

TESTIMONY BEFORE THE KANSAS HOUSE OF REPRESENTATIVES

**By Christopher Holton
Vice President for Outreach
Center for Security Policy**

When the United States Congress enacted the *Refugee Act of 1980* governing the settlement of refugees in the U.S., Congress mandated that refugees should only be settled after close cooperation and advance consultation with State and local governments. The intent of Congress has been ignored in practice and the federal law has been violated in spirit and to the letter with the present day practices and administration of the Refugee Resettlement Program across America.

Specifically, the *Act* provides 5 specific mandates of particular note:

- 1. "It is the intent of Congress that in providing refugee assistance...local agency activities should be conducted in close cooperation and advance consultation with State and local government." (8 U.S.C.A. § 1522)**
- 2. The federal government is supposed to consult regularly concerning the sponsorship process and the intended distribution**

of refugees among States and localities before their placement. (8 U.S.C.A. § 1522 2(A))

3. The federal government is to develop and implement, in consultation with State and local governments, policies and strategies for placement and resettlement of refugees. (8 U.S.C.A. § 1522 2(B))

4. Refugees should not be placed or resettled in an area highly impacted by the presence of refugees or comparable populations. (8 U.S.C.A. § 1522 2 (B))

5. Close cooperation and advance consultation should exist between the refugee resettlement agencies and local governments to plan and coordinate before the placement of refugees.

Clearly the federal government has not been sufficiently consulting with State and local governments regarding the resettlement of refugees, as evidenced by recent executive orders and lawsuits by State leaders.

The States may not have a clear constitutional mechanism to prevent refugees from entering their territory as Supreme Court precedent has held that policies regarding who should be allowed

to enter the United States are determined by the federal government and not the States.

Although the States may not be able to prevent the admittance of refugees into the United States, a State need not participate in efforts to provide refugees with services to facilitate the resettlement of refugees in the State.

At this time, the States can certainly claim that they have not been properly consulted in accordance with the provisions of the *Refugee Act of 1980*.

HB2612 authorized the Governor of Kansas, or a local government, to declare that the State or the jurisdiction of the local government lacks the absorptive capacity (either in terms of its economy, social services and/or law enforcement) to integrate additional refugees.

The factors determining absorptive capacity are consistent with the *Refugee Act of 1980* and the regulations implementing the *Refugee Act of 1980*.

HB2612 requires relevant information as to the factors determining the absorptive capacity to be periodically reported to key leaders with the State.

HB2612 provides that a declaration by the Governor would suspend participation by the State in refugee resettlement or that a declaration by a local government would suspend participation in refugee resettlement in its jurisdiction for up to a year.

One of the key issues now confronting state and local policymakers that was not so prominent in 1980 when the Refugee Act was passed is the issue of security.

We have repeatedly seen and heard irresponsible and false statements from officials of NGOs and others regarding the security threat, specifically with regard to the “vetting” of refugees from countries of terrorism concern.

It is NOT bigoted to raise the question of security concerns. On the contrary, it is responsible governing and leadership to do so.

Those who have been delegated the authority to administer the refugee resettlement program in various states have failed the nation and the refugees they purport to serve by inadequately addressing, and in some cases likely ignoring, the security threat

and violating the specific provisions and spirit of the *Refugee Act of 1980*.

I applaud efforts by this body to redress the deficiencies in the current refugee resettlement system as represented by this legislation, as well as other initiatives to gather needed information to make informed decisions and provide “sunshine” on what has been an opaque, secretive system for too long.

No one, I repeat, NO ONE, has the authority or knowledge to contradict the following statements from government officials regarding the vetting of refugees and the potential security threat that could be embedded in the refugee population:

“We can only query against that which we have collected. And so if someone has not made a ripple in the pond in Syria on a way that would get their identity or their interests reflected in our databases, we can query our databases until the cows come home but nothing will show up because we have no record of that person... You can only query what you have collected. And with respect to Iraqi refugees, we had far more in our databases because of our country’s work there for a decade. [The case of vetting Syrian refugees] is a different situation.”

James B. Comey, Director, Federal Bureau of Investigation, Department of Justice

21 October 2015

Source: US House of Representatives Homeland Security Committee

“It is true that we are not going to know a whole lot about the Syrians that come forth in this process... That is definitely a challenge.... We know that

organizations like ISIL might like to exploit this [Syrian refugee resettlement] program...The good news is that we are better at [vetting] than we were eight years ago. The bad news is that there is no risk-free process."

Jeh C. Johnson, Secretary, U.S. Department of Homeland Security
21 October 2015

Source: US House of Representatives Homeland Security Committee

"The intelligence picture we've had of this [Syrian] conflict zone isn't what we'd like it to be...you can only review [refugees' submitted background data] against what you have."

Nicholas J. Rasmussen, Director, National Counterterrorism Center, Office of the Director of National Intelligence
8 October 2015

Source: US House of Representatives Homeland Security Committee

"There is risk associated with bringing anybody in from the outside, but especially from a conflict zone like [Syria]... My concern there [about bringing Syrian refugees into the United States] is that there are certain gaps I don't want to talk about publicly in the data available to us."

James B. Comey, Director, Federal Bureau of Investigation, U.S. Department of Justice
8 October 2015

Source: US House of Representatives Homeland Security Committee

"But [the Syrian refugees are] a population of people that we're not going to know a whole lot about."

Jeh C. Johnson, Secretary, U.S. Department of Homeland Security
8 October 2015

Source: US House of Representatives Homeland Security Committee

"We should be conscious of the potential that [ISIS] may attempt to embed agents within that [Syrian refugee] population."

Gen. (ret.) John Allen, United States Marine Corps, Special Presidential Envoy for the Global Coalition to Counter ISIL, State Department
11 September 2015

Source: US House of Representatives Homeland Security Committee

“As [Syrian refugees] descend on Europe, one of the obvious issues that we worry about, and in turn as we bring refugees into this country, is exactly what’s their background? We don’t obviously put it past the likes of ISIL to infiltrate operatives among these refugees...That is a huge concern of ours.”

Gen. (ret.) James Clapper, Director, Director of National Intelligence
9 September 2015

Source: US House of Representatives Homeland Security Committee

“Yes, I’m concerned [about bringing Syrian refugees into the United States]...We’ll have to go take a look at those lists and go through all of those intelligence holdings and be very careful to try and identify connections to foreign terrorist groups...in Iraq, we were there on the ground collecting [intelligence], so we had databases to use...You have to have information to vet, so the concern is in Syria is that we don’t have the systems in places on the ground to collect the information.”

Michael Steinbach, Assistant Director for the Federal Bureau of Investigation

12 February 2015

Source: US House of Representatives Homeland Security Committee