

The Texas Health & Human Services Commission (Commission) files this response to the Federal Defendants' Notice of Arrival of Syrian Refugees (Dkt. 63). On December 7, the Court instructed the Defendants to notify the Commission at least seven days in advance of Syrian refugees being designated for resettlement in Texas. On January 22, the Federal Defendants informed the Court they had resettled seven Syrian refugees that day without complying with the Court's instruction. Dkt. 63 at 1. Though none of the January 22, 2016 refugees was admitted under the waiver for refugees who have materially supported terrorists,¹ the group presumably includes a military-aged male because it consists of a married couple and their five children (ages 2 through 12). *Id.*

The Commission appreciates that the Federal Defendants quickly informed the Court once they realized they violated the Court's instruction. But this circumstance is the merely the latest in a series of events that proves exactly why a preliminary injunction and ultimate relief are needed to ensure that Texas has, at a minimum, the information it needs to protect the safety of its residents while resettling more refugees than any other State.

The harm that results to the State by this late notification is irreparable as a matter of law. It cannot be remedied at law or through untimely injunctive relief. The parties do not dispute that consultation and cooperation is clearly and statutorily required *before* refugee resettlement. The Commission maintains that the temporal element of its right to be consulted is significant in weighing the nature of its harm for purposes of injunctive relief. The timing of the information sharing by the Federal Defendants in this very instance, coming after or during resettlement, guarantees that the statutory right at issue is forever lost. This permits the Federal Defendants

¹ This is unlike the refugees from Syria resettled in Texas on or about January 25, 2016 that were presumably resettled under the material support to terrorism waiver. *See* Doc. 57 at 1 n.3.

to functionally exercise legislative power and re-write the language of Congress to suit its preferences or political objectives.

Notwithstanding the timing of this notification, an increasing number of federal officials have expressed serious concerns over the ability of the Federal Defendants to accurately vet Syrian refugees, and multiple persons admitted through the refugee program have recently been arrested for activities relating to supporting terrorism in Texas. How can Texas protect the safety of its residents if the Federal Defendants do not comply with either federal law on advanced consultation or the Court's instruction on notification? At a minimum, Texas is entitled to see the person-specific information related to Syrian refugees the Defendants intend to resettle to Texas.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this pleading was served on all counsel of record listed below via e-mail and/or through this Court's CM/ECF system. Mr. Goad has been served via U.S. Certified Mail.

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