lawful Permanent Resident status within a year of entering the U.S. This means a refugee could enter the U.S. and apply for Lawful Permanent Resident status before having to file a tax return. Like refugees, individuals from Syria who come to the United States and then seek asylum are also able to become Lawful Permanent Residents within one year of being granted asylum.⁴¹

This is entirely too rapid a process. A lot can change in a single year that could materially affect one's asylum status, including the conditions in the country from which the asylee or refugee came. Furthermore, a refugee who flees Syria, enters the U.S. and obtains a green card one year after entering has barely had enough time to become familiar with U.S. laws.

Asylum and refugee statuses are not permanent.⁴² With numerous open source articles reporting that security vetting is taking 18 to 24 months in order to obtain refugee status and asylum offices have a target of 180 days to conduct the initial review of asylum termination,⁴³ a one-year waiting period to obtain permanent status does not appear to be an adequate length of time for proper security checks and investigations to begin and be completed in time before permanent status is conveyed to the refugee or asylee.

The Application for Travel Document (form I-131) does ask asylum seekers and refugees if they are traveling to the country from which they sought refuge.⁴⁴ However, these forms are frequently destroyed, or simply not added to the alien's file. Thus, it is possible that a refugee could leave a country that is a hotbed of terror activity and then return there after gaining refugee status in the United States. While bearing refugee and asylee status, they are forbidden to return to the country they fled or from which they are seeking protection.⁴⁵ However, as soon as they become green card holders, they are free to go back to the country they fled without any U.S. immigration consequences. In theory, a Syrian could enter the U.S. as a refugee, obtain green card status, and return to Syria in as quickly as 366 days. Obviously, this development presents problems.

⁴¹ 8 CFR 209, Adjustment of Refugee Status, <https://www.law.cornell.edu/cfr/text/8/209.1>

⁴² Title 8, Code of Federal Regulations, Section 208.14(e). Asylum termination would be based on 8 CFR 208.24. Refugee termination would be based on 8 CFR 207.9.

⁴³ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," December 2015, <http://www.gao.gov/assets/680/673941.pdf>

⁴⁴ Application for Travel Document, U.S. Citizenship and Immigration Services, *see a copy at*; <http://www.uscis.gov/sites/default/files/files/form/i-131.pdf>.

⁴⁵ Definition of "firm resettlement," 8 CFR 208.8, 8 CFR 208.15, 8 CFR 208.24(a)(3).



The birthdate problem

Many refugees cannot provide documentation of their actual birth dates – and this opens the door to easy terrorist abuse of the system. Individuals fleeing war-torn areas may not have birth certificates, passports, and other identification documents. Once they reach a refugee camp, the United Nations High Commissioner for Refugees (UNHCR) interviews them. If refugees cannot provide an exact birth date, they may be assigned a document which offers a default “January 1” birthdate with the reported year of birth. This document is accepted CIS and these individuals are assigned January 1 birthdates.⁴⁶

It is possible for refugee applicants to mask their identity with the U.N. and be issued temporary documentation or registration information. If the applicant is interviewed, vetted, and accepted to the United States as a refugee, his or her date of birth will remain January 1 for their reported year of birth. Western countries rely heavily on dates of birth to run background checks in searching for possible terrorists. Without an actual date of birth, the integrity of the security check could be compromised. This problem is further exacerbated by the fact that the host country may not properly keep electronic or hard copy records of births, marriage, divorce, passports, identification documents such as driver’s licenses, or criminal history records, etc.

Temporary Protected Status

Another means of entering the country that is easily manipulated by terrorists is Temporary Protected Status (TPS), granted to aliens whose home countries may be enduring short-term safety issues or which may be unable to handle the return of its nationals adequately.

Convicted felons or people with two misdemeanors are not eligible for TPS. Additionally, aliens described in INA 208(b)(2), which details persecution, terrorism, and public safety issues are prohibited from obtaining TPS. A list of TPS-designated countries include Syria, Yemen, Sudan, South Sudan, Somalia, Sierra Leone, Nicaragua, Nepal, Liberia, Honduras, Haiti, Guinea and El Salvador.

It is possible for Syrians to have both asylee status and TPS status at the same time, as an application for TPS does not affect an application for asylum. However, asylum is usually the preferred immigration status, since it quickly leads to permanent residency, and ultimately to other immigration benefits, such as U.S. citizenship. TPS, in contrast, does not lead to permanent residency. Since asylum

⁴⁶ Annie Baxter, “Jan. 1 a common birth date for many immigrants,” Minnesota Public Radio, December 29, 2009, <http://www.mprnews.org/story/2009/12/29/january-1-birthdays>.



typically requires an applicant to file an asylum application within one year of coming to the U.S., those Syrians who have been in the United States for over one year would be able to seek TPS.

Inconsistency in the vetting process

As referenced in the GAO report, there is confusion at the eight CIS asylum offices throughout the country regarding fraud. As of 2015, there are 35 Fraud Detection and National Security (FDNS) officers assigned to the eight asylum offices. Their duties include background checks, pursuing fraud leads, and working with federal law enforcement agencies such as Homeland Security Investigations.⁴⁷ The GAO report further indicates that CIS has not conducted an enterprise-wide fraud review but has some individual activities that demonstrate it is conducting risk assessments.⁴⁸ There are multiple occasions during the asylum process in which these checks should be run, including when asylum application is received, before the asylum interview, and before the final adjudication of the application.

The GAO report faulted CIS for mainly identifying asylum fraud after it occurred and implied that better pre-screening of asylum applicants may be beneficial. Because asylum claims are based mainly on testimonial evidence, it may be beneficial to have certain asylum officers interview aliens from particular countries so that they can identify similar sounding stories and become familiar with country conditions and culture, which may help identify fraud in the future.

However, asylum offices are faced with the same January 1 birthday problem from applicants. Asylum seekers may lack their passports if they entered through the U.S. illegally. It is known that the U.N. will assign a January 1 birthdate to a refugee who does not know his/her birthdate and further input is needed from CIS on if they will assign a similar January 1 birthdate to an asylum applicant who does not know their exact date of birth.

IV. Recommendations to improve the Visa Waiver, refugee and asylum process

⁴⁷ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," pages 29-30, December 2015, <http://www.gao.gov/assets/680/673941.pdf>.

⁴⁸ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," page 32, December 2015, <http://www.gao.gov/assets/680/673941.pdf>.



These recommendations should be implemented immediately in order to stave off the collapse of the entire system, especially in light of the Obama administration's plan to bring 10,000 Syrians and nearly 200,000 other refugees into the U.S. in the near future.

Possible legislative remedies

Federal authorities, including federal law enforcement, would be better equipped to vet refugees and asylum applicants, and investigate refugee and asylee issues if Congress considered the following legislative changes:

- Extend the time period in which refugees are able to obtain permanent residency from one year to three years (or more). The same extension should be provided for individuals granted asylum in America. This proposed legislative change would require that 8 CFR 209 be amended.
- Extend the statute of limitations for charges of lying on ESTA, refugee, and asylum applications from five years to 10. There is already a 10-year precedent for similar immigration related crimes including passport and naturalization fraud.
- Eliminate the “benefit of the doubt” standard and ask the U.N. to explain to Congress its process for granting it so that an informed decision can be made about refugee vetting. Congress should explicitly forbid U.S. officials from employing it.
- Pressure the U.N. to make its fingerprint database available, or be forthcoming with fingerprint hits in which a refugee used a different name(s) and/or date(s) of birth or applied/registered with UNHCR in multiple refugee camps in multiple countries.
- VWP countries should be asked to share their criminal history and fingerprint databases so that the United States can better vet applicants' backgrounds. Congress should appropriate funding to ensure at least two ICE and CBP personnel are stationed in each of the Visa Waiver countries. Absent that, those countries should appoint officials in their U.S. embassies to serve as VWP points of contact for DHS.
- VWP countries that fail to report passport thefts or fail to share biometrics and criminal history of their citizens should immediately be suspended from the program.
- Congress should consider appropriating more money to help speed up the system. That includes more immigration judges, more ICE-HIS agents to investigate immigration fraud, and more lawyers for the Office of the Principal Legal Adviser (OPLA) to litigate removal proceedings. EOIR's two-year backlog⁴⁹ can only be brought up to speed with additional

⁴⁹ Daniel Costa, “With Too Few Judges, Hundreds of Thousands of Immigrants Wait Nearly Two Years for a Hearing,” Economic Policy Institute, July 24, 2014. <http://www.epi.org/publication/immigration-court-caseload-skyrocketing/>.



resources, which are badly needed for the increasing immigration volumes. An alien in limbo in removal proceedings with EOIR is just as much of a security concern as an alien seeking an immigration benefit with CIS. Both should be given adequate resources and backlogs endanger national security just as much as lax vetting.

Improving the ESTA travel authorization application

It would benefit U.S. investigations if travel authorizations would be valid for 12 or 18 months instead of two years. Reducing travel authorization durations would help ensure that the contact information (phone, address, email) of the traveler remains current. In addition, the fee for ESTA should be raised from the current \$14 with the extra money helping CBP pay for additional biometric upgrades and to cover investigative costs associated with ESTA and VWP violators.

Since all VWP countries are required to obtain travel authorization using ESTA before allowing travel to the U.S., it would also benefit law enforcement and the U.S. intelligence community if the travel authorization form asked the following questions on the travel authorization application:⁵⁰

1. Do you intend to stay in the U.S. for longer than 90 days?
2. Have you ever committed a crime for which you have not been arrested?
3. Have you ever persecuted anyone (either directly or indirectly) because of race, gender, sexual orientation, national origin, religion, or membership in a particular social group or political opinion?
4. Have your spouse, parents, children, or siblings ever been arrested for being involved with a terrorist organization, vigilante group, rebel group, guerilla group, militia or insurgent group?
5. Have you ever associated with anyone who was indicted, charged, or arrested for a terrorism related offense or for being involved with a terrorist organization?
6. Have you ever claimed to be a U.S. citizen (in writing or any other way)?

Any applicant who checks “yes” to any one of these questions should be refused travel authorization and advised to apply at a U.S. embassy or consulate for a nonimmigrant visa. If the person lies on the travel authorization form and obtains travel authorization, he or she could be arrested for violating Title 18 of the United States Code, Section 1546 (fraud and misuse of visas). Additionally, the traveler could be deemed inadmissible to the U.S. pursuant to Section 212 of the Immigration and Nationality Act.

⁵⁰ These questions are the sole idea of the and are not reflective of the opinion of the U.S. government. Some of these questions are a compilation of questions asked on forms such as the State Department non-immigrant visa application (DS-156); naturalization application (DHS form N-400); green card application (DHS form I-485); application to change or extend non-immigrant status (DHS form I-539).



Improving the refugee application form

People apply for refugee status abroad by filing Form I-590,⁵¹ Registration For Classification As A Refugee. This form needs to be updated to collect more detailed information. For example, it does not ask refugees the following important questions:

1. What countries have ever issued you a passport?
2. What countries have you applied for a visa with in the past 10 years? What was the outcome? Were you fingerprinted?
3. Have you ever been fingerprinted anywhere for any reason (arrest, military service, for their passport/national id card or visa; obtaining this information may help currently vet them and help vet them in the future)?
4. Where have you traveled in the last five years? (It should be noted the Form I-590 asks what the traveler's present address is, from what country the traveler fled or was displaced, and in what country they are residing. Arguably, the refugee could allege that he or she "travelled" to another destination for one to three months but did not "live or reside" there. Therefore, asking the travel question eliminates this play on words).

These four basic items are likely covered and recorded during a refugee interview, but obtaining this information in writing from the refugee applicant would help investigators and agencies responsible for vetting. If the potential refugee makes a false statement to a U.S. interviewer, that lie may not be recorded in the interviewer's notes. Adding the four questions listed above serves as a clear permanent record without room for interpretation or debate.

The Form I-590 (Registration for Classification as Refugee) also should ask the standard terrorism and war crimes/persecution questions that are included in the I-485 (application for permanent residency) and many other CIS forms. These questions are asked on a sworn statement of a refugee.⁵²

However, since the Immigration and Nationality Act clearly states that a refugee is not one who persecutes, this information should be included throughout the refugee process, so that a written record can be assembled in addition to oral statements. Based on the forms' titles, it is possible that the I-590 could be submitted first since it seeks to register the alien. The I-590 is then presumably followed by a G-646 later which seeks information for entry. Having more thorough questions on the I-590 to review before the G-646 may enhance the CIS vetting process of refugees. Better and more questions on the I-590 would also prepare the CIS interviewer for questions and details on the G-646.

⁵¹ An example of the form can be seen here: <http://photos.state.gov/libraries/164149/pdfs/I-590.pdf>

⁵² A copy of the form G-646 can be seen here: http://photos.state.gov/libraries/turkey/5/instruction_packages/G-646%20Form%20and%20Instructions1.pdf.



Possibilities for improvement with CIS and EOIR

Pursuant to 8 CFR 209.2(e), service center directors of CIS have the authority, on a case-by-case basis, to waive the I-485 interview of a refugee who seeks to adjust to LPR status. Revisions should be considered requiring that a higher-ranking CIS official authorize waiving the interview. Perhaps a stipulation in an amended regulation that interviews should be waived only for children, elderly, the handicapped, and individuals with special needs may assist those truly in need. Continued vetting of refugees after they come to America is essential, and an I-485 in-person interview is an important part of this process that should not be waived.

In contrast to applicants for naturalization, the current DHS Form I-485⁵³ (revised on October 15, 2015) does not ask applicants for asylum or refugee status about their previous travel. Since thousands of refugees and asylees file I-485s each year, CIS should revise the form to ask about an applicant's travel in the previous five years. If the U.S. is going to bring up to 100,000 refugees into the country over the next two years, questions about travel should be added to Form I-485.

Additionally, all relevant forms and files should be stored by all agencies, never destroyed.

With the recently-released GAO report describing how the asylum process remains broken 14 years after 9/11, it is apparent that CIS needs additional FDNS officers at their eight domestic asylum offices. However, CIS is unique in that it is a fee funded agency.⁵⁴ Therefore, any attempt by Congress to direct how many FDNS officers are in each asylum office may be difficult without the ability to impact appropriations. However, the work of special agents with ICE–Homeland Security Investigations⁵⁵ does include the assignment of special agents to Document and Benefit Fraud Task Forces (DBFTF) in 22 major U.S. cities.⁵⁶ The eight cities that have asylum offices (Arlington, Va.; Rosedale, N.Y.; Newark, N.J.; Miami; Chicago; Houston; Los

⁵³ An example of the I-485 can be seen here: <http://www.uscis.gov/sites/default/files/files/form/i-485.pdf>

⁵⁴ Ted Hesson, "Here's How the Shutdown Affects Immigration Services," ABC News, October 1, 2013, http://abcnews.go.com/ABC_Univision/Politics/heres-shutdown-affects-immigration-services/story?id=20431892; see also, Rebecca Shabad, "House GOP panel: Defunding immigration order 'impossible'", *The Hill*, November 20, 2014, <http://thehill.com/policy/finance/224837-appropriations-panel-defunding-immigration-order-impossible>.

⁵⁵ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," page 3, December 2015, <http://www.gao.gov/assets/680/673941.pdf>.

⁵⁶ Homeland Security Investigations map, "Document and Benefit Fraud Task Forces," <https://www.ice.gov/sites/default/files/documents/Document/2015/DBFTF-map.pdf>.



Angeles; San Francisco) are among the 22 cities in which ICE has DBFTFs. ICE-HSI⁵⁷ and CIS already work together on the DBFTFs.⁵⁸

HSI has 26 major field offices⁵⁹ but only 22 DBFTFs. EOIR has more than 50 court locations.⁶⁰ As demonstrated by the recent GAO report, EOIR's fraud investigations per year are low, numbering 16 to 25 nationwide in the past couple of years. EOIR's fraud program appears to be run out of its Falls Church, Va. headquarters and seems to rely on individuals reporting information and their "responding to requests" instead of EOIR being proactive. Vetting does not appear on EOIR's fraud sheet,⁶¹ and background checks or national security are not referenced. It may be hard for EOIR to investigate individual fraud matters of aliens since EOIR could argue that it is the responsibility of the ICE lawyer handling the removal proceeding for the government to identify fraud. EOIR, like all courts, is supposed to be neutral and EOIR could also claim that it is DHS's responsibility to vet applicants in removal proceedings. Therefore, even though EOIR has a fraud officer, the burden remains on ICE lawyers and agents to identify fraud in the jurisdiction of a removal proceeding. Instead of EOIR handling fraud from their Headquarters in Falls Church, VA, it may be beneficial to have the local EOIR court report fraud to the DBFTFs when the local EOIR court reports it to EOIR headquarters.

If Congress were to earmark funding for 100 additional ICE agents, these agents could cover and report to the CIS asylum offices in eight cities, or be assigned to EOIR court to supplement its fraud program. Additional agents could also be used to establish DBFTFs in the four cities that have none. This would further enhance the vetting process, identify fraud, and enhance security. Unlike CIS, ICE is not a fee-funded agency. However, ICE has a track record of investigating immigration benefit fraud and has been the second largest federal contributor to the Joint Terrorism Task Forces.⁶²

Comingling of ICE special agents at the asylum offices would also assist ICE lawyers by making it easier to provide advanced notice for asylum denial cases based on national security, terrorism-

⁵⁷ U.S. Government Accountability Office, "Report to Congressional Requesters: Asylum – Additional Actions Needed to Assess and Address Fraud Risks," pages 29-30, December 2015, <http://www.gao.gov/assets/680/673941.pdf>.

⁵⁸ U.S. Immigration and Customs Enforcement, "Identity and Benefit Fraud," <https://www.ice.gov/identity-benefit-fraud>.

⁵⁹ U.S. Immigration and Customs Enforcement, "Homeland Security Investigations Principal Field Offices," <https://www.ice.gov/contact/hsi>

⁶⁰ U.S. Department of Justice, "EOIR Immigration Court Listing," <http://www.justice.gov/eoir/eoir-immigration-court-listing>

⁶¹ U.S. Department of Justice, "EOIR's Fraud Prevention Program," June 30, 2014, <http://www.justice.gov/sites/default/files/eoir/legacy/2014/06/30/FraudPreventionProgramFactSheet.pdf>

⁶² News release, "ICE: A Federal leader in combating terrorism," U.S. Immigration and Customs Enforcement, December 28, 2009, <https://www.ice.gov/news/releases/ice-federal-leader-combating-terrorism>.



related, and human rights violator/war crimes/persecution issues. Furthermore, ICE special agents are in a better position to retrieve information from overseas when needed since ICE has offices in 48 foreign countries⁶³ and CIS only has 25.⁶⁴

Coordination among agencies and nations

The Department of Homeland Security should seek access to the watch list of countries in the Visa Waiver Program, as well as access to their criminal records. VWP countries which do not keep electronic records of arrests of their citizens should be encouraged to develop such a program as a condition of continued enrollment. Furthermore, ICE and CBP should have representatives in every VWP country to help facilitate the exchange of watch lists, criminal history data, and biometrics (fingerprint) information.

The United States also should seek fingerprint assistance from allies participating in the Five Country Conference (FCC). The FCC is a voluntary consortium of immigration agencies from the U.S., United Kingdom, New Zealand, Australia and Canada created to enhance the integrity, security, and efficiency of immigration and border services.⁶⁵ In August 2013, it was reported that Yemen received fingerprint verified voter identification machines with U.N. funding.⁶⁶ The U.S. can use biometrics used in voting systems in Yemen, and U.N. fingerprinting databases in Malawi, Chad and Thailand. These are untapped resources. It is doubtful that these fingerprints are shared or interfaced with fingerprints in the FCC, but that could be a future possibility.

As recently as November 5, 2015, eight days before the terrorist attacks in Paris, it was reported that UNHCR used iris scanning to help distribute \$120 million in aid to 2 million Syrian refugees at iris scan-equipped banks.⁶⁷ Recent open source articles also highlighted the “intense and rigorous”⁶⁸ refugee vetting process. It has been reported that Syrians undergo

⁶³ <https://www.ice.gov/about>; ICE also has agents assigned to the Visa Security Program at certain U.S. Embassies abroad; reference <http://www.gao.gov/assets/320/317405.pdf> and <https://www.ice.gov/visa-security-program>

⁶⁴ USCIS, “Refugee Asylum and International Operations Directorate,” <http://www.uscis.gov/about-us/directorates-and-program-offices/refugee-asylum-and-international-operations-directorate>.

⁶⁵ “About the Five Country Conference,” <https://www.fivecountryconference.org/>; see also, “Privacy Impact Assessment for the US-VISIT Five Country Joint Enrollment and Information-Sharing Project,” November 2, 2009, https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_usvisit_fcc.pdf

⁶⁶ “Yemen gets fingerprint-verified voter ID with UN funding,” BizPac Review, August 16, 2013, <http://www.bizpacreview.com/2013/08/16/yemen-gets-fingerprint-verified-voter-id-with-un-funding-81671>

⁶⁷ “UN using IrisGuard iris recognition devices to aid Syrian refugees across Middle East,” *Biometric Update.com*, November 5, 2009, <http://www.biometricupdate.com/201511/un-using-irisguard-iris-recognition-devices-to-aid-syrian-refugees-across-middle-east>

⁶⁸ Maxwell Tani, “Here’s the intense, rigorous process each refugee goes through before coming to the US,” *Business Insider*, November 18, 2015, <http://www.businessinsider.com/refugee-screening-process-in-us-2015-11>



additional classified checks.⁶⁹ However, there appear to be few articles that mention biometric checks that occur beyond the U.S., and it is also not known if the classified checks involve foreign biometric records. It would be unlikely that fingerprint sharing among the five friendly countries would be classified since it is an unclassified project. The successful arrests and convictions of the two Iraqis in Kentucky based on fingerprints retrieved by TEDAC shows that refugee fingerprints have the capability to be vetted against prints lifted by TEDAC.

One of the most important legislative remedies that could fix this dysfunctional system would be to close the marriage loophole: marrying a U.S. citizen is one principal way many terrorists have entered the U.S. and been granted citizenship. Conspirators in the 1993 World Trade Center bombing, Siddig Ibrahim Siddig Ali, Mohammed Saleh, El Sayyid Nosair, Amir Abdelgani, Fadil Abdelgani, Tarig Elhassan, Fares Khallafall, and Matarawy Mohammed Said Saleh, are by no means the only terrorists who married Americans in order to secure permanent residence in the U.S. or American citizenship. But they abundantly illustrate the crying need to close this loophole, which still remains open 22 years after that bombing. Congress needs to hold hearings about the marriage issue and develop legislative remedies before more attacks happen.

A seriously dysfunctional system

Clearly, America's asylum and refugee system needs major repair. It needs a massive top-to-bottom overhaul, including a thorough reevaluation of the institutional culture and attitudes that prevail among officials who are charged with admitting refugees and asylees into the United States. As Barack Obama prepares to overload an already seriously dysfunctional system to the point of almost certain collapse, the reform and repair of this system is an urgent national security issue.

Absent that development, the various agency leaders, administration officials, and politicians of both parties who failed to act should be held accountable for any terror attacks from refugees and asylees admitted into the United States under the purview of this severely damaged system.

⁶⁹ Alicia A. Caldwell, "Things to know about Syrian refugees and the vetting process," *Associated Press*, November 19, 2015, <http://www.businessinsider.com/ap-things-to-know-about-syrian-refugees-and-the-vetting-process-2015-11>