

April 2, 2021

The Honorable Antony J. Blinken
Secretary
Department of State
Washington, DC 20520

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Blinken and Secretary Mayorkas:

We, the 19 undersigned organizations, write to submit recommendations in support of the review of refugee security vetting that your agencies are conducting under Sections 2, 4, and 5 of Executive Order 14013 dated February 4, 2021 (Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration) (“Refugee Executive Order”).¹ The current refugee vetting system, particularly given its expansion under the Trump Administration, unnecessarily and unfairly prolongs refugees’ paths to safety and family reunification. A report published by the International Refugee Assistance Project last fall describes the shortcomings of the system.²

We urge your agencies to reverse the following vetting changes that the Trump Administration implemented as part of Executive Order 13815 of October 24, 2017 (Resuming the United States Refugee Admissions Program With Enhanced Vetting Capabilities).³ President Biden has revoked that Executive Order and repudiated the discriminatory “Muslim ban,” Executive Order 13780 of March 6, 2017 (Protecting the Nation from Foreign Terrorist Entry to the United States), which initiated the directive that resulted in these vetting changes.⁴ The agencies should similarly repudiate these vetting changes and recommend their reversal in the report to be provided to the President under Section 2(c) of the Refugee Executive Order.

1. Expansion of Security Advisory Opinion (SAO) vetting

Prior to October 2017, SAO vetting—the lengthiest of the security checks and one with a troublingly high “not clear” rate in recent years—applied to men aged 16 to 50 from countries on the SAO list and to those who were flagged by the State Department’s Consular Lookout and Support System (CLASS) check. The Trump Administration expanded the SAO vetting to apply to all refugees aged 14 to 50 from countries on the SAO list, thus more than doubling the number of people subject to the check. The SAO list as of 2018 included many of the Muslim-majority countries that are experiencing refugee crises, such as Syria, Iraq, Somalia, Sudan, and Yemen.⁵

¹ 86 FR 8839.

² IRAP, Debunking ‘Extreme Vetting’: Recommendations to Build Back the Refugee Admissions Program (Oct. 2020), <https://refugeerights.org/wp-content/uploads/2020/10/Vetting-Report-2020.pdf> (“Vetting Report”).

³ 82 FR 50055.

⁴ Proclamation on Ending Discriminatory Bans on Entry to the United States, Jan. 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-ending-discriminatory-bans-on-entry-to-the-united-states/>.

⁵ See Vetting Report at 43-44 for additional information on SAO vetting; Vetting Report at 21 for the SAO changes implemented in October 2017.

The agencies should not only reverse this expansion but limit the applicability of SAO vetting. A draft Department of Homeland Security (DHS) intelligence report from 2017 found that citizenship was an unreliable indicator of terrorist threat to the United States.⁶ Yet, citizenship is the sole reason that most refugees end up in SAO vetting. Once in SAO vetting, a refugee's case can be delayed indefinitely or the refugee can be unfairly deemed a security risk. For example, in 2017, SAO checks returned "not clear" results for 87 out of a sample of 88 Iraqi refugees who had helped the U.S. military in battle; in 2018, IRAP filed a case on behalf of dozens of Iranian refugees of minority faiths who were denied admission because of an arbitrary SAO policy change and threshold adopted by the FBI.⁷ The agencies should review and revise SAO vetting's scope, threshold, and process.

2. Expansion of social media vetting

The Trump Administration also vastly expanded the applicability of social media vetting from a smaller subset of refugees to all refugees from SAO countries above the age of 12.⁸ DHS implemented the expansion even though it had previously questioned the value of this vetting given the resource burden it entails and the limited impact that it has had.⁹ Meaningful review of social media requires linguistic abilities, cultural competence, security experience, and refugee eligibility expertise, as well as familiarity with the refugee's case; it cannot be effectively applied on a mass scale. Nevertheless, as a result of the expansion, refugees from SAO countries have been mired in a farcical process in which DHS officers manually review social media posts using software, such as Google Translate, that is error-prone in deciphering nuances in context.¹⁰ DHS should reverse this expansion and abandon the social media vetting requirement.

3. Expanded data collection

In October 2017, the Trump Administration mandated the collection of phone, email, and address information for all refugee applicants dating back ten years instead of five; addresses for all places where any individual on the case file lived for six months or longer; and current phone and email contacts for all close relatives.¹¹ This expanded data collection imposes a heavy burden on refugees who often move frequently in the course of their flight and may not have easy access to their records. Moreover, the broad swath of information collected is far more attenuated from the refugee than the information previously collected. The agencies should reverse the increase in data collection and focus on collecting this information only in specific cases where the DHS adjudicator decides that the information would assist the inquiry.

⁶ Vivian Salama, AP Exclusive: DHS Report Disputes Threat from Banned Nations, AP, Feb. 24, 2017, <https://apnews.com/article/39f1f8e4ceed4a30a4570f693291c866>.

⁷ See Vetting Report at 12-13.

⁸ See Vetting Report at 21.

⁹ See Vetting Report at 14-15.

¹⁰ *Id.*

¹¹ See Vetting Report at 19-20.

4. Addition of “Indicators” that Trigger the Controlled Application Review and Resolution Process (CARRP)

CARRP, DHS’s program for adjudicating applications with “national security indicators,” has been responsible for indefinite, undue delays in adjudicating refugee cases.¹² Notwithstanding existing concerns, DHS expanded CARRP’s scope following the 90-day suspension and additional review of refugee vetting that the agencies ordered under Executive Order 13815. For example, DHS added “close proximity to violent events or terrorist activity” to the list of national security indicators that could subject refugees from SAO countries to CARRP, although this factor is often also an indicator of refugee eligibility in that it evidences past persecution or fear of future persecution.¹³ Nevertheless, once a case triggers CARRP, there is often no way for the refugee or the adjudicator to resolve the concern presented by the mere existence of the indicator—leaving cases mired in delays. This is counterproductive to the humanitarian purpose of the refugee program. DHS must reverse CARRP’s expansion under the Trump Administration and reform CARRP to ensure its consistency with the Refugee Act.

5. New Mandate to Interview Derivatives Separately Under Certain Situations

In 2018, following the 90-day review mentioned above, DHS implemented a policy mandating that when the case presents certain “indicators,” adjudicators interview derivatives, including children as young as 14, separately from family.¹⁴ If the child is unable to provide sufficient testimony to show that the “indicator” is not a national security concern, it could delay and jeopardize the family’s case. But this requirement to resolve the national security concern is exceedingly difficult for children to understand and to meet. The agency should review this policy, assess its value compared to the inefficiency it introduces and the trauma it causes to the children, and consider alternatives including access to counsel for children.

* * *

Our organizations appreciate the importance of the agencies’ work in vetting refugees; however, in recent years vetting has become an inefficient and often insurmountable obstacle for refugees who pose no security threat and are only seeking a safe place to live as provided to them under the Refugee Act. We request that the agencies recommend reversal of the above actions under Section 2(c) of the Refugee Executive Order and more broadly reform the vetting processes used in the USRAP under Sections 4 and 5 to ensure that refugee cases are not unfairly delayed or denied.

¹² See Vetting Report at 16, 39-40.

¹³ See Vetting Report at 25.

¹⁴ See Vetting Report at 25-26; U.S. Citizenship and Immigration Services, Memo from Johanna Ruppel, Chief of the Refugee Affairs Division: Updated Guidance on Interviewing Derivative Applicants Separately and Required Tracking Mechanism (July 27, 2018).

Respectfully submitted,

International Refugee Assistance Project
African Communities Together
Bridges Faith Initiative
The Center for Victims of Torture
Church World Service
HIAS
Human Rights First
Human Rights Initiative of North Texas
Immigration Hub
International Rescue Committee
Louisiana Aid to Immigrants in Detention
Lutheran Immigration and Refugee Service
National Immigration Law Center
National Organization for Women
RAICES
Refugee Congress
Restore the Fourth
Veterans for American Ideals
Wind of the Spirit Immigrant Resource Center