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FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

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San Bernardino Terrorist Attack Exposes Flaws in Our “Rigorous” Screening Process

The December 2 slaughter of 14 people attending a holiday party in San Bernardino, California, carried out by two Islamic terrorists, exposed the reality that intelligence and security experts have been telling us for some time: The “rigorous” vetting process of immigrants and refugees from countries known to harbor and incubate jihadists has “certain gaps” in it, as FBI Director James Comey testified to Congress in October.

One of the husband-wife terrorist team that carried out the attack, Tafsheen Malik, had gone through the screening process before she arrived in the United States on a K-1 fiancée visa. Malik, a Pakistani citizen who had resided in Saudi Arabia before coming to the U.S., went through a second round of vetting after marrying her co-conspirator, Syed Farook, when she obtained a provisional green card.

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Deportations Plummet While DHS Returns \$113 Million Budgeted for Removals

In November 2014, the Department of Homeland Security dramatically narrowed the pool of illegal aliens who would be subject to deportation (an estimated 87 percent are now off-limits to enforcement), claiming that Immigration and Customs Enforcement (ICE) does not have the resources to go after even a small fraction of the illegal alien population. However, testifying before the Senate Judiciary Committee

in early December, ICE Director Sarah Saldaña acknowledged that her agency transferred \$113 million to other DHS agencies because it did not need the money.

It didn't need the money because the Obama administration has no real interest in deporting aliens, not even the criminal aliens it claims are its priority for removal. Under questioning by Sen. Jeff Sessions (R-Ala.), Saldaña conceded

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TERROR ATTACKS REVEAL OUR FLAWS *continued*

All the red flags that should have alerted authorities to potential trouble—before and after Malik entered the U.S.—were either missed or ignored.

The “rigorous” vetting process is essentially the same one that the 10,000 or more Syrian refugees President Obama intends to settle in the U.S. this year would be subjected to. Yet, the screening process missed obvious red flags that should have prevented Malik from entering the country, or obtaining a green card after her arrival in the U.S.

Subsequent to the massacre in San Bernardino, Comey noted that both terrorists “were radicalized for quite a long time before their attack.” In congressional testimony the FBI director stated that Malik and Farook had begun communicating online before they became engaged and long before

Malik traveled to the United States where she and Farook were married.

Malik had also been associated with the Red Mosque in Islamabad, Pakistan, run by the notorious jihadist imam, Maulana Abdul Aziz. She had also studied at the al-Huda International Institute, a women’s seminary known to espouse a radical form of Islam. (Al-Huda International operates in North America, with its U.S. headquarters located in Hurst, Texas.) Moreover, the address she provided on her K-1 visa application was not just fraudulent; it was non-existent.

After settling in the U.S., Malik openly pledged her allegiance to ISIS in a Facebook posting, while the couple also received a \$28,500 deposit to their bank account just two weeks before the attack.

All of these red flags that should have alerted authorities to potential trouble—both before Malik entered the United States and after her arrival in this country

—were either missed or ignored by the agencies that investigate the backgrounds of the people we admit to this country.

Conducting meaningful background checks on people we admit to this country is an inherently difficult challenge. Compounding the challenge are the conditions and realities that may exist in the sending countries, and the sheer volume of immigration to the United States. About 83,000 immigrants from Malik’s home country of Pakistan have been admitted just since President Obama has been in office—a number that likely far exceeds the ability of consular personnel in that country to carry out meaningful checks.

The catastrophic consequences of the system’s failure to identify Malik as a potential danger must be considered in the president’s plan to bring in upwards of 10,000 refugees from Syria. Unlike Pakistan and Saudi Arabia, where the United States has a significant diplomatic presence, Syria is a country in complete chaos, making background checks impossible. Moreover, ISIS has explicitly stated that they intend to use refugee admissions as an opportunity to infiltrate Western nations.

Over the years, FAIR has called for reducing overall levels of immigration for many valid reasons. In an age of global terrorism, we can add the imperative that every person we admit must be given the proper degree of scrutiny.

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San Bernardino Attack Provides Another Troubling Sign of the Breakdown of the Assimilation Process

Syed Farook, one of the two terrorists who carried out the December 2 attack in San Bernardino, has been described as a “homegrown” terrorist. Like countless other jihadists who have carried out attacks in the U.S. and other Western societies, Farook was born and raised in the country he attacked.

In some ways the phenomenon of homegrown terrorists is more troubling than attacks perpetrated by jihadists who are transplanted from other parts of the world. Homegrown terrorists are an indication of the breakdown in the assimilation process that is supposed to transform immigrants and their U.S.-born children into mainstream Americans.

Homegrown terrorism is the most dramatic manifestation of the breakdown of the assimilation process. But we also see troubling signs that the country is failing to assimilate many immigrants and first generation Americans in many ways. More than half of all immigrant-headed households rely on some form of government assistance—a clear indication that many recent arrivals are not succeeding economically.

Over the past 50 years, the United States has admitted 59 million immigrants and, if many in Congress had their way, the intake of immigrants would be significantly increased. What an increasing body of cultural and economic evidence suggests, however, is that admitting immigrants is the easy part. Assimilating large numbers of people from disparate cultural and economic backgrounds into a cohesive and successful mainstream is much more difficult.

Past history indicates that the assimilation process has succeeded best when the flow of immigration ebbs. Given the clear and present dangers associated with the lack of assimilation among many recent immigrants, true immigration reform must begin with significant reductions in overall immigration.

PLUMMETING DEPORTATIONS *continued*

that deportations of criminal aliens have plummeted from about 150,000 in FY 2011 to around 63,000 in FY 2015, which ended on Sept. 30. The decline in criminal deportations is part of a sharp downward trend in removals, as the Obama administration abandons even the pretense of immigration enforcement with little prospect for a legislated amnesty during the president’s term in office.

Fact: While ICE Director Saldaña claims there aren’t enough criminal aliens to deport, 179,000 criminal aliens **with final orders of removal** remain at large in the U.S.

Saldaña claimed the decline in deportations, including criminal aliens, is evidence of the success of the administration’s enforcement policies. Seemingly oblivious to the ongoing surge along the Southern border and the fact that the vast majority of non-Mexican border-crossers are released, she asserted that effective enforcement, along with a public awareness campaign warning prospective aliens that they would be turned away at the border, are responsible for dramatically reducing the number of aliens ICE feels the need to deport.

Even while Saldaña was making the dubious claim that ICE cannot find enough criminal aliens to deport with the money Congress has made available to the agency, 179,000 criminal aliens with final orders of removal remain at large in the United States. Moreover, despite the Obama administration’s self-declared criteria for removal, all illegal aliens, regardless of whether they have been convicted of other crimes, are subject to deportation.

Saldaña’s explanations failed to impress senators from either party. Sessions retorted that the decline in removals “demonstrated the failure of our system, when the one area that we were promised was going to be aggressively pursued was criminal aliens, and that is plummeting also.” Likewise, Connecticut Democrat Richard Blumenthal blasted ICE for its “abysmally and abhorrently inadequate” efforts to return criminal aliens to their home countries.



Across the Country



Oregon

In November 2014, voters overwhelmingly rebuffed a 2013 law passed by the State Legislature that would have granted driver's licenses to illegal aliens. A citizen-led referendum put the issue on the ballot. By a 66-34 percent margin, Oregon voters approved Measure 88, which overturned the law before it could be implemented. But despite the overwhelming repudiation, illegal aliens and their advocates are not giving up. Almost a year to the day after voters rendered their decision, the Oregon Law Center filed a suit on behalf of five unnamed illegal aliens seeking to have the law reinstated. The suit argues that Measure 88 is discriminatory because it denies driving privileges to individuals solely because they cannot prove legal status in the United States. Further, it alleges that voter approval of the measure was motivated by animus toward a "disfavored minority group," that group being people who are violating U.S. immigration laws. In response, Cynthia Kendoll of Oregonians for Immigration Reform (OFIR), a group that works closely with FAIR, noted that "People were not swayed by their arguments that they deserve to have a driver's card so they could more easily get to their jobs." FAIR is working with OFIR to maintain important legislative victories for the true immigration reform movement.

New Jersey

Despite explicit threats by ISIS of an intended attack in the New York metropolitan area, some New Jersey lawmakers believe it is a good idea to grant driver's licenses to illegal aliens based on a variety of foreign-issued identity documents that cannot be verified. Ironically, hearings on Assembly Bill 4452 were held just three days after the deadly attack on Paris. A companion bill has been introduced in the State Senate. About 463,000 illegal aliens of driving age are believed to live in New Jersey. Regardless of whether the legislation is actually voted on during the 2016 session of the legislature, it is unlikely to become law. Gov. Chris Christie has threatened to veto the legislation should it come to his desk.

Texas

While Congress seems to lack the fortitude to cut off certain funding to jurisdictions that act as sanctuaries for illegal aliens in defiance of federal law, the Texas Legislature seems poised to take action. In response to local jurisdictions within the state that adopt sanctuary policies, state lawmakers are considering action to withhold certain state funding to those cities and counties. At a December 3 hearing on the matter, Deputy Attorney General Brantley Starr offered the legal opinion that there is nothing under Texas law that prohibits the funds from being withheld from jurisdictions that obstruct immigration enforcement. Unfortunately, legislative action is unlikely before 2017 when the Texas Legislature reconvenes.

House Passes Weak Bill to Nominally Prevent the Admission of Terrorists as Refugees

According to French authorities, two of the three suicide bombers in the November 13 attacks in Paris had recently entered Europe posing as Syrian refugees. ISIS itself has vowed to use Western refugee resettlement programs as a means of infiltrating terrorists. And intelligence and security officials in the United States concede that they cannot effectively vet Syrian refugees. Nevertheless, President Obama remains determined to admit upwards of 10,000 Syrians as refugees this year, while Congress seems unwilling to prevent mass resettlement in the U.S.

Instead, the House of Representatives opted for what many are calling a “show vote” on Syrian resettlement. Rejecting legislation that would have halted funding for refugee resettlement until meaningful safeguards are in place to ensure effective screening, the House leadership opted for a bill that merely requires the approval of top national security officials before Syrian and Iraqi nationals are resettled. Of course, many of these same top national security officials have testified in open hearings

Prior to the Paris attacks, FAIR supported H.R. 3314, the Resettlement Accountability National Security Act introduced by Rep. Brian Babin of Texas.

before Congress that they lack the capacity to effectively determine security risks.

FAIR supported the Resettlement Accountability National Security Act, H.R. 3314, introduced by Rep. Brian Babin (R-Texas), even before the Paris attacks. That bill would have temporarily frozen refugee resettlement until security concerns were adequately addressed and cost burdens could be assessed.

By a 289-173 vote on Nov. 19, the House approved H.R. 4038, the American Security Against Foreign Enemies (SAFE) Act, which relies on the attestation of security officials that the refugees being resettled do not pose security risks. The bill was sponsored by Homeland

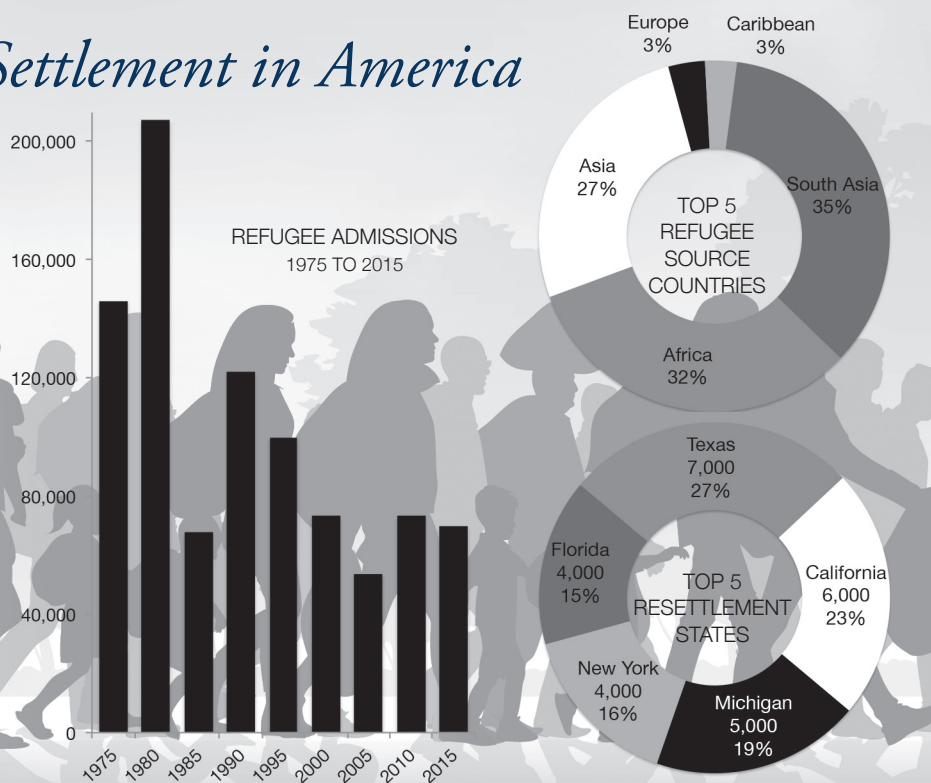
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QuickFacts: *Refugee Settlement in America*

The United States passed its first official refugee legislation, The Displaced Persons Act, in 1948 to accommodate the hundreds of thousands of Europeans displaced by World War II.

In 1980, in response to the increase in refugees from Indochina following the end of the Vietnam War, Congress passed the Refugee Act which standardized resettlement services for all refugees admitted to the United States. The Act also authorized Congress to set annual ceilings for regular and emergency admissions as well as federal funding to assist with resettlement.

Visit FAIRus.org for more information about Refugees, Asylees and other U.S. immigration policies and facts.



Sources: Office of Refugee Resettlement, 2013 Annual Report to Congress
Department of State Office of Refugee Admissions (2015)

Congress Approves Measure to Tighten Visa Waiver Program Requirements

On December 8, the House of Representatives, by a 407-19 vote, approved legislation that would tighten entry requirements for citizens of countries that participate in the Visa Waiver Program (VWP). The VWP allows visitors from 38 countries which have low rates of visa refusals to be admitted to the United States without applying for a U.S. visa. About 20 million visitors enter the U.S. each year under the VWP.

In the aftermath of deadly terrorist attacks in Paris in January and November 2015, lawmakers on both sides of the aisle acknowledged that the VWP poses significant security risks to the United States. An estimated 3,000 European passport holders were known to be in Syria fighting for ISIS and other jihadist organizations. In addition, there are untold numbers of so-called “homegrown” jihadists who are citizens, by birth or by naturalization, of any of the 38 VWP nations.

In one of the few bright spots in the 2,000-page omnibus spending package approved by Congress before the Christmas recess, H.R. 158 was included in the bill. The inclusion of the VWP reforms in the omnibus legislation bypassed deliberation in the Senate and allowed it to go directly to the president’s desk. President Obama signed it before leaving on his own vacation in Hawaii.

Approval of H.R. 158, sponsored by Rep. Candice Miller (R-Mich.), represents the first, albeit very limited, step to reduce the risk of terrorists entering the U.S. under the VWP.

The bill would require:

- VWP passport holders to obtain a visa before entering the U.S. if they have been to Syria, Iraq, Iran or Sudan during the past five years.
- Participating countries to share intelligence information about suspected terrorists with the United States.
- Participating countries to issue passports with embedded chips containing biometric data, and report information about stolen passports to Interpol.

While H.R. 158 offers some security enhancements to the VWP, the timeline for implementation, and the challenge of effectively tracking citizens of 38 different nations, leave considerable vulnerabilities. FAIR recommends that the program be suspended until it can be demonstrated that security threats can be effectively screened out. If the VWP cannot be effectively reformed to address security concerns, the program should be eliminated.

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HOUSE “SHOW VOTE” ON SYRIAN RESETTLEMENT *continued*

Security Committee Chairman Michael McCaul (R-Texas). Notably, passage of the H.R. 4038 occurred two weeks before the terrorist attack in San Bernardino, California, which exposed the weaknesses in the vetting process that would be used for resettling Syrian and Iraqi refugees.

Senate Minority Leader Harry Reid (D-Nev.) has expressed his opposition to even the meek effort to safeguard homeland security in the House bill and has threatened to prevent the bill from being voted on

in the Senate. Likewise, President Obama has stated that he would veto the bill in the unlikely event that it makes it to his desk. Republican leaders also bypassed an opportunity to include H.R. 4038 as an amendment to the omnibus spending bill Congress approved before adjourning for the Christmas recess.

While the congressional Republican leadership cannot control what Sen. Reid or President Obama do, they can hold them accountable before the American public—something they have not shown the

inclination to do. Repeatedly, the Republican leadership has backed down from confrontations with the minority leader and the president over immigration issues without publicly demanding that they justify risking public safety or subverting the Constitution to achieve narrow political goals. Sadly, even in the face of heightened terrorist activity, the Republican leadership allowed the president and the Democratic minority to jeopardize national security without much protest.

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Omnibus Spending Package Sells Out Core Public Interests on Immigration

Before adjourning for the Christmas recess, Congress approved a \$1.1 trillion omnibus spending bill that will fund the federal government through the end of September 2016. This must-pass legislation provided the Republican leadership with a golden opportunity to block Obama's dangerous and illegal immigration policies, end local sanctuary policies, and protect American workers.

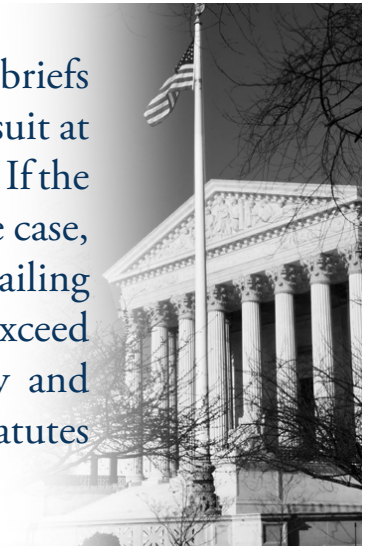
Sadly (though not surprisingly) they did none of these things. Not only did Congress fail once again to defund President Obama's executive amnesty programs, but they also failed to amend a 2008 law intended to deter human trafficking but which has instead contributed to a surge of illegal immigration at the southern border. In addition, they failed to make E-Verify—a vital protection for American workers—permanent.

Entering 2016, FAIR will work with members of Congress to promote these common sense reforms in the run-up to the elections.

Supreme Court Will Likely Consider Obama's Amnesty in Early 2016

The U.S. Supreme Court indicated that it is likely to rule on the constitutionality of President Obama's two executive amnesty programs, Deferred Action for Parents of Americans (DAPA) and an expanded Deferred Action for Childhood Arrivals programs announced by the administration in November 2014. Those programs were challenged by 26 states and were blocked by Federal Judge Andrew Hanen last February. In his ruling, Judge Hanen agreed that the states had standing to challenge the president's actions and that they were likely to win the case on its merits. That injunction was upheld by the Fifth Circuit Court of Appeals in October.

FAIR has submitted amicus briefs in support of the states' lawsuit at each step of the legal process. If the Supreme Court takes up the case, we will file once again, detailing how the president's actions exceed his constitutional authority and circumvent countless statutes enacted by Congress.



In November, the Obama administration formally appealed the injunction to the Supreme Court. As a matter of course, the 26 plaintiff states had 30 days to respond to the administration's request that the high court review the case and lift the injunction. Generally, plaintiffs are routinely granted an additional 30 days to respond if requested. However, the Supreme Court granted the states only an eight-day extension.

While these actions do not guarantee that the Supreme Court will take up the case, they do make it likely that the Court will hear arguments sometime in early 2016 (April perhaps) and will render a decision before adjourning at the end of June. Though the states' lawsuit only covers the executive actions announced by the administration in late 2014, a decision that holds that these policies exceed the president's constitutional authority could also affect the more limited 2012 DACA program. As of March 2015, some 665,000 applications for deferred action and work authorization had been approved under the 2012 program.

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