



WRITTEN TESTIMONY

**Molly Groom
Acting Deputy Assistant Secretary
United States Department of Homeland Security
Office of Policy
Office of Immigration and Border Security**

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Subcommittee on the Constitution, Civil Rights and Human Rights**

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Chairman Durbin, Ranking Member Cruz, and distinguished members of the Subcommittee, thank you for the opportunity to testify at today's hearing on the Department of Homeland Security's (DHS) efforts to resettle eligible refugees consistent with our country's immigration laws. As you are aware, the United States has a proud and long-standing tradition of offering protection, freedom, and opportunity to refugees from around the world who fear persecution and often find themselves in uncertain or dangerous conditions of temporary asylum. Refugee resettlement is a cornerstone of our national character and reflects our country's commitment to humanitarian ideals. DHS, along with the Department of State (DOS), is committed to ensuring that the United States continues to take a leading role in refugee resettlement and other humanitarian protections. The U.S. Refugee Admissions Program (USRAP) serves a critical role in that mission, identifying eligible individuals in need of international protection who do not present a risk to our national security and are otherwise admissible to the United States as refugees.

Administering our Refugee Resettlement Program

While DOS coordinates and manages the USRAP, DHS plays an important consultative role in determining which individuals or groups from among the millions of refugees worldwide will be considered for U.S. resettlement. Specifically, the Department of State, in consultation with DHS, establishes processing priorities each year to determine which of the world's refugees are of special humanitarian concern to the United States. Priorities have included referrals by the U.S. Embassy, United Nations High Commissioner for Refugees (UNHCR) or designated NGOs, and specific nationality groups of concern, such as Iraqi or Burmese individuals. Additionally, DHS provides feedback on which groups are likely to qualify for refugee status or

may have eligibility concerns. DHS's U.S. Citizenship and Immigration Services (USCIS) is responsible for determining whether individuals meet the refugee definition as defined by U.S. law, by conducting individual in-depth interviews. Pursuant to the International Religious Freedom Act of 1998 (IRFA), all refugee adjudicators must complete specialized training described below.

In 2005, USCIS created the Refugee Corps, which is a cadre of specially-trained USCIS officers who travel overseas to where refugees reside and are responsible for adjudicating applications for refugee status. USCIS also posts a small number of officers at embassies overseas who conduct refugee interviews among other duties. Over the years, USCIS has supported an increasingly diverse refugee admissions program, working in over 60 countries. As USCIS recognizes that well-trained officers are critical to protecting the integrity of the refugee resettlement process, all officers who process refugee cases are well-trained on the basics of refugee processing and admissibility, as well as specialized training that includes comprehensive instruction on all aspects of refugee adjudications, including refugee law, grounds of inadmissibility, fraud detection and prevention, security protocols, interviewing techniques, credibility analysis, and country conditions research. These officers also participate in pre-departure training, which includes information about the specific population they will be interviewing, including the types of claims they are likely to encounter, fraud trends or security issues, and detailed country of origin information.

USCIS officers conduct in-depth interviews of every principal refugee applicant to fully explore the refugee claim and identify any possible grounds of inadmissibility. The officer assesses the credibility of the applicant and evaluates whether the applicant's testimony is internally consistent and consistent with known country conditions. In addition, all refugee

status determinations made by interviewing officers undergo supervisory review before a final decision is reached. USCIS Refugee Affairs Division policy requires officers to submit certain categories of sensitive cases—including certain national security-related cases—to Refugee Affairs Division Headquarters to obtain concurrence prior to the issuance of a decision. This allows Headquarters staff to conduct additional research, liaise with law enforcement or intelligence agencies, or consult with an outside expert before finalizing the decision.

Security checks are an integral part of this process and coordinating these checks is a shared responsibility between DOS and DHS. The refugee vetting process in place today employs robust security measures to protect against risks to our national security. DHS does not approve a refugee applicant for travel until all required security checks are completed and cleared.

Refugee vetting happens at several different stages of the process and procedures include initial biographic and biometric security checks against DHS, Federal Bureau of Investigation, Department of Defense, DOS, and intelligence community holdings, as well as pre-departure checks conducted before a refugee applicant is scheduled to travel to the United States. These pre-departure checks are intended to identify any new derogatory information which may arise between the initial vetting of the applicant and the eventual time of travel. Pre-departure checks currently include a second round of Interagency Checks (IAC), additional vetting conducted by DHS colleagues at U.S. Customs and Border Protection's National Targeting Center-Passenger, and Secure Flight screening conducted by the Transportation Security Administration (TSA).

Following the May 2011 arrest of Mohanad Hammadi and Waad Ramadan Alwan in Kentucky, DHS and DOS have worked closely with the Intelligence and Law Enforcement communities to enhance our screening regime for refugee resettlement applicants. While the

exact details of these new checks are classified, we are prepared to provide a classified briefing to members should there be interest in this information. While no screening is infallible, we believe that current screening systems to vet refugee applicants are more likely today to detect individuals with derogatory information should they apply.

Terrorist-Related Inadmissibility Grounds (TRIG)

The broad definitions of “terrorist activity” and “terrorist organization” under U.S. immigration law are often a barrier to resettling otherwise eligible refugees. Section 212(a)(3)(B) of the Immigration and Nationality Act (INA) renders foreign nationals who provide material support to individuals or organizations that engage in terrorist activity, as that term is broadly defined, inadmissible to and removable from the United States. Material support, as defined for INA purposes, is commonly encountered in refugee populations and can be a product of routine interactions. The INA’s framework relating to terrorist activity and the provision of material support to terrorists or terrorist organizations provide an enforcement tool to deny benefits to those who have provided material support to terrorists. Notably, there are no exceptions in the INA’s definitions for activity that is part of a routine transaction, nor are the purpose and goals of a particular organization an exception to its meeting the definition of a “terrorist organization.”

The Secretary of State and the Secretary of Homeland Security have discretion under section 212(d)(3)(B) of the INA to exempt some individuals and groups from the application of these broad definitions when the circumstances justify such an exemption. DHS, DOS, and the Department of Justice (DOJ), engage in an interagency consultation process on the exercise of this exemption authority. This process is used to ensure that the terrorism-related inadmissibility

ground provisions are applied in a way that meets our national security objectives while also opening the possibility that individuals who do not pose a security threat may receive appropriate relief or benefits when otherwise eligible.

To ensure that only the appropriate recipients benefit from Secretarial exemptions, the process allows DHS and DOS, in consultation with DOJ, to first identify the groups or activity, relevant to pending cases, which should be considered for an exemption. Various factors, including national security, humanitarian, and foreign policy concerns, must be weighed carefully before a decision is made to issue an exemption which would allow an adjudicator to consider applying the exemption on a case-by-case basis. Tier I and Tier II terrorist organizations, which are designated by DOS, are not eligible for exemptions. For each group identified for a possible exemption, a thorough search of intelligence resources is conducted, in order to identify any derogatory information. The interagency group reviews these and other available materials and discusses whether an exemption would be appropriate, and if so, what the scope of that exemption should be. The interagency group may draft a carefully scoped proposed exemption, which is reviewed at high levels in each agency as part of the consultation process. If the Secretary of Homeland Security or State exercises this exemption authority, DHS or DOS are then permitted to apply the exemption on a case by case basis, taking into consideration the totality of circumstances of the case.

To date, the exemptions issued have resulted in the adjudication of applications for over 16,000 refugees, asylees, and others. Nearly 12,000 of those exemptions were granted to refugees. Some of the recipients have assisted the U.S. Mission in Iraq, and some have been victims of regimes widely condemned as tyrannical. Exemptions have also been authorized for individuals who only engaged in certain activities under duress—such as paying a ransom for a

kidnapped family member—where the alternative may have been the death of a loved one or their own death. Exemptions have also been granted for providing medical care, and for individuals associated with groups such as those who participated in the 1991 Iraqi uprisings.

In recent years, USCIS has placed many cases of individuals on hold who may be barred by TRIG and yet do not pose a risk to national security in order to allow exemptions to be considered by the interagency. Approximately 3,100 cases, including refugee, asylum, and adjustment applications, remain on hold due to potential TRIG bars. DHS and our interagency partners continue to consider various exemptions and appropriate strategies to review the cases on hold at USCIS, in order to release them for adjudication. However, the robust process for completing interagency consultation on exemptions means DHS, DOS, and DOJ must devote a significant investment of time and resources.

Current Situation Regarding Syrians

We are ever mindful that addressing humanitarian needs must be coupled with robust security screening of refugee applicants. With regards to the population fleeing Syria, USCIS and DOS have had a series of conversations with UNHCR about the case profiles that they are encountering, and which types of cases would be most suitable for referral to the United States. DHS and DOS have recommended a three-fold referral framework to best address potential TRIG issues: (1) identify cases of particularly vulnerable refugees who do not appear to present TRIG issues; (2) identify cases where existing TRIG exemption authority may apply (e.g., material support provided under duress, medical services); and (3) consider sympathetic cases where new TRIG exemption authority might be required. With regard to possible new exemption authority, interagency consultations are ongoing. DHS is committed to both

preventing terrorists who may pose a threat to the United States from coming here, and honoring our tradition of protecting deserving individuals who do not pose a threat to our security.

As for those Syrians already present in the United States, former DHS Secretary Napolitano, pursuant to section 244 of the *Immigration and Nationality Act*, designated Syria for Temporary Protected Status (TPS) for an 18-month period from March 29, 2012 through September 30, 2013. On June 17, 2013, Secretary Napolitano redesignated Syria for TPS and extended the designation from October 1, 2013 through March 31, 2015. The extension allows currently eligible Syrian TPS beneficiaries, who continue to meet the terms and conditions for TPS, to remain in the United States and to retain that status through March 31, 2015. The redesignation also expands the original designation to allow Syrians who have continuously resided in the United States as of June 17, 2013 to apply for TPS. In addition to demonstrating continuous residence in the United States since June 17, 2013 and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since October 1, 2013, the effective date of the redesignation of Syria, before USCIS can grant them TPS. During the period in which TPS is in effect, Syrians granted TPS who continue to meet the requirements for TPS status are eligible to obtain work authorization, may be granted travel authorization, as a matter of discretion, and cannot be removed from the United States unless and until their TPS is withdrawn.

USCIS has received an increasing number of requests for parole for Syrian nationals fleeing the conflict, particularly those who have family members in the United States. USCIS considers these requests on a case-by-case basis consistent with existing policy and procedure. Using these existing programs, resources, and infrastructure outlined above, DHS has been able

to respond to the needs of a number of Syrian nationals seeking permanent and temporary protection.

Additionally, DHS Civil Rights and Civil Liberties (CRCL) regularly engages with the Syrian American and Syrian immigrant communities, as part of its engagement with diverse communities across the country, including many affected by refugee emergencies. CRCL conducts quarterly roundtable meetings in fourteen metropolitan areas across the United States. Other DHS entities' regional leadership also participate in these meetings, including representatives from USCIS, U.S. Customs and Border Protection, Immigration and Customs Enforcement (ICE), and TSA. Key leaders and officials of Syrian-American organizations regularly participate in CRCL's quarterly community engagement meetings as well as other engagement and outreach events.

Other DHS offices and components also regularly engage with Syrian American organizations. For example, USCIS has held a number of public outreach sessions on TPS, and its website features specific information on TPS for Syria. ICE has conducted Student and Exchange Visitor Information System (SEVIS) related outreach events that reach, among others, student populations with strong Syria-specific equities. ICE has also extended employment authorization for Syrian F-1 students who have been in the U.S. since April 3, 2012 experiencing severe economic hardship. The Department is currently planning for broader Syria-specific engagement with communities with equities in the region.

Thank you for the opportunity to testify. I would be happy to answer your questions.