July 30, 2018
World Day Against Trafficking in Persons

A Decade of Policy Failure: The Impact of Mass Refugee Fraud on the U.S. Immigration System

Charles Thaddeus Fillinger
ICE Associate Legal Advisor (Ret.)[†]

Abstract

This year marks the passing of a full decade since the greatest refugee fraud crisis in modern times. The overseas P-3 refugee "family reunification" program was suspended in 2008 following revelations of shocking fraud levels. The program restarted in 2012 with significant processing improvements, including a DNA-screening requirement. Left unresolved was the issue of thousands of fraudulent refugees who were admitted to the United States before the suspension. In contravention of clear principle, solid evidence, and direct experience, U.S. Citizenship and Immigration Services (USCIS) continued to use the wrong screening strategy to process the pre-suspension P-3 caseload. USCIS disbursed domestic immigration benefits to fraudulent refugees without in-person interviews for many benefits, without required DNA tests for any benefits, and without administrative fraud checks for older cases. A Niagara of overseas refugee fraud was met with a dribble of domestic defense. This was staggering irresponsibility, possibly the biggest blunder in immigration history. Yesterday's fraudulent refugees became today's green card holders, international travelers using refugee travel documents, and U.S. citizens. There were other follow-on consequences. First, fraud of this magnitude multiplies the chances of terror. Second, significant numbers of human trafficking victims, mostly women and children, were not identified because of deficient screening. Third, legions of fraudulently-admitted refugees took full advantage of public assistance benefits. Finally, USCIS proposed a plan in 2013 to prematurely dispose centralized records connected to the fraud-ridden program. The domestic P-3 system in 2018 is on a trajectory toward collapse, the same fate that befell the overseas program in 2008 after twenty years of dysfunction. It is not too late to arrest the steep decline. New DHS and USCIS leaders are sure to understand a hard-learned policy lesson that somehow eluded their predecessors: both sides of the P-3 immigration continuum needed reform. Sensible fraud intervention measures should have been instilled in both systems, not just in the overseas program, to stem the rolling devastation of mass refugee fraud.

I. Introduction: How We Got Here

The Priority Three (P-3) refugee family reunification program was intended to reunify domestic anchors with genuine overseas relatives with valid refugee claims, primarily in Africa. In reality, however, the P-3 program proved to be a Trojan Horse that likely brought into the United States thousands of fraudulent refugees, human trafficking victims, and national security dangers. The

[†] The writer is the primary author of the INS Asylum Gender Guidelines (1995) and the INS Asylum Children's Guidelines (1998). He has been a guest lecturer at the George Washington University Law School, Temple University School of Law, and a speaker at numerous conferences and training sessions in the United States and overseas. He conducted the government's oral argument in *Matter of Cuellar-Gomez*, 25 I&N Dec. 850 (BIA 2012), a published decision having nationwide application. Fillinger was posted at the U.S. Embassy in Nairobi, Kenya for six years where he helped manage an extensive refugee portfolio. He retired from ICE in 2012 and now lives in Thailand.

scale of the fraud was massive, stretching back for years before the program was suspended in 2008 following "pilot" DNA tests. The State Department issued a Fact Sheet reviewing the issue. *See* U.S. Department of State, Bureau of Population, Refugees, and Migration (PRM), *Fact Sheet: Fraud in Africa Priority Three (P-3) Program* (Nov. 18, 2008). P-3 was a program in ruins in 2008. Those of us with extensive experience in the Horn of Africa knew this was a fraud crisis long before 2008 and made recommendations that were not adopted until long after. A retired State Department Refugee Coordinator recently provided her views on overall fraud in the refugee program. *See* Mary Doetsch, US refugee program needs a complete overhaul, WASHINGTON EXAMINER (April 24, 2018) ("Especially disturbing is the fact that in the case of the Somali fraud, none of the individuals have ever been prosecuted or deported, despite violating federal law and swindling the refugee program"). *Id.* We know whereof we speak. After a 4-year hiatus, the P-3 program restarted in 2012 with a mandatory DNA test requirement. Department of State, *Proposed Refuge Admissions for Fiscal Year 2015 Report to the Congress,* (2014). [1]

Large numbers of fraudulent refugees were admitted to the United States before the program's suspension. Had these overseas "shipments" consisted of defective automobiles, counterfeit medicines, or substandard consumer products -- not fraudulent refugees -- the domestic component of the international supply chain would be roundly criticized for failing to use smart procedures and the right screening to prevent their continuation in the stream of commerce. An autopsy on the failed P-3 program revealed that DNA tests were needed to instill integrity into the overseas process. No major mind stretch is required to discern that the same safeguard is needed to screen shipments sent to the United States before the suspension. *That vetting never took place*. It's been ten years since a sensible domestic refugee fraud intervention plan should have been implemented to address the P-3 fraud crisis.

Screening becomes a pretense when it cannot distinguish what is common knowledge about the caseload. A prompt response to the crisis would have seen USCIS take evidence-based overseas experience and successfully translate it into level-headed domestic action. The collapse of the overseas P-3 refugee program was a teachable moment that should have been heard as, "Houston, we have a problem," not "carry on domestic business as usual, no need to DNA screen" thousands of pre-suspension refugees when they apply for additional immigration benefits. USCIS used the wrong tools to manage the appalling debris left in the wake of the Titanic's overseas sinking. The domestic

[1] P-3 applications were submitted mostly by Somalis, Ethiopians and Liberians, accounting for 95% of the P-3 caseload. They were processed at major refugee processing hubs in Nairobi, Kenya and Accra, Ghana. The P-3 program was not the only one impacted by fraud. In 2004, infiltration of the P-2 Somali Bantu group in the Kakuma Refugee Camp in Kenya was so extensive that DHS personnel in Nairobi established an "Infiltrator Detection Interview" process in Nairobi to combat the problem. The corruption scandal at the UNHCR office in Nairobi involved P-1 referrals for multiple nationalities. The UNHCR Corruption Report concluded in 2001 that the "activity appeared to be controlled by a criminal network which enabled refugees and others who paid money to emigrate from Kenya to …the United States of America." *See* OIOS, Investigation Into Allegations Of Refugee Smuggling At The Nairobi Branch Office Of The Office Of The United Nations High Commissioner For Refugees, U.N. Doc A/56/733 (Dec. 21, 2001). There have been recent allegations of corruption at the UNHCR office in Khartoum. IRIN, Refugees in Sudan allege chronic corruption in UN resettlement process, (May 15, 2018).

P-3 system was allowed to steam full speed ahead with the same design defects that caused the Titanic to sink in the first place.

The overseas fraud revelations were an ominous warning that thrust hard reality in front of USCIS. Mass fraud became a certainty after the DNA revelations. It was on that certainty that USCIS should have built a domestic fraud intervention plan. Safeguards needed to be ramped up in the domestic system even faster than the overseas program. Because there was no domestic P-3 suspension to correspond with the overseas shutdown, USCIS should have responded swiftly and surely to the crisis. USCIS needed to lift the veil of fraud in the domestic system -- as the State Department did in the overseas program -- and used the same tools to do it. It was, therefore, a jaw-droppingly poor policy decision for USCIS to continue screening pre-suspension P-3 refugees in the United States without the DNA safeguard. The approach is absurdity of considerable magnitude; worse, it is textbook carelessness. Immigration integrity is not merely a wall against deceit and artifice, but a bridge to equity and reliability. The wall and bridge were breached by scores of fraudulent refugees. A decade of dawdling prevented a full-spectrum response to the crisis.

II. Major Issues in the Domestic P-3 Caseload

These three issues dominate all others:

1. Towering Abuse: Think You Know Refugee Fraud? You Have No Idea

Those who believe that only small numbers of fraudulent P-3 refugees were admitted to the United States before 2008 are oceanically mistaken. The State Department Fact Sheet states that 36,000 P-3 refugees were admitted between 2003 and the 2008 suspension. It is unclear why the State Department provided information for only that 5-year timeframe, when the P-3 program had been in existence for 20 years when it was suspended. The total number of P-3 refugees who were admitted to the United States during the 20 years the P-3 program was active may be unknown. In 1999, a Nashville voluntary agency estimated the fraud rate for arriving P-3 Somali refugees at "almost 100%." The 2008 DNA revelations scientifically confirmed what the Nashville agency already knew from first-hand experience almost ten years earlier: that the P-3 program was overrun with fraud. Thousands of fraudulent P-3 refugees (most using false identities) streamed into the United States for years before the suspension. When 25% of the U.S. workforce was unemployed in the 1930s, it was called the "Great Depression." With near 100% fraud levels in the failed P-3 program, it is accurate to call it the greatest refugee fraud crisis in modern times. [2]

The phalanx of fraud leveled against USCIS is so vast, existed for so long, and was met with such weak defenses, that continued inaction can produce no other outcome except total system compromise. Failed vetting allowed large numbers of yesterday's fraudulent refugees to become

[2] A media source reports an 87% fraud rate for the pilot (U.S. mulls DNA tests for some refugees, MERCURY NEWS, (Nov. 5, 2009) while the USCIS DNA Options Paper mentions an 85% rate (USCIS, Senior Policy Council – DNA Options Paper (undated, reproduced by the Electronic Frontier Foundation). *See also* Evelyn Sahli, Diffusion of DNA Testing in the Immigration Process (Dec. 2009) (unpublished thesis, Naval Postgraduate School). It must be borne in mind, however, that DNA tests only took place among alleged overseas relatives, not between U.S. anchors and alleged relatives. Had full DNA testing taken place, the fraud rate would likely have been even closer to 100%. The 2008 pilot provides a snapshot of the tip of the refugee fraud iceberg. A 20-year perspective provides a view of the iceberg's true size. The massive bulk of dangerous ice that lies beneath the surface is now in the United States.

today's U.S. citizens. For them, total system exploitation already happened. They can declare complete success in chain-fraud schemes that stretched from the past to the present, from overseas to the United States, across a tangled web of fictitious families, until finally reaching the pinnacle of U.S. citizenship. The longer USCIS waits to implement a sensible fraud intervention plan, the more this will shift from a pre- to a post-naturalization caseload and the sooner total system compromise will occur. The current domestic P-3 system lies in ruins but, on the surface, everything seems to be running smoothly and efficiently. This is a measure of how detached from reality the system has become. Large numbers of fraudulent refugees may remain in the domestic immigration pipeline for years, possibly decades. Mass fraud will*, with a certainty factor of 100%,* continue to advance in the pipeline and will, without intervention, eventually collapse the system.

Follow any fissure of this issue and it leads to the same conclusion: a major fraud catastrophe. These are hard truths. They are not open to interpretation or opinion. The very breadth, size, and scope of the pre-2008 P-3 program should be cause for concern. Fraud was all-pervasive, deeply embedded, and firmly institutionalized. The sheer scale of the caseload provides a simple lesson in the dangers of ignoring it.

2. Human Trafficking

The largest P-3 population processed in East Africa were Somali nationals. The P-3 caseload is an urban population (unlike P-2 caseloads that were processed in refugee camps in Kenya). Almost all Somali P-3 refugees now living in the United States were, if they were processed in Nairobi, former residents of the Eastleigh section of Nairobi. This predominantly Somali-inhabited area is known as "Mogadishu Ndogo" -- Swahili for "Little Mogadishu." Crime is rampant in Eastleigh and it is considered a place where one can buy items cheaply, including guns and explosives. The area is a haven for terrorists. Kibiwott Koross, How Eastleigh turned into a terrorists' haven, STANDARD MEDIA KENYA (April 5, 2014). Eastleigh was a "no go" area for U.S. diplomatic personnel in Nairobi. The State Department cautions against travel to Eastleigh "at all times." U.S. Department of State, Bureau of Consular Affairs, Kenya Travel Advisory (March 29, 2018). Kenyan police often lack the resources and training to respond effectively to serious crimes in this section of Nairobi. Eastleigh is also the epicenter of human trafficking in East Africa. An article from Africa Press International provides information about the thriving, multi-million dollar human trafficking business in Eastleigh. Economic refugees flood the rich nations: Slave trade booms as poverty bites, AFRICAN PRESS INTERNATIONAL (Jan 7, 2010) ("Eastleigh is a connection point for most victims. It is where the journey starts and it is where most monies exchange hands."). *See also* Brian Hungwe, Tracking Africa's people smugglers, BBC NEWS (Aug. 1, 2009). Refugee processing took place in the Westlands section of Nairobi, but it might just as well have taken place in Eastleigh.

It was not unusual for overseas adjudicators to encounter large Somali families, comprised mostly of women and children, with 10, 15, or more alleged family members. According to a 2003 report, Somali parents were paying smugglers up to US $10,000 to take their children abroad, as part of a lucrative and exploitative international child-smuggling business. *See* IRIN, Somalia: The experience of separated Somali children (Jan. 17, 2003) ("Most have been coached or intimidated into assuming a new name, a different age, and an imaginary history"). Some children arrive in other countries burdened with false identities. They are used for benefit fraud in welfare states and others are used as domestic labor, for prostitution, or fall into the hands of gangs.

Young Somali prostitutes in Minneapolis have a "family secret." They are not biologically related to their claimed mothers in the United States. *See* U.S. Somalis fear for girls facing culture rift, COLUMBUS DISPATCH (Nov. 28, 2010). Large numbers of women and children were likely trafficked to the United States through the P-3 program. Identifying these human trafficking victims would be consistent with the DHS "Blue Campaign" to combat human trafficking. DHS, Human Trafficking (last published: March 7, 2018).

3. National Security

The founding mission of DHS in 2002 was national security. There is a justifiable public-safety rationale to support a domestic plan. The media has reported for years that that some Somalis in Minneapolis and elsewhere have tried to return to Somalia to fight for the Somali terror group Shabaab. More recently, some have also travelled to Iraq/Syria to fight for ISIS. Using their USCIS-issued Refugee Travel Documents or State Department-issued U.S. passports, they could return to the United States as radicalized, battle-hardened terrorists. *See, e.g.,* ADL, Al Shabaab's American Recruits (Feb. 2015); Kelly Riddell, Feds' relocation of Somali refugees stresses Minn. welfare, raises terror fears, WASHINGTON TIMES, (Feb. 24, 2015); Alex Pfeiffer, At Least 23 Refugees Have Been Implicated In Terrorism In The U.S Since 2010, DAILY CALLER (Aug. 111, 2016). Shabaab remains a lethal and resilient terror group, one that has threatened to attack the United States. *See* Chris Harnisch, The Terror Threat From Somalia: The Internationalization of al Shabaab, CRITICAL THREATS, (Feb. 12, 2010).

Current domestic vetting policy is simultaneously obsolete, dangerous, and undiscerning. Dangerous is foremost because fraudulent refugees who are also national security dangers can reap all of the domestic benefits they need to remain in the United States indefinitely and travel overseas at will. A House Homeland Security Committee staff report in 2012 stated that 40 or more Americans have joined Shabaab, and also said the group may pose "a direct threat" to the homeland (House Homeland Security Committee, Report: The Radicalization of Muslim-Americans: The Committee On Homeland Security's Investigation of The Continuing Threat (June 20, 2012). Jonathan Evans, the former head of MI5, stated in September 2010 that it is "only a matter of time" before Shabaab terror is seen on U.K. streets. *See* Richard Norton-Taylor, MI5 chief warns of terror threat from Britons trained in Somalia, THE GUARDIAN (Sept. 17, 2010). We should have similar concerns about the United States. *See also* Jessica Stern, We Need to Worry About Somali Terrorists in the U.S., TIME (Sept. 26, 2013). Shabaab encouraged Somalis in the United States to "Betray the U.S." Jon Swaine, Al-Shabaab's American recruitment drive: 'Betray the US and join "the real Disneyland" of African jihad, THE TELEGRAPH (Sept. 25, 2013).

MSNBC issued a video segment reporting that Shabaab is recruiting in the United States. MSNBC, Al-Shabaab's recruiting tactics in America, (Dec. 24, 2013) (video). On November 20, 2013, ABC's Nightline aired a 10-minute video segment with the spectacular caption, "U.S. May Have Let 'Dozens' of Terrorists into Country as Refugees." *See* James Gordon Meek, Cindy Galli, and Brian Ross, Exclusive: US May Have Let 'Dozens' of Terrorists Into Country As Refugees, ABC NEWS (Nov. 20, 2013). Although the ABC video clip was about Iraqi refugees, a similar reference to "dozens" was made in the Somali refugee context. In 2011, an unnamed DHS official privately expressed concern that the United States has no idea whether it is admitting Somali jihadists as refugees and "dozens" of potential terrorists may have been admitted. National Security an Afterthought at Hearing on U.S. Refugee Admissions, INVESTIGATIVE PROJECT ON TERRORISM (May 16, 2011). National security also became an issue when an investigation revealed that some Somalis in the United States are

sending money back to Somalia where it can fall into the hands of Shabaab. *See, e.g.* Scott W. Johnson, Mogadishu, Minnesota A massive daycare fraud in America's most welcoming state raises questions about the limits of assimilation, CITY JOURNAL (May 21, 2018) and Jeff Baillon, Millions of dollars in suitcases fly out of MSP, but why?, FOX 9 (May 13, 2018). The danger from outside is now the danger from within. It is clearer now than ever that the public's safety is a critical consideration. All of this may be a foretaste of what is to come.

When fraud of this magnitude is allowed to metastasize, it multiplies the chances of terror. It would not be totally unexpected if a decade of uncontrolled refugee fraud produced tragedy. Failed policies are always clear in hindsight, but retrospection is not the only way flawed policy paths are revealed. Extended inaction in the face of mass refugee fraud should be recognized as a dangerous policy path now. The greater the fraud and the longer the delay, the greater the danger. The same path that leads to short and long-term certainties (advancing fraud and total system compromise) also leads a short-term possibility (a terror event). This is not the direction that USCIS should be leading the domestic P-3 system. Fraud that is both expansive and progressive, and overlaps with human trafficking and national security concerns, should not continue unimpeded in any immigration benefits delivery system. The correlation between mass fraud and national security is nothing to take lightly. Good old-fashioned horse sense and determined resolve are needed. New leaders will find that none of the underlying issues are insoluble when exposed to the fresh air of good sense, accented by the clarity and precision that stem from firm resolve.

In sum, three extraordinary issues converge in a huge domestic caseload: mass fraud, human trafficking, and national security. Any one of them should, standing alone, justify a plan. In combination, they compel it. None of this seemed to have bothered former policymakers. USCIS is required to simultaneously spin all three batons. Regrettably, USCIS dropped all three when they failed to implement a meaningful domestic fraud plan in the aftermath of the P-3 program's suspension. We turn next to that issue.

III. The "No Plans" Solution: A Monumental Mistake

There was always fraud in the refugee program. But this was fraud on a scale not seen before. Human traffickers and fraudsters had more control over the P-3 program than government officials ever thought they had. The program's suspension in 2008 turned off the overseas fraud faucet. At that time, the domestic barrel was filled to the brim with fraudulent refugees. The faucet was turned on again in 2012 when the P-3 program restarted with a mandatory genetic testing requirement. But what about the domestic fraud barrel?

The overseas crisis was followed by a major domestic blunder. One of the questions in the State Department Fact Sheet asks what measures will be taken against the thousands of refugees who were admitted to the United States before the suspension. The answer: "That is a question for the Department of Homeland Security." Amazingly enough, dither and delay finally gave way to an announcement in November 2009 that there were "no plans" to address the issue of P-3 refugees already in the United States. *See* Matthew Lee, U.S. considers DNA tests for some refugees, ASSOCIATED PRESS (Nov. 6, 2009). The reason provided was that civil rights groups would likely oppose such action. The views of civil rights groups -- or what they may or may not oppose -- should never have been considered dispositive of the issue. It is difficult to believe that government immigration officials settled on such a stunningly amateurish plan of inaction. There is no better

way to exacerbate widespread fraud than to ignore it. Idleness is a small-minded reaction to a major fraud catastrophe.

It was a tremendously bad decision not to implement a domestic P-3 fraud plan. DHS and USCIS shrugged with hands in their pockets. They seemed hapless and detached, failing to assert strong decision making. It's as if they could scarcely see the darkening path that was just ahead. No powers of prophesy were needed to predict what would happen next: cascading immigration fraud, as P-3 refugees moved through the continuum from admission, to adjustment, and then on to naturalization; often applying for other domestic immigration benefits along the way. After naturalization, they can apply for U.S. passports with the State Department. Long-term inaction unleashed an uncontrolled flood of fraudulent refugees to abuse domestic benefits. Further, long-term failure to see and solve the obvious had a far-reaching and punishing impact on system integrity. The P-3 population living in the United States is enormous. Granting additional domestic immigration benefits to large numbers of fraudulently-admitted refugees has a corrosive effect on the integrity of the domestic immigration benefits delivery system. A caseload of this size cannot simply be left out of the loop of integrity. [3]

The "no plans" solution was an epic display of policy failure (*mass fraud + human trafficking + national security ≠ no plans*). The response floats weightlessly as if an alternate and fact-free universe, failing to take into account vast numbers and real-world issues. The most far-reaching fraud crisis ever was essentially met with disregard, assuring that fraudulent refugees acquire additional immigration benefits. USCIS disburses domestic benefits to fraudulent refugees with the same ease and efficiency as genuine refugees, as if they are all genuine, when experience teaches otherwise and as if the P-3 fraud crisis never happened. Inaction nevertheless left a popular nationwide imprint. Fraudulent refugees across the United States feel triumphant. They successfully exploited both the overseas and domestic immigration systems.

If a terror event ever occurs in the United States that can be traced to this caseload, it will be the most predictable and preventable event in history. The “no plans” announcement will be a fitting epitaph as it whispers plaintively across the barren terrain of immigration policy failures that led to tragedy. And, in bitter hindsight, will result in the conclusion that USCIS should have used time-tested, reliable, and proven procedures to screen pre-suspension P-3 refugees. One of the more insightful comments made when the 9/11 Commission Report was released in 2004: “...this was a *failure of policy*, management, capability and, above all, a failure of imagination.” *See* Transcript, 9/11 Commission News Conference, CNN (July 22, 2004) (emphasis added). Another perceptive observation: “We did not grasp the magnitude of a threat that had been *gathering over a considerable period of time*.” *Id*. *See* also National Commission on Terrorist Attacks upon the United States (2004). The 9/11 admonitions about failed policy and extended time are stark reminders, as instructive in 2018 as they were in 2004. The red warning lights of hard experience and recent

[3] The gates of integrity crumbled when USCIS failed to build concrete fraud defenses in the wake of the overseas crisis. An essential part of the USCIS Fraud Detection and National Security Directorate (FDNS) mission is to, “develop policies, programs, and procedures designed to detect and deter fraud and eliminate vulnerabilities in the immigration petition and application process"(USCIS FDNS, G-1060 Brochure (Feb. 2011) (reproduced by Global Workers Justice Alliance). FDNS was created in 2004 to strengthen the ability of USCIS "....to provide the right benefit to the right person at the right time; and no benefit to the wrong person." *Id*. USCIS needs to walk the talk. Nowhere is that noble goal more needed than in the domestic P-3 caseload.

history are flashing. An act of terror should not be the only thing that prompts USCIS to rise from years of policy torpor. [4]

IV. Missing Screening Safeguards Must Be Remedied

Memories of 2008 should come flooding back on the 10th anniversary of the P-3 program's overseas collapse. With them will bring awareness that the same fraud continues unabated in the United States in 2018. Recollection of past failures and recognition of present realities should lead to consensus about a future without policy changes. Let's take a look at what, concretely, USCIS failed to do before and what can still be done today to create a new way forward. Well-managed immigration policy requires three primary and interlaced safeguards: 1) in-person interviews, 2) genetic tests, and 3) administrative fraud checks. None of the fraud defenses, however, are required for most domestic immigration benefits. These infrastructure flaws can be tackled and corrected.

1. In-Person Interviews

USCIS does not conduct in-person interviews for many domestic immigration benefits. For instance, P-3 refugees can apply for adjustment (green cards), renewal (or replacement) green cards, and refugee travel documents (RTDs, used for overseas travel) without an interview requirement. A 2002 legacy-INS memorandum provides that most refugee-based adjustment applicants do not have to appear for interviews. *See* INS Memorandum, Adjustment of Status under Sections 209 and 245

[4] One Somali-born man had terror plans that included becoming a U.S. citizen because that status enabled him to obtain a U.S. passport. He applied for the passport only one week after naturalizing and left the U.S. two months later. *See* Department of Justice, Revised Statement of Facts (August 14, 2015). His overall plan was to return from overseas travel, then kidnap and kill American soldiers in the United States. *See also* Department of Justice News Release, Ohio Man Pleads Guilty to Providing Material Support to Terrorists (June 29, 2017). *Lesson Learned*: Naturalization (by USCIS) + U.S. Passport (issued by the State Department) = Essential Parts of Plan to Carry Out Terror Attack in the United States. The Heritage Foundation issued a "Backgrounder" concluding that that 26 Somalis (green card holders or U.S. citizens) were likely admitted as refugees and later implicated in terrorist activities. *See* Olivia Enos, David Inserra and Joshua Meservey, The U.S. Refugee Admissions Program: A Roadmap for Reform, HERITAGE FOUNDATION (July 5, 2017). A U.S. Attorney stated in 2016 that, "Minnesota has a terror recruiting problem" among young Somali-Americans. *See* US Attorney: Minnesota Has Terror Recruiting Problem, ABC NEWS KSTP (Oct. 19, 2016). Somalia is one of the countries impacted by the Supreme Court's recent decision in *Trump v. Hawaii*, 585 U.S. __ (2018), the "travel ban" case. *See* Josh Gerstein and Jeremey C.F Lin, Why these 7 countries are listed on Trump's travel ban, POLITICO (June 26, 2018) and White House Fact Sheet, President Donald J. Trump Strengthens Security Standards For Traveling to America, (Sep. 24, 2017). "For too long, USCIS officers uncovering instances of fraudulent or criminal activity have been limited in their ability to help ensure U.S. immigration laws are faithfully executed," according to USCIS regarding a new memorandum on Notices to Appear. USCIS Updates Notice to Appear Policy Guidance to Support DHS Enforcement Priorities, (June 28, 2018). Equipping officers with the tools needed to detect fraud is as important as providing them with," clear guidance they need and deserve to support the enforcement priorities established by the president, keep our communities safe, and protect the integrity of our immigration system from those seeking to exploit it." *Id*. Sensible fraud intervention measures are *sine qua non* conditions for ensuring public safety and principled adjudications. The sum and substance of the current process is quite different, however. If the goals are growing national security concerns, escalating chronic fraud, and irremediable damage to the system, the current process is perfectly calibrated to achieving them. No amount of administrative posturing can conceal the broken policy of allowing mass P-3 fraud to surge through the domestic system without a purposeful vetting strategy. Any attempt to cover a decade of inaction with the flag of legitimacy will not succeed.

of the Act: the interview requirement (Aug. 14, 2002) (reproduced by Liang Law). The day after the overseas P-3 program was suspended in 2008 (when fraud on a grand scale was confirmed), USCIS should have issued another memorandum establishing a new national policy requiring all P-3 applicants to be interviewed for all immigration benefits. Paper adjudications (decisions without interviews) should have been banned for the entire P-3 caseload. Fraudulent P-3 refugee families reportedly dissolve shortly after arrival in the United States. It might be impossible for applicants to reassemble their fictitious families when called in for interviews a year or more after admission. The interview safeguard would have been a useful and reliable fraud indicator even without the DNA safeguard. Indeed, the interview safeguard may be such a deterrent that it might have caused some to abandon applications and petitions rather than risk exposing their own fraud. Anyone surveying the current bleak interview landscape will feel dispirited.

Many fraudulent refugees remain in lawful permanent resident (LPR) status for years and simply renew their green cards when they expire. "In general refugee applicants for green cards are not required to appear for an interview." *Emphasis mine* USCIS, Refugee Adjustment of Status Presentation, (for Minnesota Refugee Health Provider Guide 2013 - Refugee Health Program). While in that extended status, they may apply for other immigration benefits; notably, refugee travel documents. Pre-suspension refugees are rarely interviewed for these benefits. The ironies of a 10-year expiration for green cards and a 10-year delay building domestic fraud defenses won't be lost on P-3 LPRs. The last of the fraudulent refugees admitted to the United States in 2008 underwent mandatory adjustment in 2009 and will apply for their first green card renewals in 2019 (if they did not naturalize). Trafficking survivor stories may be the saddest of all. They were the targets of a fast-growing source of profit in East Africa and their victimization may continue in the United States. But their stories are not heard because they are not interviewed. On August 28, 2017, USCIS announced that they will expand in-person interview requirements for certain applicants. *See* USCIS New Release, USCIS to Expand In-Person Interview Requirements for Certain Permanent Residency Applicants (Aug. 28, 2017). That policy should be further expanded to include all pre-suspension P-3 refugees. Recently, USCIS sent out notices to Burmese refugee arrivals asking that they appear for "voluntary" interviews. *See* Mike Kilen, Burmese refugees in Iowa summoned by U.S. immigration officials, DES MOINES REGISTER, (Feb. 26, 2018). The Pew Research Center produced an interactive map in November showing where refugees were resettled in the United States since 2002. *See* Jynnah Radford, How U.S. refugee resettlement in each state has shifted since 2002, PEW RESEARCH CENTER, (Nov. 2, 2017). A map like this one may be useful to determine which USCIS offices would bear the in-person P-3 interview burden.

2. Genetic Tests

The domestic immigration ship continues to sail with yesterday's wind. It is incredibly obvious that the same DNA safeguard required to screen P-3 cases in the reformed overseas program should be required to screen pre-suspension P-3 refugees applying for benefits in the domestic system. Because of the absence of domestic DNA regulations, however, USCIS cannot require DNA tests (USCIS, CAMINO Privacy Impact Assessment, (May 26, 2015). DNA testing is "absolutely voluntary." The current regulation is outdated and over 20 years old (USCIS, DNA Policy and Procedure for International Operations, (Sept. 2011) (reproduced by the Electronic Frontier Foundation). USCIS

"cannot require" DNA tests; rather USCIS can only "suggest" genetic testing *(emphasis in original text* USCIS Memorandum, Genetic Relationship Testing, (March 29, 2008). [5]

Even when fraud is highly suspected, USCIS cannot "require" DNA tests, according to an undated USCIS Senior Policy Council DNA Options Paper. *Supra* at fn. 2, USCIS DNA Options Paper. As recently as April 17, 2018 USCIS reaffirmed that, "regulations do not currently require DNA testing to establish the claimed familial relationship" *(emphasis mine*, USCIS Policy Memorandum, DNA Evidence of Sibling Relationships, (April 17, 2018), indicating a continuing journey down the same failed and dangerous policy path. [6]

The regulations should have been finalized in 2008 when genetic tests revealed their unmistakable value in exposing mass family relationship fraud. USCIS is not an agency known for blinding speed, but ten years (and still counting) to implement the domestic DNA safeguard is too long by any standard. It took the State Department four years to instill the DNA safeguard in the overseas P-3 program -- *while the overseas fraud faucet was turned off* during the suspension. It has now taken USCIS more than twice that length of time -- *while the domestic fraud faucet is still running*. The wait has been twelve years, if we count from when the DNA proposal was first made in 2006. The single most effective thing USCIS can do in 2018 is to finalize the DNA regulations. [7]

---

[5] The Coliseum in Rome was built in ten years, but USCIS could not accomplish a much lesser feat -- the DNA regulations -- in the same time span. USCIS bears responsibility for the wide policy gap between the overseas and domestic systems, its widespread exploitation, and for allowing it to continue for so long. Had USCIS implemented the domestic DNA safeguard, it would have caused a dramatic reduction in numbers, similar to the effect it had on the overseas program. In 2017 (five years after the overseas P-3 program restarted with DNA screening), there were only 228 P-3 refugee admissions. Compare that small number to 27,818 P-3 admissions in 1991, when the overseas program was at its height (State Department, Proposed Refugee Admissions for Fiscal Year 2018 Report to the Congress (2017). The domestic safeguard would have had a similar radiating effect on behavior in the United States, discouraging fraudulently-admitted P-3 refugees from continuing their chain fraud schemes by applying for more immigration benefits. Many fraudsters would, quite understandably, prefer to abandon applications rather than risk exposing their own fraud. The discouraging effect of the safeguard, more than the DNA tests themselves, would have had a major beneficial impact on the domestic system.

[6] In April 2006, the former Ombudsman recommended greater use of DNA testing. *See* Letter from Ombudsman to USCIS Director, DNA Recommendations (Apr. 12, 2006). The Ombudsman had the foresight to attach a draft regulation as an appendix. The former USCIS Director responded in July 2006 that USCIS was working on regulations. *See* Memorandum from USCIS Director, Response to Recommendation #26, DNA Testing (July 5, 2006). The pilot DNA test revelations two years later, in 2008, should have accelerated finalization of the draft DNA regulations. They didn't.

[7] An 1876 internal Western Union memorandum concluded: "The 'telephone' has too many shortcomings to be seriously considered as a means of communication. The device is inherently of no value to us." New leaders must not make the same technology error in 2018. DNA tests have inherent value in verifying alleged family relationships. Genetic testing is no longer even new technology. It would be a titanic mistake to leave the suggestive genetic testing policy in place when both relationship fraud and human trafficking are certain to be major issues in the domestic P-3 caseload. It is time to discard the suggestive policy framework of the past and move to regularizing this modern safeguard into mainstream USCIS procedures. Voluntary, optional, or suggestive policies are still useful in the other areas (e.g., pet control, school rules compliance, or water conservation), but is no longer sustainable in the immigration context. Genetic testing is long overdue for a regulatory basis in USCIS policy. Policymakers should include the DNA regulations as a cornerstone of a robust and successful domestic program.

USCIS knew that a combination of mandatory DNA tests and in-person interviews were essential to stop fraud in the overseas P-3 program, but did not implement the same counter-fraud measures in the domestic P-3 system.[8] The same fraudulent refugees who successfully exploited the overseas program in such large numbers before the suspension are today taking repetitive advantage of a wide variety of domestic immigration benefits without either DNA or interview requirements. The presence of both safeguards (interviews and DNA tests) in the reformed overseas P-3 program and their absence in the domestic system underscore weaknesses and failure to take into account hard-learned policy lessons. Lack of fraud defenses that proved so vital in the overseas program creates ladders of opportunity for abuse in the domestic system. USCIS has their eyes wide open in the new overseas program and wide shut in the domestic. Nobody at USCIS would argue that overseas P-3 refugees should be approved without both interviews and DNA tests, but that is precisely the policy USCIS has in place today for many domestic benefits. The domestic system runs like a well-tuned engine for those wishing to exploit it, and thousands do exploit it, much like the overseas engine before 2008. [9]

The domestic system is as accommodating to widespread fraud as the former overseas system, with a wider panoply of spoils to plunder. The experienced immigration mind winces at the thought that the domestic system continues in this manner, essentially relying on paper adjudications and automated background checks for many benefits. Those adjudications will only occasionally stumble upon fraud, even when its occurrence is commonplace, as minimalist approaches are prone to do. USCIS can review paper applications galore and conduct document examinations and background checks all the livelong day. That won't stop the fraud or even slow it down appreciably without the right primary safeguards. In no other industry (e.g., banking, finance, car manufacturing) would major design defects remain uncorrected for so long a period of time, especially when we consider the tsunami of fraudsters taking advantage of them. [10]

---

[8] The former CAM (Central American Minors) program also had a DNA testing requirement (USCIS, In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors – CAM) (last updated Nov. 15, 2017). Rationale: "In order to ensure that vulnerable children are not exploited by this program [CAM], we require DNA testing to verify that claimed biological parent-child relationships are genuine" (*emphasis mine*, USCIS Testimony for Senate Committee on the Judiciary, Subcommittee on Immigration and The National Interest, Eroding the Law and Diverting Taxpayer Resources: An Examination of the Administration's Central American Minors Refugee/Parole Program, (April 23, 2015). The same concern about exploitation of children in Central America under the former CAM program should exist for women and children in the United States who were admitted under the failed P-3 program, necessitating the same DNA requirement. DNA tests are required, not suggested, for all cases in the reformed overseas P-3 and former CAM programs. They should also be required for all domestic pre-suspension P-3 cases.

[9] There is a jarring dissonance between the diametrically opposed notions of requiring DNA testing in one process (the reformed overseas P-3 program), but not requiring the same safeguard in the other (the domestic P-3 system). Both sides of the continuum should use fraud-intervention safeguards -- not the misaligned "required" on one side and "suggested" on the other. This fundamental imbalance requires reengineering. DNA testing in the overseas P-3 program was essential, justified, successful, as well as the right thing to do. The P-3 program's new DNA screening requirement prevented thousands more fraudulent refugees from being admitted to the United States. The same analysis should hold true for the domestic P-3 system, yet today fraudulent P-3 refugees who were never DNA tested before continue to move effortlessly through the domestic immigration pipeline unimpeded by DNA test requirements. The gap between overseas and domestic fraud defenses became a canyon.

[10] In 2005, this author wrote in Nairobi that government managers, "sometimes feel like King Canute in his hopeless task of stopping the rising of the sea tide by merely holding up his hand in silent command. Without

Once the defects are remedied and the domestic P-3 plan is in place with full interview and DNA testing requirements, fraudulently-admitted refugees will make appeals to "cross-cultural sensitivity" to explain their lack of blood relationships to claimed family members. This is an old but artful dodge. USCIS adjudicators should be doubly circumspect about accepting these explanations. One does not have to be an acute observer of evasive human nature to predict the stratagems that will be devised to avoid or explain DNA test results. Some will say that the children they claimed as their biological children in Africa are in fact their "foster" children, not related by blood to each other or to anyone else in the family; therefore they can't be DNA tested. In Nairobi, we often had multiple refugee applicants who used the same memorized recitation ("You see, in my culture…"), obviously coached by the same source. Cross-cultural sensitivity has a place (African refugee populations do have complex yet valid familial and clan relationships), but should not be used in such a manner that fraud is masked by appeals to cross-cultural sensitivity. Some will offer a multiplicity of reasons why their alleged families are missing or unavailable, ranging from "they disappeared," "are sick," or "moved away." Care must be taken regarding these stories about post-admission absentee family members. Many of these alleged family members may be women and children who were trafficked to the United States through the failed P-3 program. Others will choose the simple expedient of failing to appear for interviews or DNA tests, foreclosing inquiry.

3. Domestic RAVU Fraud Checks

The Refugee Access Verification Unit (RAVU) system administratively checks affidavits of relationship for fraud. Historically, RAVU fraud reviews only took place to support overseas refugee decisions. That policy must change. These checks must also take place for pre-suspension refugees who were admitted to the United States before the RAVU system began in 2001 and then apply for additional immigration benefits. Similarly, new RAVU checks should be conducted for all P-3 applicants who were screened under a flawed RAVU policy that was in effect between 2001 and 2003. These domestic RAVU fraud checks are not taking place, unfortunately. Most will shudder at the thought of how many fraudulent refugees in these two categories obtained additional benefits over the years without RAVU fraud screening. The only pre-suspension P-3 refugees in the United States who received adequate RAVU screening were those admitted during the 5-year window between 2003 and 2008. All others admitted during the previous 15 years received no RAVU fraud screening or deficient screening. The failure to put these substantial numbers of earlier admissions through RAVU screening when they apply for domestic benefits allows fraudulent refugees to be shoehorned into those benefits. This wide chasm should have been closed years ago.

There are long and intertwined fraudulent relationships in this caseload, involving fraudulent refugee anchors who sponsored fraudulent overseas relatives, and they in turn sponsored additional fraudulent relatives. The abuse went on for twenty years and is one of the most egregious examples of "chain immigration" or chain fraud in the United States. The White House recently made specific reference to the problem of chain migration. *See* White House, It's Time To End Chain Migration (Dec. 15, 2017). RAVU reviews will undoubtedly reveal numerous instances of chain family relationship fraud in affidavits of relationship filed before 2003. RAVU vetting will provide reliable fraud indicators for older cases -- even without DNA screening. The absence of RAVU and other

concrete controls, there is little to stop the influx of fraudulent refugees." The same can be said equally, indeed more emphatically, in 2018 about the absence of concrete controls in the domestic P-3 system.

screening safeguards makes the free-wheeling domestic immigration system even more vulnerable to repetitive fraud than the former overseas refugee program. These are perfectly-crafted policies for fraudulent refugees across the United States, ones they couldn't have designed better. [11]

USCIS should routinely request that P-3 applicants appear at interviews with the same alleged families who accompanied them at the time of admission. In conjunction with in-person interviews for all benefits, Refugee Officers can conduct domestic RAVU fraud screenings for pre-2003 P-3 refugee admissions. USCIS is already deploying some Refugee Officers domestically, to assist asylum adjudications. *See* Testimony, Hearing on the "Refugee Admissions FY 2018" before the Subcommittee on Immigration and Border Security House Committee on the Judiciary, (Oct. 26, 2017). Refugee Officers can assist other domestic adjudicators by conducting RAVU fraud checks for pre-2003 P-3 refugees applying for a variety of immigration benefits. Domestic adjudicators may be unaware that there was no RAVU screening system before 2001, or that cases were screened under a deeply-flawed RAVU policy that was in effect between 2001 and 2003. Refugee Officers, on the other hand, have long expertise conducting RAVU fraud checks, know the history of RAVU, and can perform this valuable service for domestic adjudicators. Deployment is unnecessary. Refugee Officers can conduct RAVU screening, just as they do now for overseas refugee adjudications, but this time to support domestic adjudications.

The scope of domestic RAVU review should be expanded to include all cross-referenced cases; the location of all alleged relatives in the United States (both immediate and extended); different addresses or any other indications that families dissolved after admission; their current immigration status (to determine how far extended families progressed in the domestic pipeline); if they have any other pending immigration applications; indications of post-admission overseas travel; post-admission name changes (often from fraudulent to true names);[12] and careful review of chain fraud indicators (both ascending and descending) -- a feature likely to be present in many cases.

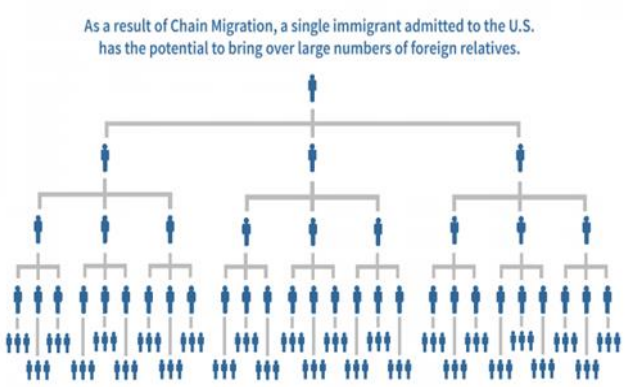
---

[11] What USCIS gets perfectly right in theory -- but so tirelessly wrong in practice -- is this statement in a PowerPoint presentation: "Fraud [in the refugee program]...threatens the integrity of the...U.S. Immigration system as a whole..." (USCIS, Fraud in the Refugee Context (Conference PowerPoint Presentation, undated) (reproduced by the Ethiopian Community Development Council). USCIS is quick to acknowledge the well-settled proposition that refugee fraud poses a threat to the entire system, then radically departs from it by using the wrong screening policy to mitigate the threat. In the context of immigration scams, USCIS warns, "The wrong help can hurt" (USCIS, Avoid Scams (last updated March 9, 2018). The wrong vetting can hurt too, a lesson that was learned the hard way in the overseas program but is still not learned in the domestic system. In a "Fact Sheet" on the refugee program, USCIS states they are, "deeply committed to safeguarding the American public from threats to public safety and national security..." *See* USCIS, Fact Sheet: Refugee Security Screening, (Nov. 11, 2015) (reproduced by ILW). That lofty rhetoric should be measured against hard reality: all the green cards, green card renewals, refugee travel documents, and naturalization certificates that USCIS issued to pre-suspension refugees without adequate screening. In contravention of clear principle, solid evidence, and direct experience, USCIS continued to allow a flawed domestic process for the pre-suspension P-3 caseload.

[12] Identity will always be an important issue for the pre-suspension caseload. Most fraudulent P-3 refugees were admitted to the United States using false identities. Some may revert to their true identities after admission. A recent media report indicates that a Somali man was arrested in Vermont on criminal charges connected to naturalization and U.S. passport applications. He engaged in many of the behaviors outlined in this paper, beginning with admission as a refugee in 2004 under a false identity, obtaining a green card in 2007, then U.S. citizenship in 2011, and later received a U.S. passport. The man changed his identity from a false to genuine name when he tried to renew the passport. He was later found living in subsidized housing.

In addition to expanded RAVU screening, Refugee Officers should prepare detailed "family trees" (in chart or graph form, of the entire alleged family in the United States: depicting immediate, extended, ascending, descending, and cross-referenced relatives) for use by domestic adjudicators during in-person interviews. Experienced Refugee Officers know that P-3 families are often large by western standards. Intensive RAVU review, across extended and successive fraudulent families, across multiple A-files, and across different screening policies, will be more complex and challenging than traditional RAVU screening. Refugee Officers are well-positioned to prepare diagrams showing each branch of the family tree, recognizing they are in fact preparing depictions of serial abuse traversing a range of immigration benefits. Mapping the complete family tree may be the most useful exercise that can be performed to combat fraud and assist domestic adjudicators attempting to unravel it. Pre-RAVU checks will often intersect with post-2001 RAVU determinations, records that will be available for review by Refugee Officers *provided that USCIS doesn't dispose them*. *See* Early Disposal of RAVU Records, i*nfra* at sec. VI.

The White House provided a diagram that might serve as a model for RAVU family trees (White House, *supra*, at slide # 13):



This is precisely the way chain family relationship fraud occurred in the failed overseas P-3 program for 20 years, before it was suspended. Generational fraud did not stop until the shutdown. Thousands of relationship slots were sold overseas. This was done in a shadowy world and thriving black-market of refugee brokers (human traffickers) and fraudulent applicants, selling and buying slots in the P-3 program. It was a low-cost enterprise for traffickers with high monetary yields and minimal risks. Other relationship slots were sold as well. Refugee Officers should make annotations of "add-on" relatives (a policy permitted in the P-3 program, but not in the parallel I-730 follow-to-join process) in family trees. These annotations will be useful to domestic adjudicators who may not know the policy differences. Add-on relatives are a subset of the broader family relationship fraud. Most were unrelated to each other or to anyone else in the family. They may have been among the first to break from their alleged families after arriving in the United States. [13]

See Eric Russell, Somali man who settled in Maine accused of using another man's name to apply for papers, PRESS HERALD (May 29, 2018). His exploitation strategy is not unique or isolated. Multiply this case by thousands, nationally, and we begin to get a true picture of how refugee fraud advances and proliferates in the United States.

[13] Sadly, another source of chain fraud that we encountered in Nairobi involves children. They were single at the time of overseas refugee interviews, but married during the short interval between interviews and departure for the United States. After admission, the children would sponsor their newly-acquired spouses.

Vulnerable women and children are at the eye of a turbulent vortex of swirling undercurrents: desperation, violence, poverty, crime, and greed. They should not remain invisible in a system that appears to ignore, even reward, their continuing exploitation. During expanded RAVU reviews, Refugee Officers should flag any indicators of human trafficking for domestic adjudicators to explore during face-to-face interviews. Indications of trafficking may take the form of the disappearance of women or children from families after admission, dropping out of school, state, city or county child welfare inquiries, arrests for prostitution, incidents of domestic violence, participation in gang-related activities, placement in foster care or group homes, or failure by principals to pay State Department-funded refugee travel loans for claimed children. The total disintegration of alleged families after admission may be an indication of both family relationship fraud and human trafficking.

Importantly, this type of intra-agency cooperation (between domestic adjudicators and refugee officers) on a huge suspect caseload needs no regulation to implement and will -- by itself -- add considerable integrity to the domestic adjudications system. Fraudulent refugees are the sharp end of a stick that easily subverts the system. "Chain-fraud-in-progress" should continue endlessly, as far as they are concerned. More than anything, fraudsters want USCIS to be a passive observer, standing idly by and watch as the domestic P-3 system slides further toward collapse. Any time USCIS strikes out against mass fraud, even in moderate or belated ways, they send out ripples of hope for immigration integrity. [14]

We proposed the use of a form, a "pre-departure marriage declaration," that must be signed during overseas interviews to end the practice. USCIS began using the form in 2003. *See* USCIS Policy Manual, Volume 7: Adjustment of Status; Part L, Refugee Adjustment; Chapter 2, Eligibility Requirements (current as of May 23, 2018). Refugee Officers conducting expanded RAVU reviews should note any indications that children engaged in the practice of pre-departure marriages. There is no more egregious example of child exploitation than the participation by children in schemes that facilitated the fraud of others. The children themselves likely had no relationship to their alleged families or U.S. anchors, and continued the chain fraud schemes by sponsoring still more fraudsters. Traffickers had no moral qualms about using children to further their lucrative enterprises. The practice was routine. Children were viewed as nothing more than valuable, usable, and saleable commodities.

[14] USCIS must change the insular thinking surrounding RAVU and replace it with a broader information-sharing approach. An example of this wrongheaded insularity is a statement in the RAVU Privacy Impact Assessment informing, "Scanned copies of the [anchor's] A-file will only be used for RAVU determinations and *will not be reviewed for adjudications by any other component of USCIS*" (*emphasis mine*, USCIS, RAVU Privacy Impact Assessment, (August 16, 2013). This compartmentalized system is antithetical to the approach that should be taken. Domestic adjudicators may need RAVU information for their determinations. It is incompatible with a domestic fraud intervention strategy to withhold any RAVU-related information from domestic adjudicators whose decisions necessarily involve fraud, national security, and human trafficking issues in the pre-suspension caseload. Limiting the information that domestic adjudicators can review, as they decide benefits applications filed by fraudulently-admitted refugees, is a blueprint for failure. The applications were filed by refugees who were never RAVU-cleared and the nature of extended family relationships might require that adjudicators review RAVU information for other alleged relatives who are part of the same chain fraud scheme. *RAVU is not comprised of insular information in the context of cross-system sequential and generational fraud*. To be sure, fraudsters do have kind of a "privacy interest," but only in the sense that they prefer not to have their deep-seated immigration scams exposed. Of course, fraudsters appreciate stone-age fraud intervention tools and policies that prevent domestic adjudicators from learning more about chain fraud interconnected with their cases. Fraudulent refugees definitely don't want to see any game changers, innovations, or information-sharing at this late stage.

V. INS vs. USCIS: Comparing Major Processing Blunders

Sixteen years ago, in 2002, the DOJ-OIG criticized the immigration services component of legacy INS (then part of DOJ, later reconfigured as USCIS within DHS) for continuing to process domestic benefits for two terrorists, despite the fact they died on 9/11. *See* Department of Justice, Office of the Inspector General, The Immigration and Naturalization Service's Contacts With Two September 11 Terrorists, (May 20, 2002). A flight training school received notices informing that change-of-status applications filed by the terrorists had been approved. They were the two pilots who crashed planes into the World Trade Center six months earlier. That serious lapse must be compared to USCIS continuing to process benefits for thousands of P-3 refugees in the United States, despite the fact that DNA tests incontrovertibly confirmed near total fraud in the overseas program that admitted them. The domestic benefits are diverse, from green cards to U.S. citizenship and all points in between. It is the quantitative difference between the INS and USCIS failures that is most troubling: two versus thousands; the national security dangers (living, not dead) among the thousands; six months of inaction versus ten years; significant numbers of human trafficking victims; more nationalities; and the larger number of immigration benefits disbursed.

Both agencies improperly processed immigration benefits, but the size and scope of the blunders are different. Far surpassing the INS lapse, the USCIS failure cheapened the value of our nation's immigration benefits and left an enduring stain on the integrity of the system. The scale of the P-3 refugee fraud crisis is unprecedented in the United States. Minimum due diligence required USCIS to vet pre-suspension refugees in the domestic pipeline with the tried-and-true screening safeguards used in the reformed overseas program. The commonest of common sense, imbued with minimum knowledge of the refugee program, informs that the same defenses are needed to stop crushing fraud in both systems. That didn't happen. Failure to include the DNA safeguard made it easy for bad actors who abused the overseas program in such expansive numbers to continue abusing immigration benefits in the domestic system. USCIS's extended inaction suggests incredibly slow reflexes, a weakness for any agency; but a fatal flaw for the domestic P-3 system and an incredible windfall for fraudulent refugees across the United States. Inaction fueled the spread of fraud for years. This is staggering irresponsibility, possibly the most colossal policy failure in recent immigration history. [15]

Fraudulent groups calling themselves "families" (and often comprised of 10, 15, or more aliens) no longer glide through the overseas P-3 program and into the United States. That's because DNA became a permanent screening fixture in the reformed overseas P-3 program years ago. Fraudulent refugees do, however, breeze through the domestic immigration benefits delivery system without mandatory DNA screening, without interviews for many benefits, and without RAVU vetting for pre-

[15] Domestic P-3 policy failure is more expansive than other lapses in the "mass blunder" chronicles. For instance, USCIS mistakenly issued 3-year work permits to over 2,000 DACA recipients (USCIS, Important Information for Some DACA Recipients Who Received Three-Year Work Authorization: Fact Sheet, (July 15, 2015). Additionally, USCIS mistakenly granted citizenship to over 800 aliens (Aaron Blake, 858 immigrants from 'special interest countries' were mistakenly given citizenship, WASHINTON POST (Sep. 20, 2016). USCIS announced in May 2018 that they will recall 8,500 green cards with incorrect dates (USCIS Recalls Over 8,500 Green Cards Due to Production Error, NBC Connecticut (May 15, 2018). Compared to these lesser failures, the domestic P-3 policy breakdown was and continues to be a huge bonanza for fraudulent refugees.

2003 admissions. It was in USCIS's failure to implement these reforms where fraudulently-admitted P-3 refugees found their domestic game plan to exploit immigration benefits. Understanding whence the fraud came and how it ended there should have been the guidepost for the domestic way forward. USCIS instead ignored the guidepost, dissociated itself from the fraud, and kept the system in darkness by continuing to use the wrong screening strategy. No one thought it incongruous to halt fraud in one system, but not the other; when both systems are part of the *same benefits continuum*; both were exploited by the *same fraudulent refugees*; both have the *same shocking fraud levels*; and both require the *same remedial measures*.

Born of good intentions, the failed overseas program was defined more by concrete dysfunction than abstract benevolence. The program's collapse was a disaster. But even that crisis didn't reach the heights of what happened in the United States. Steamroller fraud moved through the domestic pipeline. Immigration benefits fell like dominoes, one after the other. Unlike in the overseas program (where corrective action was eventually taken), the domestic crisis flowed from a central source: apathy. DHS and USCIS should have seen the domestic catastrophe and its aftereffects coming. Instead, the failed overseas program proved to be a dress rehearsal for systemic failure in the United States. The last decade has effectively been a long, open-enrollment season for fraudulent refugees applying for domestic benefits.

New leaders will bear in mind that this is not a single goof or solitary blunder that lends itself to a quick fix or makeshift remedy. A better way forward won't be as easy as hitting a policy reset button. This was a long and drawn-out process breakdown that lasted for a decade. A survey will reveal that the domestic P-3 system is not the crown jewel among USCIS's immigration benefits delivery systems. The system's current status: a full-service immigration fraud mill. The architectural flaws that caused this condition require reengineering. Redesign will transform the system to a new status: a powerhouse *of integrity, vigilance, and innovation*.[16] Reform will align the system with USCIS's core values, make guiding principles operational reality, and send the system in

[16] USCIS recently removed "nation of immigrants" from their mission statement (CNN Wires, U.S. immigration agency removes 'Nation of Immigrants' from its mission statement, FOX 2 NOW (Feb. 23, 2018) and Mark Krikorian, Removal of "Nation of Immigrants", TWITTER (Feb. 23, 2018). Going a step further, USCIS should also remove integrity, vigilance, and innovation from the list of "core values" (USCIS, About Us (last updated Mar. 6 2018) to comport with current practices in the domestic P-3 system. *See also* USCIS, How would you describe the culture at USCIS? (July 18, 2008) ("At USCIS, our core values are integrity, respect, ingenuity, and vigilance. These values serve as guiding principles in our efforts to effectively fulfill our day-to-day mission and realize our long-term vision… People who work at USCIS care deeply about our mission and values. They are the foundation for all that we do.") In a system where USCIS makes so showy the parade of core values, professing to holding them dear, the guiding principles are acknowledged more by breach than practice. It was the ingenuity of fraudulent refugees that allowed their total exploitation of two adjudications systems. USCIS should have had the vigilance to stop them in the domestic system. The reality is that USCIS displayed a decade of degradation, inattention, and stagnation -- the direct opposites of the guiding principles. It is more daring than convincing for USCIS to allege they, "will remain mindful of our obligation to provide immigration services in a manner that strengthens and enhances our nation's security." That statement appears in the core value of "vigilance" and its absence in the domestic P-3 system is as evident as the other missing core values of integrity and innovation. These principles are so well-concealed in the system that Christopher Columbus couldn't find them. Years of erosion diminished the core values to the point they no longer have even the stature of empty slogans. Anyone at USCIS who recited the slogans during the last ten years was essentially giving a melodic rendition of a road safety song during a car crash. The sparkling lyrics ring hollow and bear no rational relationship to grim reality. It is not beyond the pale that a sound plan tethered to guiding principles will finally become reality, which will again allow recitation of the slogans and their restoration to core-value status.

an entirely new direction. There is too much at stake -- our nation's security, mass refugee fraud, and human trafficking victims -- to do otherwise. [17]

VI. Yet Another Blunder: USCIS Plans Early Disposal of RAVU P-3 Records

It is not at all surprising that an agency so willing to transgress basic expectations of integrity in the domestic P-3 caseload would go one step further and propose early disposal of important records connected to the program. In 2013, USCIS published an inconspicuous notice in the Federal Register proposing to reduce the retention period of RAVU's P-3 records from 20 to 15 years. *See* Federal Register, Privacy Act of 1974; Department of Homeland Security U.S. Citizenship and Immigration Services- 008 Refugee Access Verification Unit System of Records (Nov. 25, 2013). Inasmuch as the RAVU system started in 2001, disposal of RAVU's earliest records could have begun two years ago, in 2016. In the pantheon of too-incredible-to-accept-that-it-actually-happened, the USCIS proposal to accelerate disposal of records relating to the fraud-ridden P-3 program has to rank pretty highly. The fact that RAVU is a centralized electronic information repository is what makes it so important. It will be impossible to understand mass fraud, its progression, and to reach solutions for combatting it domestically, without a centralized database filled with facts and information on thousands of fraudulent P-3 cases.

Significantly, electronic immigration data, even data structured for only one purpose, might be usable and actionable intelligence in the hands of the right personnel. There may be new and as yet unimagined ways for cyber professionals to use the data, provided that USCIS does not dispose it. Any attempted justification of the USCIS disposal plan is sapped by the fact that no one can predict all the potential uses of RAVU records once the domestic plan is in place. To date, USCIS has given no indication that they plan to reverse course and preserve these records. [18]

---

[17] A forlorn producer asked an indolent playwright about the long delay in writing a play. The playwright replied: "It's coming along nicely. It will be in four acts and one intermission. I've already finished the intermission." USCIS has spent enough time working on the intermission, a decade since the DNA, interview, and RAVU vetting safeguards should have been instilled in the domestic system. The long intermission caused fraudulent refugees to breathe a collective sigh of relief and drew astonishment from those familiar with the issue. USCIS is playing out the same drama domestically that premiered overseas. The directors are different, but the actors, sets, props, wardrobes, and choreography are all the same. The performances play again and again on stages across the United States. The sequel's epilogue must be written and the fraud mill shut down permanently. Fraudsters luxuriate under current flawed policies, much preferring silence of the shams to any changes. While USCIS is busy professing the soundness of the system, fraudulent refugees are squeezing the oranges and throwing away the peels. They conduct themselves with the carefree air associated with a carousel, beyond worry that their ongoing fraud will be discovered. USCIS's idleness was no kinder to vigilance and innovation than integrity. Had USCIS kept faith with their core values, the domestic fraud flume would have closed years ago. USCIS has already accomplished a domestic delay lasting half as long as the overseas fraud, certainly no pillar of pride for USCIS and a lasting source of plunder for fraudulently-admitted refugees. It could be persuasively argued that a temporary domestic P-3 suspension should be imposed now to stop the bleeding and allow USCIS to do in 2018 what they should have done in 2008.

[18] The discerning reviewer will cast a skeptical eye on the proposed USCIS records retention policy. It was a glaring *non sequitur* for USCIS to propose early disposal of P-3 records in 2013, only a year after the failed P-3 program restarted in 2012. Records preservation should be the norm in mass-fraud scenarios. Under the USCIS plan, however, disposal will be the norm as records age sooner under a recalculated schedule. No razor-sharp analytic skills are needed for the conclusion that USCIS should not discard any records relating to a major fraud catastrophe. The benefits of preserving these electronic records far outweigh any costs associated with keeping them. The proposal reflects an abysmal failure to guard data entrusted to USCIS's care. The ill-advised plan may have already moved from deficient abstract theory to destructive operational practice. It

Most clear insights require a double perspective. Such is the case here. The RAVU issue reveals a deeper and more troubling concern. USCIS apparently has the lopsided view that it is permissible to take a longer period to work on the DNA regulations and a shorter period for RAVU records retention, but that approach has it just backwards. It is the DNA regulations that should have been finalized in a shorter timeframe and RAVU records preserved for a longer period. It is difficult to recall another instance where USCIS showed such misguided laxness on one issue and equally misplaced acceleration on a closely-related issue; essentially confusing when to delay, when to accelerate, and succeeding in getting both velocity issues wrong. Sound policy alignment will never be achieved as long as USCIS is unable to recognize the interrelationship of issues and correctly assess and calculate proper timing according to their importance. Striving for process integrity instead of a recalculated retention schedule would have been a more purposeful and worthwhile effort to pursue. USCIS needs to break the cycle of lethargy on safeguards and enthusiasm for records disposal. There is little among these issues to sustain expectation of sound and synchronized immigration policies. The issues call into question whether sensible and strategic decision making is taking place. Policy leaders must persuade USCIS to abandon the small-minded idea of premature records disposal and replace it with the noble goal of strengthening the integrity of our nation's immigration system. Without major shifts in policy, however, the byproducts of current thinking -- disregarding mass fraud, ditching valuable records, and deficient vetting procedures, troubling as they would have to be – may continue indefinitely.[19]

Years of determined inaction suggest that USCIS wants to turn one of the darkest pages in immigration history by forgetting it. I differ with them in this regard and take a vastly contrastive position. There are too many fraudulent refugees, national security dangers, and human trafficking victims in the United States to forget it. USCIS's more recent idea about early disposal of RAVU records also suggests a misguided notion to forget both the disaster and its continuing aftermath. USCIS moved with heedless laxity through the years, yet with firm conviction that centralized records relating to the crisis would not be needed, by anyone, for any reason, ever. Such active interest in premature records disposal is a worrying development following years of inaction on safeguards. USCIS may be disposing RAVU records faster than fraudulent refugees are exploiting domestic benefits. For the last ten years, USCIS permitted a process that allows accelerated abuse of the domestic system, and five years ago proposed a plan that allows accelerated disposal of records connected to the overseas program. Few seem to recognize that records preservation is a

---

must be clear by now to the reviewer that it is the USCIS disposal plan -- not the RAVU records -- that should be destroyed.

[19] If it is true that we learn more from our failures than our successes, there must be some very learned people at USCIS. Systemic failure could not have been better accomplished with a "4-Point Plan:"

1) No P-3 interviews for many domestic benefits (☑);
2) No required DNA tests for any domestic benefits (☑);
3) Early disposal of important electronic P-3 records (☑); and
4) No domestic RAVU fraud checks for two large categories of P-3 applicants (☑).

Architects of the plan would receive a standing ovation from thousands of cheering fraudulent refugees across the United States.

more appropriate analogue for a fraud intervention plan than records disposal; or they assumed there would never be a domestic plan, negating the need for records preservation.[20]

Had a wayward bank employee proposed the early disposal of centralized records of customers suspected of financial fraud (e.g., in personal loan applications), while the customers are applying for additional financial benefits (e.g., credit cards, business loans, and mortgages), the proposal would be flatly rejected as a major mistake and the bank employee sent back to a business school. The USCIS plan is inconsistent with the approach taken in any commercial sector. It is difficult to envision any industry discarding fraud records while the fraudsters to whom the records pertain still actively pillage the system. Premature RAVU records disposal is a gift to fraudulent refugees, dovetailing nicely with their continuing exploitation of the domestic immigration system. No other agency would plan to discard the electronic records of a broad group of applicants with near 100% fraud levels, when 100% of those applicants already applied for at least one more benefit, i.e., green cards, and most will apply for many more. A simple "good idea-bad idea" form of administrative vetting would have prevented this short-sighted proposal from ever reaching the Federal Register. RAVU records must be preserved and used, not purged and disposed. USCIS needs to take their foot off the gas of the early disposal plan. Accelerated disposal is the last thing that should happen to these centralized refugee records. If left unimpeded, the plan will result in the disposal of all electronic RAVU records connected to the failed program in only 5 years, by 2023 (15 years after the program's 2008 suspension). The Scales of Justice require the balancing of reliable information for reasoned decisions by policymakers and adjudicators. That task is made impossible for this caseload without smart screening and complete records, including RAVU records. [21]

New leaders will undoubtedly take a panoptic view of the RAVU issue, looking *backward* to the delays of the last ten years; *forward* to the future if the disposal plan is allowed to continue;

---

[20] The November 2013 records disposal brainchild came four years after the November 2009 announcement that there are "no plans" for P-3 refugees in the United States. Does anyone discard records relating to fraud, regardless of where it is located? What makes this issue unusual is that it is the records custodian making the proposal and the records are connected to mass refugee fraud. Some things you can throw away early; some things you can't. USCIS inexplicably places RAVU records on the "can" list. *Mass refugee fraud and mass records disposal: a terrible combination*. Premature records disposal is not made any less pernicious because it is done in compliance with the custodian's recalculated retention schedule. It is not hyperbole to suggest that RAVU records are in peril from the custodian.

[21] Missing safeguards and incomplete records are what every fraudster wants. Fraudulent refugees appreciate major blind spots in the vetting process and fewer records. For them, runaway fraud and records disposal go as hand-in-hand as tea and crumpets, enjoyed jointly more than severally. The cumulative effect of these policy failures is a supportive atmosphere for fraudulent refugees as they exploit domestic benefits. No better plan could have been devised to steer away from the poisoned well and dispose records that might help drain it. USCIS should imagine an unrelated mass immigration fraud investigation. Then think of an improbable plan to dispose investigative records while the suspects to whom the records pertain commit new acts of fraud; their continuing fraud is connected in a matrix to other fraudsters who committed the same fraudulent acts; and the interlacing threads extend from the past to the present, from overseas to the United States, and across large numbers of cases. This type of analogous thinking, brought to bear on the RAVU issue, should result in new perspectives on the importance of records preservation and cause USCIS to discard the disposal plan, not the records. The RAVU system is a repository containing a trove of information, including interview worksheets, review letters and decision notices, inconsistencies found between claimed relationships, other applications for benefits, family trees in list format, and summaries of review findings -- all electronic and all centralized in one location. The value of RAVU records to domestic adjudicators cannot be overstated.

downward to cascading exploitation of the domestic immigration benefits delivery system; and *upward* to the star of immigration integrity. That panoramic perspective can have only one result: new leadership will rescind and cancel the RAVU records disposal plan. The decision will unite government policymakers of all backgrounds. USCIS should in turn publish a new notice in the Federal Register stating that they will permanently preserve RAVU records or, at a minimum, retain them under the original 20-year records retention schedule. The earliest USCIS could begin disposal under that schedule is 2021 (20 years after the RAVU screening system started in 2001). USCIS may choose to revisit the issue in 2021 and extend, not reduce, the retention period by 5 additional years, as needed. Regrettably, USCIS chose to revisit the issue in 2013 and proposed to reduce records retention by 5 years in a system where fraud ran so deep.[22]

VII. Divergent Fraud Defenses Produce Opposite Results

The current domestic system suffers from precisely the same processing malfunctions as the former overseas program. A comparative summary of fraud defenses:

Overseas P-3 Program

Pre-2008	No DNA screening, but has in-person interviews.
2008	Pilot DNA tests reveal massive fraud. Program suspended.
2012	Program resumes with both DNA screening and in-person interview requirements.
2001-Present	RAVU Fraud Checks: started in 2001, but under a flawed screening policy that was not reversed until 2003.

↓ -- *Spillway*

Domestic P-3 System

• No suspension.
• No required DNA tests for any benefits.
• No in-person interviews for many benefits.
• No domestic RAVU fraud screening of P-3 refugees admitted to the United States before 2001, or admitted under a defective vetting policy that was in place until 2003.

A timeline of the march to failure takes us from the program's suspension in 2008, to the premature records disposal plan in 2013, and then on to anemic fraud defenses in 2018. One characteristic that

[22] There are other signs of misplaced timeframes. The State Department maintains their WRAPS (Worldwide Refugee Admissions Processing System) records for 15 years. Uniform records retention is possible, but it is the WRAPS system that should comport with the RAVU system regarding length of retention -- not the other way around. The fact that RAVU, unlike WRAPS, is a purpose-built electronic system initially comprised entirely of P-3 records (relating to fraudulent refugees on both ends of the application process), taken with the failed program's lasting legacy of fraud on a massive scale, should lead reasonable policymakers to the inevitable conclusion that longer, not shorter, retention of these government records is required -- regardless of the WRAPS retention period. WRAPS is the broader system, while RAVU is the narrower one, yet RAVU should be the bellwether leading a forward refugee-records preservation trend in mass-fraud scenarios, not backwards with shorter retention. Against this backdrop, USCIS badly miscalculated by proposing a shorter RAVU records retention schedule.

USCIS consistently demonstrated over the last ten years is the willingness to grant pre-suspension refugees domestic benefits without the safeguards proven to stop fraud in the reformed overseas program. That suits fraudulent refugees just fine. Their goals have remained unchanged for thirty years. They are twofold. First, to gain fraudulent admission to the United States. Second, after admission, to obtain as many immigration and public assistance benefits as possible. Fraud triumphs when, in the end, thousands of perpetrators who achieved their first goal before 2008 proceed to the second without encountering meaningful obstruction. Refugee fraud is a tool by which many forms of exploitation are committed. It's about what fraudsters can get. It always comes down to that.

The shutdown of the overseas program in 2008 should have been paired with the startup of a domestic fraud intervention plan. However, nothing meaningful changed in the domestic system after the overseas suspension. It took twenty years to learn the DNA lesson in the overseas P-3 program and more than ten years to learn the RAVU lesson. It shouldn't take another ten years to learn the same lessons in the domestic system. The obviously divergent fraud defenses are even more startling when we consider that the overseas P-3 program spills into the domestic pipeline. If the water is polluted upstream, it's polluted downstream, and it won't become safe to drink without the right filtration. USCIS erred seriously by allowing unsafe water to cascade through the domestic pipeline with the wrong filtration. This isn't a trickling rivulet of fraud. It's a surging river. Mass refugee fraud was recirculated throughout the domestic immigration benefits delivery system where it is just as toxic. We pay homage to overseas fraud by recycling, transforming, and upgrading it in the United States. The corrosive damage caused by enough years of flawed vetting can result in complete system breakdown. [23]

Mass P-3 fraud did not, as some believe, end with the program's suspension ten years ago. To the contrary, it continues in the United States with more destructive effect in the domestic immigration system than in the former overseas refugee program. This was not some faraway or "over there" fraud crisis lacking immediacy or significance in the United States. The source of the refugee fraud was overseas, but its consequences are huge and continuing in the United States. Someone who fell asleep in 2008 and woke up ten years later would be astonished to find that the immigration system remains reliant on stagnant fraud defenses; even more startled to learn that half-way through the long slumber, in 2013, a proposal was made to dispose valuable records connected to the crisis. Our Rip Van Winkle might wonder who in fact hibernated for a decade, or was oblivious to overseas events and their domestic impact, or suffers from acute memory loss.

It is puzzling that two agencies as closely-linked in the refugee field as the State Department and USCIS would go through the same experiences, at the same time, and take such different approaches. *There is no greater tale of disjointed efforts in all the annals of immigration history than this one about mass fraud ending in one system and continuing in the other.* It is clear the State

[23] The refugee program is humanitarian in nature. It's ok to have soft hearts, but not soft heads. Good intentions in the immigration context serve to remind us of Emerson's admonition that, "We mean well and do ill, and then justify our ill-doing with our well-meaning." Fraudulent refugees surged into the United States for 20 years while the failed P-3 program was active. The fraud rate was near total. Then the story took an even darker twist. Long-term inaction unleashed an uncontrolled flood of fraudulent refugees to exploit domestic benefits. No amount of well-meaning can justify that form of ill-doing. Even committed humanitarians will agree that the principle of refugee protection is not broad enough to include mountainous fraud that completely overran one adjudications system and continues to undermine another.

Department has a vision that USCIS lacks. The star of integrity reflects the divided paths. She shines bright across the reformed overseas P-3 program today, but her glimmer faded from the domestic skyline long ago because of USCIS's determined failure to stem the fraud. A blurred memory of distant, overseas fraud may conceal that it is an active, present-day reality. After ten years, it isn't that USCIS can't see the solutions. It may be that they can no longer remember the problems. [24]

The conflict between dynamism and lethargy can have only one victor. An obvious analytic failing produced the unevenly matched tug-of-war. The collapse of the overseas program should have clicked on the domestic light. It didn't. The thinking process was instead switched off as USCIS continued mindlessly down a policy path they should have known would end in failure. Fraudsters pull the levers of integrity in the domestic system with far greater effectiveness than USCIS. They call the shots and it's always to their advantage and advancement. Fraud consistently wins, a foregone conclusion that cost the system a decade of additional abuse, ten years lost. Virtually all fraud attempts pay out with huge winnings, making fraud's lifecycle profitable and unending. There is no real risk or gamble. Fraud dictates the rhythm and pace of the domestic P-3 system in ways that could not have been imagined before 2008. Fraudulent refugees know no pause in advancement and USCIS has no real defenses to stop their headway. Fraud doesn't need to be creative to beat low-tech and apathy. It is always smooth sailing ahead and blue skies above for fraudulent refugees. This leverage is evocative of the same full-scale control fraudsters exerted in the failed overseas program -- proof positive that reform is needed. One thing they figured out, but USCIS never did, is that they could use the same fraud handbook in the United States that they used overseas. The P-3 Fraud Handbook was a bestseller in both the failed overseas program and the domestic system. Fraudsters are so far ahead of the curve that everything is open fields. USCIS was never in the driver's seat of either component of the P-3 continuum. They just thought they were. All USCIS adjudicators had to guide them were roadmaps to failure. At every turn, the P-3 Fraud Handbook proved to be more useful and educational for its readers than the USCIS Roadmap was for adjudicators.[25]

---

[24] Wide deviations from process integrity are always followed by far-reaching consequences. USCIS knew the facts, saw the visuals, and discerned the impact of the crisis, but failed to build sensible domestic fraud defenses. One thing is certain. If the State Department continued to process fraudulent overseas P-3 refugees for travel to the United States in 2008 -- after DNA tests confirmed near 100% fraud levels -- there would have been broad interagency condemnation of the foolhardy policy decision. How is it any less incautious when USCIS continues to process domestic immigration benefits for the same fraudulent P-3 refugees, admitted under the same program, without the same screening safeguard? USCIS should be driving change, not maintaining the *status quo*. If USCIS thinks change is important, they will find a way; if not, they will find an excuse.

[25] The current domestic P-3 system is as much a failure as the former overseas program. Fraud defenses are outgunned as easily in one as the other. Fraudsters showed their deep and abiding appreciation for matching policy flaws by laying waste to the systems. They are in awe that the failed policy cycle was kept alive in the domestic system for ten years after it ended in the overseas program. Fraudsters have good reason to be proud in 2018. They sewed fraud throughout the former overseas program; they infused it in every corner of the domestic P-3 system; and the future never looked brighter for continued domestic exploitation. They are justifiably elated with the completeness of their victory. This unprincipled system must, at long last, come to an end. Domestic immigration benefits will always be easy targets. Fraud's predatory clutch on them can be impeded and dislodged. New leaders can succeed with a plan to comprehensively address the multifaceted, hydra-headed issues in this caseload.

New leaders will recognize that the domestic P-3 system is not grounded in history. They will break sharply from the approach taken in the past, scrap the indiscriminate autopilot, and replace it with a clear-sighted plan. An ostrich-like response to mass fraud was never the answer. Laxness is not a strategy. The old order almost completely decimated the integrity of the domestic P-3 system. That process served fraud well, not least by the absence of sensible defenses. It will come as no surprise to levelheaded immigration professionals that fraud spreads fastest when there is little sunlight and that's exactly what it did for almost the entire second decade of the 21st century. Like glass houses and stones, aluminum foil and microwaves, or cats and dogs, some things just don't go together. Seismic fraud and extended inaction are an equally bad mix in U.S. immigration policy. Coupled with lack of discernment and correction, it can become a dangerous and volatile mix.

VIII. Idleness and De Facto Amnesty: The Domestic P-3 System Slides into the Abyss

The chief advantage contemporary reviewers have over their predecessors is the commanding view of everything that happened during the last thirty years. Fraudulent refugees took down two systems. They overwhelmed the overseas P-3 program for twenty years and the domestic system for the last ten, largely because USCIS pursued a domestic policy that replicated overseas failures. It is not that USCIS failed to move forward; rather, it is that they effectively moved backward by continuing to use the same failed policies domestically that proved so ineffective overseas. The pre-2008 overseas policies are not templates worthy of continuing domestic emulation. Failure is just as assured in one system as the other. One insight bluntly encapsulates the catastrophe: uncontrolled fraud is the certainty produced when inaction carries the inadequacies of one system over to another. Ignorance of mass fraud, as in the overseas program before 2008, is one thing. Awareness of fraud and failing to take appropriate action, as in the domestic system, is quite another. Inaction is as much a declaration of policy as action, the price as high, the danger as great, the result as culpable, and the impact on integrity as consequential. Inaction's terrible cost is most acutely felt in a caseload comprised of across-the-board, wall-to-wall fraud. Fraudulent refugees spun immigration turnstiles for thirty years and are still doing it today in the United States.[26]

There has never been a cross-system fraud catastrophe of this magnitude. Rampant fraud was repeated in the domestic system, making it more destructive and diffuse. As fraud spreads, immigration benefits topple, confidence erodes, the system falters, and integrity is debased. USCIS nurtured fraud for ten years, the long repose provided a bedrock for fraudsters to forge ahead with confidence that all of their immigration goals are in reach. Opportunity and time: much needed by fraudulent refugees, unwisely given by USCIS, and profoundly crippling to systemic integrity. Extended inaction props up extended fraud. What you allow, you encourage. What you permit, you promote. It is axiomatic that the more you reward fraud the more you will get it and ever-widening

[26] Domestic and overseas vetting practices are two sides of the same zipper. They should slide together in perfect harmony on the issue of mass refugee fraud. Regrettably, fraud defenses have been woefully unsynchronized for years. Ignoring fraud tells perpetrators they are free to do as they wish without consequences. Fraud becomes acceptable behavior as it spreads unchecked. Diversity is the main difference between the two systems. Overseas, fraudsters abused only one benefit in large numbers. Domestically, the abuse intensified to reach a number of benefits as it continued unimpeded through the pipeline. The same fraud that totally engulfed the overseas P-3 program for 20 years ran unobstructed in the domestic system for 10 more years. Even the most optimistic of fraudsters could not have imagined that the footloose and undisciplined overseas refugee boon would be followed by a rich and extended bounty of unprotected domestic benefits.

exploitation of immigration benefits. A divining rod isn't needed to see that the domestic system should have followed the policy path of the overseas program. But filling gaps in the domestic system with the same fraud defenses used in the reformed overseas program is the last thing fraudsters want. USCIS accommodates these preferences with a, "you asked, we listened" nod of inaction. Equally disturbing, long-term inaction resulted in a *de facto* amnesty for thousands of fraudulently-admitted P-3 refugees in the United States. That decision should have been made by Congress, not by an agency.

The crisis entangles some of the most value-laden immigration issues facing our nation today: refugee fraud, premature records disposal, flawed vetting, chain immigration, extended inaction, *de facto* amnesty, large numbers, national security, and human trafficking. There is no other self-inflicted calamity with so many intertwined issues and policy failures. The deepest principle that undergirds our immigration system – integrity -- vanishes in the expanding labyrinth of fraud. It is the bulwark that should have prevented this type of rampant immigration abuse. The absence of integrity is as keenly felt in the domestic P-3 system in 2018 as it was in the failed overseas program in 2008; much to the benefit of yesterday's fraudulent refugees who are today's green card holders, international travelers using refugee travel documents, and U.S. citizens. All the documents that USCIS issued to fraudsters over the years are genuine. All the document holders are still fraudulent. Fraudulent refugees do not become any less spurious over time, regardless of how many immigration benefits USCIS grants them.

"Give me your fraud in the thousands, your national security dangers, your human trafficking victims, yearning to spread free"[27] -- as the overseas program beckoned for 20 years; and then "give them all the immigration benefits they seek without effective discovery, distinction, or deterrence" -- as the domestic system did for the next 10. The single-most conspicuous feature of the domestic crisis is capacity imbalance. *Compare* the elemental nature of mass fraud -- as it advances, inexorably, by degrees; *with* the deficient nature of fraud defenses -- as they stagnate, listlessly, for years. More succinctly, fraud kept moving while USCIS stayed stationary. That dangerous combination created the seedbed for encircling fraud and system breakdown. The fate of the domestic P-3 program was sealed as rolling refugee fraud outpaced and overwhelmed obsolete defenses. A decade later, and despite signs that the system is collapsing, both shows are still on the road: fraudulent P-3 refugees keep moving through the domestic pipeline and USCIS keeps doing little to impede their mass progress. In a perverse sense of symmetry, the same policy failures that existed in the overseas program before 2008 still exist in the domestic system in 2018. This writer knows from overseas experience that the advancing block of P-3 refugee fraud will remain a strong and unstoppable force until it meets the immovable objects of required DNA tests, RAVU fraud screenings, and in-person interviews. Without these three defenses, fraud's envelopment will be boundless and endless.

USCIS employees are the, "gatekeepers of our national immigration system." *See* USCIS Monthly, Message from USCIS Director (Sep. 2007). USCIS failed to provide employees with the tools needed to perform their gatekeeping function in a credible manner. Fraudulent refugees know they won't be interviewed for most benefits, there won't be any RAVU fraud checks if they were admitted

[27] A rephrasing of the quotation on a bronze plaque mounted inside the pedestal of the Statue of Liberty. Intended to be a gift from France to mark the Centennial in 1876, the Statue was delivered in 1886 (ten years late). She stands majestically in New York harbor, a symbol of the gateway to America. Let us hope that the torch of immigration integrity will shine as bright in the domestic system in 2018 (also ten years late) as it does in the elevated right hand of Lady Liberty.

before 2003, and DNA tests won't be required for any applications. Fraudsters react to the *status quo* with Cheshire-cat grins, serene and satisfied with customer-service policies that are better, faster, easier, and work so much in their favor. Fraudulent refugees have the savvy to appreciate the empowering effects of higher immigration benefits. Probity of process is weakened considerably when USCIS makes it simple and easy for fraudsters to acquire the benefits. Domestic adjudicators are not equipped with even the basic tools needed to combat the refugee fraud left in the wake of the P-3 crisis. Instead of keeping fraud out, gatekeepers not only keep fraud in, they allow it to spread across the domestic immigration benefits delivery system. All gates are open to scores of fraudulent refugees. The failure was of one of policy, not of employees. In the competition between fraudsters abusing the system and USCIS employees trying to stop it, complacency supported the wrong team. USCIS has many talented, committed, and motivated employees who can make reform happen, provided they have the right tools and policies. They know that fraud doesn't get better with age. Extended inaction allowed time for ever-advancing fraud to become bigger, more entrenched, and more formidable than it was originally. It is not too late to arrest the steep decline. Commonsense fraud defenses are essential to the system and are fully consistent with USCIS's production and service-related objectives.

The natural tendency to comfortable inaction is the road to ruin. Ten years of domestic inaction followed twenty years of overseas fraud. The deficiencies of the overseas program should never have been laid on the domestic system for so many years. The alarm bells of vigilance, not the calming lullabies of idleness, should have resonated when mass fraud was confirmed in this huge caseload. The trifecta of human trafficking, national security, and mass fraud requires action. Fraud grips the throat of the domestic P-3 system as tightly in 2018 as it did in the overseas program in 2008. The reformed overseas P-3 program should have been the vessel and vehicle for domestic DNA reform, but USCIS did not move needle of integrity. Overseas reform had no transformative domestic impact. The centrality of the DNA safeguard was recognized in the overseas P-3 program, but not in the domestic P-3 system. No one should have confidence in the integrity of the domestic P-3 system until DNA tests, in-person interviews, and domestic RAVU fraud checks are made required parts of the screening process. In every way that matters, USCIS failed to adequately address the domestic P-3 refugee fraud crisis.

When fraud is the size of a beach ball -- and defense the size of a decimal point -- the ball travels like a projectile through the system. Fraudsters outpace weak defenses as easily in the current domestic system as the former overseas program; more easily, because in-person interviews, required even in the failed program, are not required for many domestic immigration benefits. The disaster happened for one reason: USCIS failed to build sensible vetting procedures following the stunning fraud revelations in 2008. Extended inaction allowed fraud to fire on all cylinders in the United States when it should have been impeded. Fraud advanced at an alarming rate and enjoys near universality in the domestic pre-suspension P-3 system. The policy failures created huge processing gaps. Fraudsters don't need winged boots to leap across a range of domestic immigration benefits, just apply as they did in the failed refugee program. After ten years of continuous dysfunction, the domestic P-3 system is on a trajectory toward collapse, the same fate that befell the overseas program after twenty years of dysfunction.

The *three-cornered dilemmas* present in the domestic P-3 caseload: mass fraud, national security, and human trafficking; must be countered by *three-cornered defenses*: required DNA tests, in-person interviews for all immigration benefits, and domestic RAVU screening for pre-2003 admissions. Yet USCIS did not implement even one of the defenses. The current fraud defense regime is a thin

membrane easily pierced by the rolling devastation of fraudulently-admitted P-3 refugees. We are years past when interventions should have taken place. Today's fraud defenses are feeble, unaligned, and inadequate; contrary to the national interest; bear no resemblance to realities on the ground; and do little to impede the wave of refugee fraud sweeping the system.

In June, USCIS announced a new denaturalization initiative. Several dozen lawyers and officers are being hired to staff an office in Los Angeles to review cases and coordinate with the Department of Justice. The office will be operational by next year. *See* Amy Taxin, US launches bid to find citizenship cheaters, ASSOCIATED PRESS (June 11, 2018). At the same time, USCIS may adjudicate record numbers of naturalization applications. *See* USCIS Is Receiving a Record Number of Citizenship Applications, AMERICAN IMMIGRATION COUNCIL (Nov. 13, 2017). This surge likely includes fraudulently-admitted refugees applying for U.S. citizenship. In order to get a fuller sense of their workload, the new office may sensibly want to know the number of pre-suspension P-3 refugees with pending naturalization applications; the number who were approved but naturalization certificates not yet issued; and the number who naturalized during the last ten years. Once the new office is up and running, it will work at cross purposes with the P-3 naturalization system. The "denatz" office may be unable to pump out more water from the sinking ship than the P-3 system pumps in. The new office and flawed naturalization system will be so obviously discordant that one must change. Naturalization is the process by which aliens from a diverse array of cultures are assimilated into the American fabric; but that assimilation is less likely to occur when U.S. citizenship, and all the steps leading up to it, were obtained by fraud. Citizenship is the highest privilege of our nation's immigration system. *See* USCIS, USCIS Launches Citizenship Public Awareness Initiative, (July 6, 2015). It represents the culmination of the immigration process. Because of its revered nature, USCIS should jealously guard against its acquisition by fraudsters. Diluting the value of our most precious immigration benefit -- by disbursing it without adequate screening -- is an affront to all Americans and, ultimately, America. [28]

Visionary leaders will see opportunities embedded in the crisis. Finding fraud in the pre-suspension P-3 caseload is not like looking for a needle in a haystack. At near total fraud levels, the entire haystack is comprised of needles. There is no other immigration system where fraud flocked in greater concentrations. Fraudsters are centralized in one place, scattered across the domestic P-3 continuum. They can be checkmated, irrespective of where they are in the pipeline. Fraudsters who made far-reaching advances in the domestic system will themselves become exposed with implementation of a fraud plan. Formerly on the *en masse* offensive against USCIS in two adjudications systems, fraudsters will view USCIS as an agency to be avoided. The plan will

[28] Naturalization is one, perhaps the only, domestic immigration benefit for which P-3 applicants are interviewed. Fundamental deficiencies remain in the naturalization process and include interviews not focused on family relationship fraud; alleged family members who are not called into interviews with naturalization applicants; applicants who are not DNA-screened against their anchors and alleged accompanying family members; and pre-2003 admissions who do not undergo expanded RAVU fraud checks and full family tree mappings. Readers will recall that applicants in the failed overseas P-3 program were interviewed *(with* their claimed family members), but there was no DNA screening before 2008 and no (or inadequate) RAVU screening before 2003. The naturalization process is indistinguishable from the failed program in this regard. Thousands trounced the overseas program. Large numbers beat and will continue to beat the naturalization process. The last time many P-3 naturalization applicants had face-to-face interviews with USCIS adjudicators was during the overseas refugee process and in a program that was overrun with fraud. Fraudulent refugees viewed overseas interviews as a cakewalk. They view naturalization interviews in a similar manner and U.S. citizenship as an easily attainable immigration benefit. Fraudsters play weaknesses in both processes with equal efficiency. Parallel flaws deserve parallel exploitation.

demagnetize the continued exploitation of benefits in the domestic immigration system. A new strategy will recognize the obligation not to allow the perpetuation of benefits obtained by fraud. When original overseas refugee status is obtained illicitly, aliens not only retain the ill-gotten benefits, but go on to receive additional domestic immigration benefits. The plan should match the scale of the crisis and be reasonably calculated to detect fraud and prevent acquisition of additional benefits. There is nothing vexing about the issue of processing immigration benefits in accordance with sound principles -- at least not in the abstract. Concrete application is where indecision arises. The plan will, in point of fact, be a painful thorn in the side of administrative convenience, but experience teaches us that the hard thing to do and the right thing to do are usually the same thing. There will be doubt about implementing a plan in 2018 when one wasn't implemented in 2008. Doubt can be as powerful and sustaining as certainty, yet we must collectively discard doubt in favor of an interagency P-3 fraud plan that instills integrity throughout the domestic immigration benefits system; identifies human trafficking victims who were brought to the United States through the failed P-3 program; and addresses national security concerns by preventing or revoking immigration benefits acquired by fraudulently-admitted refugees.

The fraud plaguing the system isn't going away. The downward spiral continues as fraudulent refugees keep applying for immigration benefits, including green card renewals and U.S. citizenship, and USCIS keeps granting them using weak and obsolete screening procedures. Fraud occurs at a rate that would have been considered inconceivable years ago. The current state of affairs cannot continue in a sound, effective, and enlightened system of immigration benefits distribution. USCIS has for years been unprepared for this level of abuse. New leaders are not locked into any failed policy path. They should achieve unanimity on at least one point: the system cannot continue pumping out immigration benefits to fraudulent refugees without sensible fraud intervention measures. Course correction and a new policy path are needed. Infrastructure changes are required to cope with staggering abuse in the domestic P-3 system. Fraud of this immensity and virulence must be met with a full arsenal of defense. New stewardship can provide the steady hands needed to upright the foundering domestic P-3 system before it can do more harm than it already has.

Conclusion

The ultimate question policymakers must ask themselves is whether USCIS is doing enough to address the triangular issues at the core of this caseload -- mass refugee fraud, national security dangers, and human trafficking victims -- by continued reliance on safeguards as unsound as those in the former overseas program. Even a moment's reflection on the issue should result in one conclusion flowing easily: the fraud-driven crisis that swept over the former overseas program continues today in the United States. Fraud is as deeply embedded in the domestic P-3 system as it was in the overseas program. Failed policy carried a wall of fraud along the domestic current. The powerful refugee deception engine far outperforms the outdated USCIS fraud defense motor, a fact as true in the domestic system today as it was in the failed overseas program. The tightening cycle will not end until fraudulent refugees pillage every possible domestic immigration benefit. Fraudsters will continue grinding down the domestic system until they finally reach their ruinous endgame, however long it takes. Smart screening didn't happen because of sustained failure to change policy directions. Rarely have policy failures so firmly entrenched themselves for so long a time as inaction on domestic vetting safeguards. The domestic P-3 fraud crisis is the product of apathy and, at base, a fundamental failure to learn policy lessons.

Like a bird or a plane, immigration integrity needs the cooperation of two wings to take flight: screening safeguards should have been instilled in both systems, not just in the overseas program. Both sides of the P-3 immigration continuum needed reform. Two systems were broken; two needed repairs. There is nothing particularly innovative about implementing overseas fraud defenses domestically, just common sense that was particularly uncommon during the last ten years. New leadership should take stock and rethink the entire approach to the domestic processing of the P-3 caseload and the huge number of refugees comprising it. Countering fraud in a caseload of this size requires a formidable and cohesive fraud intervention plan. Fraud is progressive, agile, and dynamic; so must be the plan. It's not good enough to have fragments of a plan or soft vetting when fraud saturates nine-tenths of the caseload. Inaction by DHS and USCIS doubled the impact of fraud and set off a cycle of escalating abuse of domestic immigration benefits. A mulish commitment to complacency resulted in a weakened domestic P-3 vetting system for thousands of fraudulent refugees in the United States. The replication of overseas vetting failures produced, predictably, the same domestic results, but across a much wider range of immigration benefits. History should not have repeated itself in this manner. The most worrying aspect of the way things stand is the potential for terror. Extended inaction may have already set in motion the circumstances leading to tragedy.

This writer has years of overseas refugee processing experience. Fraud solutions are not a big mystery, not impenetrable by the inexperienced, and should not have eluded implementation for ten years. The dots are not too confounding to connect. We hand the system over to fraudulent refugees when there are inadequate defenses. Without three primary and interlaced screening tent poles -- required DNA tests, in-person interviews for all benefits, and expanded domestic RAVU fraud checks for pre-2003 admissions -- everything else that comprises domestic fraud defenses is just periphery pecking. The collective absence of these vital fraud defenses prevents USCIS from alleging a policy of “zero tolerance” for continuing fraud or that everything is “ship-shape” in the domestic P-3 system. As the years went by, fraud’s domination of the domestic P-3 system continued and expanded while USCIS’s thinking became smaller and blunders more numerous. The reality of the situation is that USCIS acquiesced to the rolling devastation of fraudulently-admitted refugees. Integrity is totally eclipsed when fraud on this scale casts its shadow over the benefits landscape. Combatting it will require more than elaborate rituals of automated background checks, benefit application reviews, occasional voluntary DNA tests, and individual A-file reviews; supported by checklists, assessments, and worksheets. Those are just tumblers in a broken lock that seem to click into place to create the illusion of sound adjudications. They are wholly inadequate to counter fraud of this magnitude. Feeble procedures rarely penetrate the twilight realm of mass fraud. The current domestic fraud defense regime is a total misfire, showing how out-of-touch USCIS is with this caseload. Domestic adjudicators in 2018 can go through the mechanics of decision making, but without the right tools their efforts are as futile as those of overseas adjudicators before 2008.

Faulkner was right when he said, "The past is never dead. It's not even past." The failed overseas P-3 program is with us today. Fraud from the pre-2008 era will continue and spread in the United States. The system will slide even further into the quagmire until USCIS finally takes decisive action. Mass refugee fraud hides in the crevices and crannies of lesser benefits and in the wide-open spaces of the immigration system; in green card renewal applications, in naturalization applications, and in applications for refugee travel documents. The crisis is not just about the deepening reach of fraud. It’s also about the glacial pace of building balanced fraud defenses. Weak vetting practices are much more than signs of poor preparation. They are equal parts relentless failures and careless dangers. Sequential family relationship fraud in the overseas refugee program was clumsily matched with

multiplying abuse of immigration benefits in the domestic system. Fraudulent refugees swung wrecking balls at two adjudications systems. The second demolition was foreseeable and avertable. Industrial-scale fraud and broken policies cannot continue side-by-side. In simple arithmetic: *mass fraud + failed policies ≠ sound screening*. The P-3 program is the most stunning feat of immigration fraud to come from a single source. It is remarkable that the greatest refugee fraud crisis in modern times was met, not with a domestic bang, but a protracted whimper; interrupted by a burst of enthusiasm for premature records disposal.

The defining struggle of immigration integrity may lie here. We stand at a place in 2018 that is no different from where we were in 2008: at the center of a system engulfed by fraud. The extended absence of a broad-based federal plan not only empties tomorrow of its ideals. It empties today of its sense of rightness and fair play. Like the law of gravity, mass fraud will drag any benefits system down to its lowest, rock bottom level. The policy implications of this reality call for intervention. The system is overdue for recalibration. It is long past time to rebuild -- stronger, safer, and smarter. The old order will crumble with a full-court press of system redesign. USCIS needs to sit down, strap in, get fired up, and give it all they got. Meaningful reform will send the domestic P-3 system in a rejuvenated direction, turning turmoil into triumph. After having twice been victimized by mass refugee fraud, first in the overseas P-3 program and then in the domestic system, the USCIS theme song for the reform effort should be The Who's, "Won't Get Fooled Again."

The views in this paper are mine and do not reflect the opinions of any agency.

Charles Thaddeus Fillinger
ICE Associate Legal Advisor (Ret.)
Bangkok, Thailand
[charliefillinger@yahoo.com]