

# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515-6216  
One Hundred Sixteenth Congress

September 13, 2019

The Honorable Michael R. Pompeo  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

The Honorable Kevin K. McAleenan  
Acting Secretary of Homeland Security  
U.S. Department of Homeland Security  
301 7<sup>th</sup> Street SW  
Washington, D.C. 20528

The Honorable Alex M. Azar II  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, D.C. 20201

Dear Secretary Pompeo, Acting Secretary McAleenan, and Secretary Azar:

We write to express our alarm that the Administration appears to be taking a cavalier approach to the statutory requirements and historic norms for the presidential determination for refugee admissions. For the past two fiscal years, the Administration has set historically low levels of refugee admissions while side-stepping or only nominally complying with critical legal requirements for consultation. With FY 2020 only 17 days away, we expect the Administration to comply with the law this year.

As you are aware, pursuant to 8 U.S.C. § 1157, designated representatives of the President are required to consult with members of the House and Senate Committees on the Judiciary on annual refugee admissions. The statute requires the Administration to initiate such consultation prior to the start of each fiscal year by reporting to the Committees, the “foreseeable number of refugees who will be in need of resettlement,” and the “anticipated allocation of refugee admissions during the fiscal year.”<sup>1</sup> The Administration must also meet “in person” with the Committees prior to the President making a final determination on the allocation of refugee

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<sup>1</sup> 8 U.S.C. § 1157(d)(1).

admissions.<sup>2</sup> The presidential determination must be made before the start of the fiscal year.<sup>3</sup> Satisfying these legal requirements ensures that the presidential determination for refugee admissions considers the views and priorities of Congress, thereby complying with the congressional intent underlying 8 U.S.C. § 1157.

Last year, the consultation process failed to comply with the statute. On September 17, 2018, Secretary Pompeo submitted a report to Congress on proposed refugee admissions for the fiscal year.<sup>4</sup> However, the Administration failed to consult Congress on this proposal until after the start of the fiscal year. Despite this delayed consultation, the President memorialized the proposed refugee admissions ceiling on October 4, 2019—only three days after the consultation, without amendment and without adequate consideration of the views and priorities of Congress.<sup>5</sup> This approach to the consultation process undermines our ability to conduct meaningful oversight of U.S. refugee policy, which is a key component of the Refugee Act of 1980—a bipartisan law that Congress unanimously passed.

We have also been alarmed by reports regarding the proposed refugee ceiling. Since the creation of the United States refugee resettlement program in 1980, the United States has committed to resettling an average of 95,000 refugees each year, and has admitted an average of 85,000 refugees annually.<sup>6</sup> Rejecting abundant evidence in favor of resettling large numbers of refugees in promotion of the U.S. economy<sup>7</sup> and defense<sup>8</sup> interests, the Trump administration set the refugee admissions ceiling at 45,000 and 30,000 for fiscal years 2018 and 2019, respectively. In July, media reports revealed that the Administration is considering cutting refugee admission numbers to as low as zero for the coming fiscal year.<sup>9</sup> These cuts further undermine our nation's core values, including our historic commitment to refugee resettlement, and critical foreign policy interests abroad.

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<sup>2</sup> 8 U.S.C. § 1157(a)(2), (e).

<sup>3</sup> 8 U.S.C. § 1157(a)(2).

<sup>4</sup> Julie Hirschfeld Davis, *Trump to Cap Refugee Allowed Into U.S. at 30,000, a Record Low*, NY TIMES (Aug. 17, 2018), <https://www.nytimes.com/2018/09/17/us/politics/trump-refugees-historic-cuts.html>; 83 FR 55091 (Nov. 1, 2018).

<sup>5</sup> Presidential Memorandum for the Secretary of State, White House (Oct. 4, 2018), <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-13/>; 83 FR 55091 (Nov. 1, 2018); *See also*, 83 Fed. Reg. 55,091 (Oct. 4, 2018), <https://www.federalregister.gov/documents/2018/11/01/2018-24135/presidential-determination-on-refugee-admissions-for-fiscal-year-2019>

<sup>6</sup> Migration Policy Institute, *U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present* (2018), <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united>.

<sup>7</sup> David Kerwin, *How America's Refugee Policy is Damaging to the World and to Itself*, The Economist (June 19, 2018), <https://www.economist.com/open-future/2018/06/19/how-americas-refugee-policy-is-damaging-to-the-world-and-to-itself>; Kathleen Newland and Randy Capps, *Why Hide the Facts About Refugee Costs and Benefits?*, Migration Policy Institute (September 2017), <https://www.migrationpolicy.org/news/why-hide-facts-about-refugee-costs-and-benefits>.

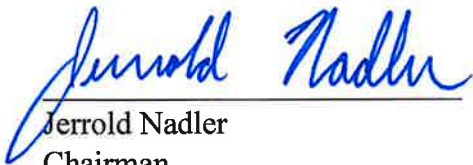
<sup>8</sup> Ted Hesson, *Trump officials pressing to slash refugee admissions to zero next year*, POLITICO (July 18, 2019), <https://www.politico.com/story/2019/07/18/trump-officials-refugee-zero-1603503>.

<sup>9</sup> *Id.*

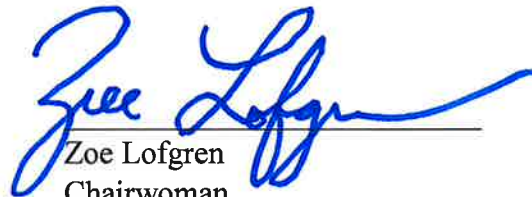
We are increasingly disturbed by the Administration's disregard for legal requirements, congressional intent, and the importance of refugee resettlement to our nation. This year, we expect that the Administration will comply with the law by providing the required report to Congress and initiating the consultation process shortly. Accordingly, we ask that the Administration provide the information required under 8 U.S.C. § 1157(e) to our Committees at least 14 days prior to the date of the consultation, and request a staff briefing be held after this information is provided, but prior to the scheduled consultation.<sup>10</sup> Finally, we urge the administration to consider the severe repercussions of further cutting the U.S. refugee admissions program.

We look forward to hearing from you soon on the status of the consultation process. If you have any questions, please contact Committee Counsel Ami Shah at [ami.shah@mail.house.gov](mailto:ami.shah@mail.house.gov).

Sincerely,



Jerrold Nadler  
Chairman  
House Committee on the Judiciary



Zoe Lofgren  
Chairwoman  
Subcommittee on Immigration and  
Citizenship

Cc: The Honorable Doug Collins, Ranking Member, House Committee on the Judiciary  
The Honorable Ken Buck, Ranking Member, Subcommittee on Immigration and  
Citizenship

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<sup>10</sup> 8 U.S.C. § 1157(e) requires designated representatives of the President to provide Committee members with specific information on the refugee situation, to the extent possible, at least two weeks in advance of the in-person consultation. Such information includes but is not limited to: the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came; a description of the extent to which other countries will admit and assist in the resettlement of refugees; and an analysis of the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States.