

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

John Doe, Jack Doe, Jason Doe, Joseph Doe
James Doe, Jeffrey Doe, individually, and on
behalf of all others similarly situated; the
Episcopal Diocese of Olympia, and the Council
on American Islamic Relations-Washington,

Plaintiffs,

v.

Donald Trump, President of The United States;
U.S. Department of State; Rex Tillerson,
Secretary of State; U.S. Department of
Homeland Security; Elaine Duke, Acting
Secretary of Homeland Security; U.S. Customs
and Border Protection; Kevin McAleenan,
Acting Commissioner of U.S. Customs and
Border Protection; and Michele James, Field
Director of the Seattle Field Office of U.S.
Customs and Border Protection; Office of the
Director of National Intelligence; and Daniel
Coats, Director of the Office of the Director of
National Intelligence,

Defendants.

No. 2:17-cv-00178-JLR

SUPPLEMENTAL DECLARATION OF
TANA LIN IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION

SUPPLEMENTAL
DECLARATION OF TANA LIN
IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION
(2:17-cv-00178-JLR) - 1

AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, Washington 98164
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1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Pursuant to 28 U.S.C. § 1746, I, Tana Lin, hereby declare and state:

1. I am a partner at the law firm of Keller Rohrbach L.L.P. (“Keller Rohrbach”).

2. Attached hereto as Exhibit A is a true and correct copy of Form I-730 obtained from <https://www.uscis.gov/sites/default/files/files/form/i-730.pdf> on November 21, 2017;

3. Attached hereto as Exhibit B is a true and correct copy of the article by Steve Herman & Nike Ching: *Sources: Nearly 1,000 at State Department Officially Dissent on Immigration Order*, VOA News (Jan 31, 2017), available at <http://bit.ly/2kOEUHR> (last visited Nov. 3, 2017);

4. Attached hereto as Exhibit C is a true and correct copy of *Report, Citizenship Likely an Unreliable Indicator of Terrorist Threat to the United States*, U.S. Dep’t of Homeland Sec. (Feb. 2017);

5. Attached hereto as Exhibit D is a true and correct copy of article by Rachel Maddow TRMS Exclusive: DHS Document Undermines Trump Case for Travel Ban, MSNBC (Mar. 2, 2017), <http://on.msnbc.com/2mRo5ZF> (last visited Nov. 3, 2017);

6. Attached hereto as Exhibit E is a true and correct copy of Joint Declaration from 10 National Security Experts filed in *State of Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 6, 2017), Dkt. #28-2;

7. Attached hereto as Exhibit F is a true and correct copy of Open Letter to the Honorable Donald J. Trump (Mar. 10, 2017);

8. Attached hereto as Exhibit G is a true and correct copy of the Statement of 49 Former National Security Officials filed in *State of Washington v. Trump*, 2:17-cv-00141, Dkt. 194-18;

1 9. Attached hereto as Exhibit H is a true and correct copy of Joint Declaration of
2 Former National Security Officials filed in *Jewish Family Service of Seattle v. Trump*, 2:17-cv-
3 01707 (W.D. Wash.), Dkt. #46;

4 I declare under penalty of perjury that the foregoing is true and correct to the best of my
5 knowledge.
6

7 EXECUTED this 6th day of November, 2017, at Seattle, Washington.

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9 s/Tana Lin
10 Tana Lin
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EXHIBIT A

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-730, Refugee/Asylee Relative Petition

FOR USCIS OFFICE ONLY

Section of Law ☐ 207 (c)(2) Spouse ☐ 207 (c)(2) Child ☐ 208 (b)(3) Spouse ☐ 208 (b)(3) Child Reserved	Action Stamp	Receipt
		Remarks
☐ Beneficiary Not Previously Claimed ☐ Beneficiary Previously Claimed On: _____ (e.g., Form I-590, Form I-589, etc.)		
CSPA Eligible: ☐ Yes ☐ No ☐ N/A		

START HERE - Type or print legibly in black ink.

My Status: ☐ Refugee ☐ Lawful Permanent Resident based on previous Refugee status
☐ Asylee ☐ Lawful Permanent Resident based on previous Asylee status

The beneficiary is my: ☐ Spouse
☐ Unmarried child who is a (n): ☐ Biological Child ☐ Stepchild ☐ Adopted Child

Number of relatives for whom I am filing separate Form I-730s: _____ (_____ of _____)

Part 1. Information About You, the Petitioner

Family Name (Last name), Given Name (First name), Middle Name:

Address of Residence (Where you physically reside)

Street Number and Name: Apt. Number

City: State or Province:

Country: Zip/Postal Code:

Mailing Address (If different from residence) - C/O:

Street Number and Name: Apt. Number:

City: State or Province:

Country: Zip/Postal Code:

Telephone Number including Country and City/Area Code:

Your E-Mail Address, if available:

Gender: a. ☐ Male Date of Birth (mm/dd/yyyy):

b. ☐ Female

Country of Birth: Country of Citizenship/Nationality:

U.S. Alien Registration Number: U.S. Social Security Number (If applicable):

A-

Part 2. Information About Your Alien Relative, the Beneficiary

Family Name (Last name), Given Name (First name), Middle Name:

Address of Residence (Where the beneficiary physically resides)

Street Number and Name: Apt. Number

City: State or Province:

Country: Zip/Postal Code:

Mailing Address (If different from residence) - C/O:

Street Number and Name: Apt. Number

City: State or Province:

Country: Zip/Postal Code:

Telephone Number including Country and City/Area Code:

The Beneficiary's E-Mail Address, if available:

Gender: a. ☐ Male Date of Birth (mm/dd/yyyy):

b. ☐ Female

Country of Birth: Country of Citizenship/Nationality:

U.S. Alien Registration Number: U.S. Social Security Number (If applicable):

A-

**Part 1. Information About You, the Petitioner
(Continued)**

Other Names Used (Including maiden name):

If married, Name of Spouse, Date (mm/dd/yyyy), and Place of Present Marriage:

If previously married, names of prior spouses:

Dates (mm/dd/yyyy) and Places Previous Marriages Ended: Please provide documentation indicating how marriages ended (e.g., death certificate, divorce certificate, etc.):

Date (mm/dd/yyyy) and Place Asylee Status was granted in the United States

OR

Date (mm/dd/yyyy) and Place you received your approval for Refugee Status while living abroad

If You Were Approved for Refugee Status, Date (mm/dd/yyyy) and Place Admitted to the United States as a Refugee:

Part 2. Information About Your Alien Relative, the Beneficiary (Continued)

Other Names Used (Including maiden name):

If married, Name of Spouse, Date (mm/dd/yyyy), and Place of Present Marriage:

If previously married, names of prior spouses:

Dates (mm/dd/yyyy) and Places Previous Marriages Ended: Please provide documentation indicating how marriages ended (e.g., death certificate, divorce certificate, etc.):

- ☐ Beneficiary is currently in the United States.
- ☐ Beneficiary is outside the United States and will apply for travel authorization at a USCIS Office or a U.S. Embassy or consulate in:

City and Country

**To Be Completed By
Attorney or Representative, if any.**

- ☐ Fill in box if G-28 is attached to represent the petitioner.

Volag Number:

Attorney State License
Number:**Part 2. Information About Your Alien Relative, the Beneficiary (Continued)**Name and **mailing** address of the beneficiary written in the language of the country where he or she now **resides**:

Family Name:

Given Name:

Middle Name:

Address - C/O:

Street Number and Name:

Apt. Number:

City/State or Province:

Country:

Zip/Postal Code:

Check the box, a. through d., that applies:

- a. ☐ The beneficiary has never been in the United States
- b. ☐ The beneficiary is now in immigration court proceedings in the United States Where? _____
- c. ☐ The beneficiary has never been in immigration court proceedings in the United States
- d. ☐ The beneficiary is not now in immigration court proceedings in the United States, but has been in the past. Where? _____

What is the beneficiary's native language?

Is the beneficiary fluent in English?

☐ No ☐ Yes

What other languages does the beneficiary speak fluently:

Part 2. Information About Your Alien Relative, the Beneficiary (Continued)

List Each of the beneficiary's entries into the United States, if any, beginning with the most recent entry. Submit a copy of each I-94 and/or copy of the beneficiary's passport showing all the entry and exit stamps for each entry. Attach an additional sheet if the beneficiary has more than two entries into the United States:

Date of Arrival (mm/dd/yyyy):	Place (City and State):	Status:
I-94 Number:	Date Status Expires (mm/dd/yyyy):	Passport Number:
Travel Document Number:	Expiration Date for Passport or Travel Document:	Country of Issuance for Passport or Travel Document:
Date of Arrival (mm/dd/yyyy):	Place (City and State):	Status:
I-94 Number:	Date Status Expires (mm/dd/yyyy):	Passport Number:
Travel Document Number:	Expiration Date for Passport or Travel Document:	Country of Issuance for Passport or Travel Document:

Part 3. Two-Year Filing Deadline

Are you filing this application more than two years after the date you were admitted to the United States as a refugee or granted asylee status? ☐ Yes ☐ No

If you answered "Yes" to the previous question, explain the delay in filing and submit evidence to support your explanation (Attach additional sheets of paper if necessary):

Part 4. Warning

WARNING: Any beneficiary who is in the United States illegally is subject to removal if Form I-730 is not granted by USCIS. Any information provided in completing this petition may be used as a basis for the institution of, or as evidence in, removal proceedings, even if the petition is later withdrawn. Unexcused failure by the beneficiary to appear for an appointment to provide biometrics (such as fingerprints and photographs) and biographical information within the time allowed may result in denial of Form I-730. Information provided on this form and biometrics and biographical information provided by the beneficiary may also be used in producing an Employment Authorization Document if the beneficiary is granted derivative refugee or asylee status.

Part 5. Petitioner's Statement, Contact Information, Declaration, Certification, and Signature

NOTE: Read the **Penalties** section of the Form I-730 Instructions before completing this part.

Petitioner's Statement

NOTE: Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

- 1.a. ☐ I can read and understand English, and I have read and I understand every question and instruction on this petition and my answer to every question.
- 1.b. ☐ The interpreter named in **Part 7.** read to me every question and instruction on this petition and my answer to every question in , a language in which I am fluent, and I understood everything.
2. ☐ At my request, the preparer named in **Part 8.**, , prepared this petition for me based only upon information I provided or authorized.

Petitioner's Contact Information

3. Petitioner's Daytime Telephone Number
4. Petitioner's Mobile Telephone Number (if any)
5. Petitioner's Email Address (if any)

Petitioner's Declaration and Certification

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

- 1) I provided or authorized all of the information contained in, and submitted with, my petition;
- 2) I reviewed and understood all of the information in, and submitted with, my petition; and
- 3) All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that all of the information in my petition and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my petition, and that all of this information is complete, true, and correct.

Petitioner's Signature

- 6.a. Petitioner's Signature 
- 6.b. Date of Signature (mm/dd/yyyy)

NOTE TO ALL PETITIONERS: If you do not completely fill out this petition or fail to submit required evidence listed in the Instructions, USCIS may deny your petition.

Part 6. Beneficiary's Statement, Contact Information, Declaration, Certification, and Signature if in the United States

NOTE: Read the information on penalties in the **Penalties** section of the Form I-730 Instructions before completing this part.

NOTE: If the beneficiary is not currently in the United States, or is not 14 years of age or older, this section should be left blank.

Beneficiary's Statement

NOTE: Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

- 1.a. ☐ I can read and understand English, and I have read and I understand every question and instruction on this petition and my answer to every question.
- 1.b. ☐ The interpreter named in **Part 7.** read to me every question and instruction on this petition and my answer to every question in , a language in which I am fluent, and I understood everything.
2. ☐ At my request, the preparer named in **Part 8.**, , prepared this petition for me based only upon information I and the petitioner provided or authorized.

Beneficiary's Contact Information

3. Beneficiary's Daytime Telephone Number
4. Beneficiary's Mobile Telephone Number (if any)
5. Beneficiary's Email Address (if any)

Beneficiary's Declaration and Certification

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

- 1) I provided or authorized all of the information contained in, and submitted with, my petition;
- 2) I reviewed and understood all of the information in, and submitted with, my petition; and
- 3) All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that all of the information in my petition and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my petition, and that all of this information is complete, true, and correct.

Beneficiary's Signature

- 6.a. Beneficiary's Signature
- 6.b. Date of Signature (mm/dd/yyyy)

NOTE: This petition must be completely filled out and all required evidence submitted or USCIS may deny this petition.

Part 7. Contact Information, Certification and Signature of the Person Interpreting this Petition, if Other Than the Petitioner or Beneficiary

Provide the following information about the interpreter used to complete this petition. **NOTE:** If you did not use an interpreter to help you complete this petition, leave this section blank.

Interpreter's Full Name

1.a. Interpreter's Family Name (Last Name)

1.b. Interpreter's Given Name (First Name)

2. Interpreter's Business or Organization Name (if any)

Interpreter's Mailing Address

3. Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐

City or Town

State

ZIP Code + 4

 -

Province

Postal Code

Country

Interpreter's Contact Information

4. Interpreter's Daytime Telephone Number

5. Interpreter's Mobile Telephone Number (if any)

6. Interpreter's Email Address (if any)

Interpreter's Certification

I certify, under penalty of perjury, that:

I am fluent in English and , which is the same language specified in **Part 5.**

or Part 6., Item Number 1.b., and I have read to this petitioner, beneficiary, or to them both (if the beneficiary is in the United States and 14 years of age or older) in the identified language, every question and instruction on this petition and the petitioner's or the beneficiary's answer to every question. The petitioner and/or beneficiary informed me that he and/or she understand every instruction, question, and answer on the petition, including the **Petitioner's Declaration and Certification**, and the **Beneficiary's Declaration and Certification**, and have verified the accuracy of every answer.

Interpreter's Signature

7.a. Interpreter's Signature

7.b. Date of Signature (mm/dd/yyyy)

Part 8. Contact Information, Certification and Signature of the Person Preparing this Petition, if Other Than the Petitioner or Beneficiary

Provide the following information about the preparer. **If you filled out this petition yourself (without a preparer), please leave this section blank.**

Preparer's Full Name

1.a. Preparer's Family Name (Last Name)

1.b. Preparer's Given Name (First Name)

2. Preparer's Business or Organization Name (if any)

Preparer's Mailing Address

3. Street Number and Name

Apt. Ste. Flr. Number

☐ ☐ ☐

City or Town

State

ZIP Code + 4

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Province

Postal Code

Country

Preparer's Contact Information

4. Preparer's Daytime Telephone Number

5. Preparer's Mobile Telephone Number (if any)

6. Preparer's Email Address (if any)

Preparer's Statement

7. a. ☐ I am not an attorney or accredited representative but have prepared this application on behalf of the applicant and with the applicant's consent.
- b. ☐ I am an attorney or accredited representative and my representation of the applicant in this case ☐ extends ☐ does not extend beyond the preparation of this application.

NOTE: If you are an attorney or accredited representative, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, or Form G-28I, Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States, with this petition.

Preparer's Certification

By my signature, I certify, under penalty of perjury, that I prepared this petition at the request of the petitioner and/or the beneficiary. The petitioner and beneficiary (if the beneficiary is in the United States and 14 years of age or older) then reviewed this completed petition and informed me that he and/or she understands all of the information contained in, and submitted with, his and/or her petition, including the **Petitioner's Declaration and Certification**, and the **Beneficiary's Declaration and Certification** that all of this information is complete, true, and correct. I completed this petition based only on information that the petitioner and beneficiary provided to me or authorized me to obtain or use.

Part 8. Contact Information, Certification and Signature of the Person Preparing this Petition, if Other Than the Petitioner or Beneficiary (Continued)**Preparer's Signature****8.a.** Preparer's Signature
8.b. Date of Signature (mm/dd/yyyy)
Part 9. To Be Completed at Interview of Beneficiary, If Applicable (14 years of age or older)

Beneficiaries in the United States will be interviewed by USCIS officers. Their petitioners may also be interviewed. Beneficiaries living overseas will be interviewed by a USCIS officer or a Department of State (DOS) consular officer.

I swear (affirm) that I know the contents of this petition that I am signing, including the attached documents and supplements, and that they are ☐ all true or ☐ not all true to the best of my knowledge and that corrections numbered _____ to _____ were made by me or at my request. With these corrections, the information on this form is now true.

Signed and sworn before me by the beneficiary
named herein on: _____

Date (mm/dd/yyyy)

Signature of Beneficiary

Write your Name in your Native Alphabet

Signature of USCIS Officer or DOS Consular Officer

☐ Beneficiary Approved for Travel, Admission
Code: _____

☐ Petition Returned to Service Center via NVC

CBP Action Block

EXHIBIT B

USA

Sources: Nearly 1,000 at State Department Officially Dissent on Immigration Order

Last Updated: January 31, 2017 3:57 PM Steve Herman Nike Ching

STATE DEPARTMENT — A large number of foreign service officers and civil service personnel of the U.S. State Department signed a dissent document that was formally submitted Tuesday.

The State Department confirms to VOA that the memo in opposition to the president's executive order on immigration was received. But officials will not reveal the total number nor the ranks of those signing. Sources tell VOA the number is nearly 1,000.

The number of signatures, if it does total about 1,000, is “unprecedented” and about 20 times the number of dissenters for last year's memo from diplomats sharply criticizing the Obama administration's Syria policy, said former U.S. Ambassador to Syria, Robert Ford.

The huge numbers for the immigration memo and its early leaking “are clear indicators of the widespread concern within the department over this specific policy step and unease over the broad direction of foreign policy,” said Laura Kennedy, former deputy assistant secretary for European and Eurasian Affairs.

“These are extraordinary times,” she added.

Spicer rejects criticism

The Trump administration argues that the new measures are necessary to “ensure the safety and security of the American people.” In a statement last weekend, it said the executive order “affects a minor portion of international travelers, and is the first step towards reestablishing control over America's borders and national security.”

But the Dissent Channel memo, a draft of which has been seen by VOA, says the order “will not achieve its aims and will likely be counterproductive.”

White House spokesman Sean Spicer rejected the criticism on Monday, telling reporters that those at the State Department who oppose President Donald Trump's immigration order “should either get with the program or they can go.”

Former diplomats comment

Former diplomats bristled at what is being perceived as a implicit threat against the foreign service community.

“The Dissent Channel is an entirely appropriate means of expressing opposition to the top leadership of the Department of State,” Ford told VOA. “The Trump people shouldn't take it so personally.”

“I was appalled by (Spicer's) comment,” said Kennedy, also a former ambassador to Turkmenistan, told VOA. “It either implied a complete misunderstanding of the dissent channel or the legal protections there are, or it's intended to send a signal that dissent, whether private or public, will not be tolerated.”

“The time-honored tradition of respectful dissent at State is supported by the very American and constitutional values that this cable honors and that the executive order tramples,” Yale University Law School professor Harold Hongju Koh, a former assistant secretary of state and State Department legal adviser, told VOA.

'The safety of Americans'

President Trump last Friday signed an executive order prohibiting entry to refugees and people from seven Muslim majority countries. The order includes a 120-day suspension of refugee admissions and a 90-day entry ban for people from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen.

Spicer added from the podium Monday the order is "about the safety of Americans" and the steps the president ordered are "common sense."

The draft of the dissent memo that was leaked expresses grave concerns that the travel ban will not achieve its goal "to protect the American people from terrorist attacks by foreign nationals admitted to the United States." It also warns that the action will "immediately sour relations" with key allies in the fight against terrorism, given many of the nations whose citizens are now restricted from traveling to U.S. soil.

The memo suggests alternatives, including improving visa and immigration screening.

Channel started in 1971

The Dissent Channel was established in 1971, amid disputes about Vietnam War policies, to allow U.S. diplomats to speak freely about foreign policy matters.

Typically four to five Dissent Channel messages are received each year, according to the State Department. Last year's Syria Dissent Channel memo had 51 signatures, according to diplomats.

When State Department or U.S. Agency for International Development employees believe their voices are not heard by supervisors, they may use the Dissent Channel. At the State Department, the policy planning staff is supposed to review it, circulate it to authorized people and reply in substance to the dissenters within 60 days.

Channel users protected

Those utilizing the Dissent Channel are protected from reprisals, disciplinary action or unauthorized disclosure of its use, according to the government's Foreign Affairs Manual.

Ford, who was a career member of the U.S. Foreign Service, predicted that if the White House tries to retaliate “they'll end up with lawsuits.” But Ford added that after expressing their opinion through the proper channels, foreign service officers are obligated to implement administration policy.

“It is their job to implement what the president and his team decide,” explained Ford. “If they can't implement it then, frankly, they should think whether they should be in a government job.”

Ford, currently a Senior Fellow at the Middle East Institute in Washington, acknowledged the challenge of U.S. diplomats in Baghdad having to explain “why this policy is a good policy” to their counterparts who fought alongside U.S. forces against terrorist elements.

“I can't imagine anything more difficult,” Ford said. Without proper guidance from Washington “they have to wing it which is even harder.”

Embassies sound off

Officials on Monday also revealed that the State Department is receiving multiple cables from its embassies about foreign anger concerning the restrictions on travel to the U.S. from the predominately Muslim countries in the executive order.

“As is standard, the State Department remains in contact with its embassies around the world on foreign policy issues,” a department official, speaking on condition of not being named, told VOA when asked about the cable. “We will not comment on internal communications.”

The president's nominee to be secretary of state, Rex Tillerson, has yet to be confirmed by the Senate. A vote on Tillerson, a recently retired oil and gas company executive, is expected this week.

EXHIBIT C

Citizenship Likely an Unreliable Indicator of Terrorist Threat to the United States

Scope Note: This paper was prepared at the request of the DHS Acting Under Secretary for Intelligence and Analysis. It assesses the international terrorist threat to the United States and worldwide by citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Citizens of these seven countries were impacted by Section 3 of Executive Order (E.O.) 13769 "Protecting the Nation from Foreign Terrorist Entry into the United States." The assessment relies on unclassified information from Department of Justice press releases on terrorism-related convictions and terrorist attack perpetrators killed in the act, Department of State visa statistics, the 2016 Worldwide Threat Assessment of the US Intelligence Community, and the Department of State Country Reports on Terrorism 2015. This paper does not assess the threat of domestic terrorism.

Key Findings

- DHS I&A assesses that country of citizenship is unlikely to be a reliable indicator of potential terrorist activity. Since the beginning of the Syrian conflict in March 2011, the foreign-born primarily US-based individuals who were inspired by a foreign terrorist organization to participate in terrorism-related activity were citizens of 26 different countries, with no one country representing more than 13.5 percent of the foreign-born total.
- Relatively few citizens of the seven countries impacted by E.O. 13769, compared to neighboring countries, maintain access to the United States.
- Terrorist groups in Iraq, Syria, and Yemen pose a threat of attacks in the United States while groups in Iran, Libya, Somalia, and Sudan remain regionally focused.

Citizens of Countries Affected by E.O. 13769 Rarely Implicated in US-Based Terrorism

DHS I&A assesses that country of citizenship is unlikely to be a reliable indicator of potential terrorist activity. Since the beginning of the Syrian conflict in March 2011, at least 82 primarily US-based individuals, who died in the pursuit of or were convicted of any terrorism-related federal offense inspired by a foreign terrorist organization, according to a DHS study of Department of Justice press releases on convictions and terrorist attack perpetrators killed in the act.^{1*} Of the 82 individuals we identified, slightly more than half were native-born United States citizens. Of the foreign-born individuals, they came from 26 different countries, with no one country representing more than 13.5 percent of the foreign-born total.

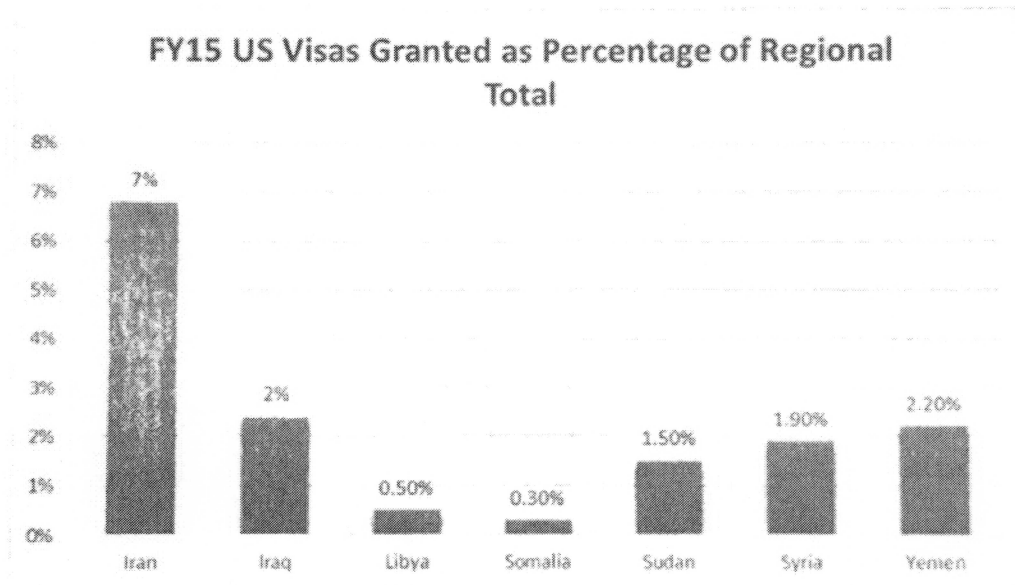
- The top seven origin countries of the foreign-born individuals are: Pakistan (5), Somalia (3), and Bangladesh, Cuba, Ethiopia, Iraq, and Uzbekistan (2).

* For the purposes of this paper, we limited our data to individuals prosecuted under 18 U.S.C. Chapter 133B in support of or inspired by a Foreign Terrorist Organization (FTO). We excluded traveling or attempting to travel overseas to join a FTO and activities unrelated to FTOs, to include purely domestic terrorism.

- Of the seven countries impacted by E.O. 13769 that are not listed above, Iran, Sudan, and Yemen had 1 each, and there were no individuals from Syria.

Limited Access to the United States by Citizens of Impacted Countries

Relatively few citizens of the seven countries impacted by E.O. 13769, compared to neighboring countries, maintain access to the United States. None of the seven countries account for more than 7 percent of the US visas granted in their region—the Middle East and North Africa or Sub-Saharan Africa—in Fiscal Year 2015, according to publicly available Fiscal Year 2015 visa issuance data from the Department of State.^{23†}



Few of the Impacted Countries Have Terrorist Groups that Threaten the West

Terrorist groups in Iraq, Syria, and Yemen pose a threat of attacks in the United States, while groups in Iran, Libya, Somalia, and Sudan are regionally focused, according to the 2016 Worldwide Threat Assessment of the US Intelligence Community and the Department of State Country Reports on Terrorism 2015.

Iran – Designated as a State Sponsor of Terrorism in 1984, Iran continued its terrorist-related activity in 2015, including support for Hizballah, Palestinian terrorist groups in Gaza, and various groups in Iraq and throughout the Middle East, according to the Country Reports on Terrorism 2015.⁴ Iran used the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) to implement foreign policy goals, provide cover for intelligence operations, and create instability

[†] Fiscal Year 2015 is the most recent year we have visa issuance data for both immigrant and non-immigrant visas. A-1, A-2, A-3, C-2, NATO, G-1, G-2, G-3, and G-3 non-immigrant visas were excluded from these calculations to be consistent with section 3(c) in E.O. 13769.

in the Middle East. The IRGC-QF is Iran's primary mechanism for cultivating and supporting terrorists abroad.

Iraq and Syria – The Islamic State of Iraq and the Levant (ISIL) has become the preeminent terrorist threat because of its self-described caliphate in Syria and Iraq, its branches and emerging branches in other countries, and its increasing ability to direct and inspire attacks against a wide range of targets around the world, according to the 2016 Worldwide Threat Assessment.⁵ ISIL's narrative supports jihadist recruiting, attracts others to travel to Iraq and Syria, draws individuals and groups to declare allegiance to ISIL, and justifies attacks across the globe.

Libya – Libya has been locked in civil war between two rival governments and affiliated armed groups, according to the 2016 Worldwide Threat Assessment.⁶ The 17 December 2015 signing of a UN-brokered agreement to form a Government of National Accord resulted from a year-long political dialogue that sought to end the ongoing civil war and reconcile Libya's rival governments. Extremists and terrorists have exploited the security vacuum to plan and launch attacks in Libya and throughout the region.

Somalia – In 2015, al-Shabaab continued to commit deadly attacks in Somalia, seeking to reverse progress made by the Federal Government of Somalia and weaken the political will of the African Union Mission in Somalia troop contributing countries, according to the Country Reports on Terrorism 2015.⁷

Sudan – Sudan was designated as a State Sponsor of Terrorism in 1993 due to concerns about support to international terrorist groups, according to the Country Reports on Terrorism 2015.⁸ In 2014, members of Hamas were allowed to raise funds, travel, and live in Sudan. However, in 2015 the use of Sudan by Palestinian designated terrorist groups appeared to have declined. The last known shipment was interdicted by Israel in 2014.

Yemen – Al-Qa'ida in the Arabian Peninsula remained a significant threat to Yemen, the region, and to the United States in 2015, as efforts to counter the group were hampered by the ongoing conflict in that country, according to the Country Reports on Terrorism 2015.⁹ The Islamic State of Iraq and the Levant in Yemen also exploited the political and security vacuum to strengthen its foothold inside the country.

¹ DHS I&A; DHS I&A Terrorism-Related Activities Study; 16 FEB 17; DOI 01 MAR 11 – 31 JAN 17; DHS I&A Terrorism-Related Activities Study

² <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2016AnnualReport/FY16AnnualReport-TableXIV.pdf>

³ <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FY15%20NIV%20Detail%20Table.xls>

⁴ <https://www.state.gov/j/ct/rls/crt/2015/257520.htm>

EXHIBIT D



The Rachel Maddow Show / The MaddowBlog



Exclusive: DHS intel doc contradicts case for Trump's travel ban, 3/2/17, 9:02 PM ET

TRMS Exclusive: DHS document undermines Trump case for travel ban

03/02/17 09:15 PM – UPDATED 03/03/17 12:14 AM

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The Rachel Maddow Show has obtained, exclusively, a Department of Homeland Security intelligence assessment document. The document, from the Office of Intelligence and Analysis, makes the case that most foreign-born, U.S.-based violent extremists are likely not radicalized when they come to the U.S., but rather become radicalized after living in the U.S. for a number of years.

The document follows [another piece of research](#) (pdf) from Homeland Security that undercut President Trump's rationale for a travel ban as a means of keeping violent extremists out. On Friday, [the Associated Press published](#) an analysis from Homeland

Security that said citizenship in any given country – including the seven countries listed in the executive order – is likely an unreliable indicator of whether someone poses a terrorist threat.

The new assessment, obtained by the Rachel Maddow Show and dated March 1, tracks 88 violent, foreign-born extremists in the United States. More than half of them had been in the U.S. more than 10 years before they were indicted or killed.

Homeland Security tonight has confirmed the authenticity of the document. The department says production of it began in August 2016, and that it likely would have reached the White House. We have asked the White House for comment tonight. They have not responded.

Read the document below:

([Scribd pdf link here](#))

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INTELLIGENCE ASSESSMENT



(U//FOUO) Most Foreign-born, US-based
Violent Extremists Radicalized after Entering
Homeland; Opportunities for Tailored CVE
Programs Exist

1 March 2017



**Homeland
Security**

Office of Intelligence and Analysis

IA-0091-17

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(U//FOUO) Most Foreign-born, US-based Violent Extremists Radicalized after Entering Homeland; Opportunities for Tailored CVE Programs Exist

(U//FOUO) Prepared by the Office of Intelligence and Analysis (I&A). Coordinated with CBP, the Department of State, ICE, NCTC, and USCIS.

(U) Scope

(U//FOUO) This Assessment examines the immigration history and radicalization of 88 foreign-born, US-based persons who participated in a terrorism-related activity inspired by at least one named foreign terrorist organization (FTO).^{*} All examined individuals primarily resided in the United States either at the time of their involvement in a terrorism-related activity or prior to their travel to join an FTO. The list of individuals included in this study was derived from academic and government sources, including a Department of Justice (DOJ) list of unsealed international terrorism and terrorism-related cases. The terrorism-related activities these individuals engaged in were identified in US Government sources or reliable media reporting. These activities include conducting or attempting to conduct an attack in the United States, traveling or attempting to travel from the United States to join an FTO overseas, and providing funds, goods, or logistical assistance to support an FTO. All individuals examined in our study were indicted or killed between March 2011—the start of the Syrian conflict—and December 2016. Individuals who were minors at the time of their indictment or death were not included. Our review did not consider classified or non-disseminated investigative information.

(U//FOUO) This Assessment identifies several factors, some of which are constitutionally protected activity, which we assess contributed to the radicalization of foreign-born, US-based violent extremists mentioned in this report. None of these factors should be viewed as definitive indicators of radicalization to violence absent corroborative information revealing a link to violence or terrorism. This Assessment is intended to inform federal, state, local, tribal, and territorial counterterrorism, law enforcement, and countering violent extremism (CVE) officials, as well as immigrant screening and vetting officials on trends of foreign-born individuals engaged in terrorism activity in the Homeland. It also provides an overview of opportunities to prevent and detect future violent extremist radicalization. The information cutoff date is 31 December 2016.

(U) Key Judgments

(U//FOUO) We assess that most foreign-born, US-based violent extremists likely radicalized several years after their entry to the United States, limiting the ability of screening and vetting officials to prevent their entry because of national security concerns. We base this assessment on our findings that nearly half of the foreign-born, US-based violent extremists examined in our dataset were less than 16 years old when they entered the country and that the majority of foreign-born individuals resided in the United States for more than 10 years before their indictment or death. A separate DHS study that found recent foreign-born US violent extremists began radicalizing, on average, 13 years after their entry to the United States further supports our assessment.

(U//FOUO) We assess nearly all parents who entered the country with minor-age children likely did not espouse a violent extremist ideology at the time they entered or at any time since, suggesting these foreign-born individuals were likely not radicalized by their parents before or after their arrival in the Homeland. We base this judgment on their admissions to the United States by screening and vetting agencies who review all available derogatory information, our review of press interviews of parents after their child was arrested or killed, and the lack of arrests of the parents since their entry.

^{*} (U//FOUO) DHS defines radicalization as the process through which an individual changes from a nonviolent belief system to a belief system that includes the willingness to actively advocate, facilitate, or use unlawful violence as a method to effect societal or political change.

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material support to ISIS as a group, according to DOJ criminal complaints.^{9,10}

- » (U//FOUO) In 2012, two individuals born in Uzbekistan were arrested for providing material support to the Islamic Jihad Union, according to DOJ criminal complaints.^{11,12} Separately, four Uzbekistan-born individuals were arrested in 2015 for providing material support to ISIS, according to a DOJ criminal complaint and superseding indictment.^{13,14} These two groups comprised six of the nine individuals in our dataset who were born in Uzbekistan.
- » (U//FOUO) All seven individuals born in Bosnia were associates of each other. Six were arrested in 2015 for providing material support to ISIS and one died in 2014 after successfully joining ISIS in Syria, according to DOJ criminal complaints and a press report.^{15,16}
- » (U//FOUO) Two of the seven violent extremists in our dataset who were born in Pakistan were brothers who plotted together to provide material support to al-Qa'ida in the Arabian Peninsula (AQAP), according to a DOJ indictment.¹⁷

(U//FOUO) We assess nearly all parents who entered the country with minor-age children likely did not espouse a violent extremist ideology at the time they entered or at any time since, suggesting these foreign-born individuals were likely not radicalized by their parents before or after their arrival in the Homeland. We base this judgment on their admissions to the United States by screening and vetting agencies who review all available derogatory information, our review of press interviews of parents after their child was arrested or killed, and the lack of arrests of the parents since their entry.

- » (U//FOUO) Two months before Somali immigrant Abdirizak Warsame^{USPER} was arrested for conspiring to provide material support to ISIS, his mother lectured other parents about the importance of talking with their children about risks stemming from adhering to a violent extremist ideology and the need to work with the FBI, according to press reporting.¹⁸ Warsame was sentenced to 30 months in prison in November 2016 because of his attempt to travel to Syria to join ISIS, according to a press report.¹⁹
- » (U//FOUO) Harlem Suarez's^{USPER} family was surprised by his arrest for plotting an attack in support of ISIS in 2015, according to a press report.²⁰ The family described Suarez, who was born in Cuba, as curious and unable to hurt anything, according to the same report.²¹ Suarez is currently awaiting trial, according to another press report.²²
- » (U//FOUO) Jose Pimentel's^{USPER} mother publicly apologized to the City of New York after his arrest in 2011, saying she was disappointed with her son's actions, according to multiple press reports.^{23,24,25} Pimentel—who immigrated from the Dominican Republic with his family when he was five—was sentenced to 16 years in prison after pleading guilty in February 2014 to terrorism charges related to plotting to conduct an attack in the Homeland, according to a separate press report.²⁶

(U//FOUO) Similar Radicalization Factors among Native- and Foreign-born US Violent Extremists

(U//FOUO) Our review of 116 native-born US violent extremists, who were publicly identified as having been arrested or killed between March 2011 and December 2016, showed that many had similar experiences and grievances to the 88 foreign-born violent extremists we examined. We assess that these experiences and grievances probably in part contributed to the radicalization of some native- and foreign-born, US-based violent extremists and included perceived injustices against Muslims in the Homeland and abroad because of US policies, feelings of anger and isolation, and witnessing violence as a child. The lack of extensive open source information detailing some of these US violent extremists' radicalization histories prevented us from identifying motivating factors for all individuals examined in our dataset.

- » (U//FOUO) Native-born brothers Nader Saadeh^{USPER} and Alaa Saadeh^{USPER}—who both pleaded guilty after their arrest in 2015 for providing material support to ISIS—believed the United States oppressed its own people and failed to protect Muslims, according to DOJ criminal complaints.^{27,28} Similarly, Ibrahim Mohammad^{USPER}, born in the UAE and arrested in 2015 for providing material support to AQAP, believed the United States was actively at war with Islam, according another DOJ criminal complaint.²⁹
- » (U//FOUO) Native-born Josh Van Haften^{USPER}, who is awaiting his trial for attempting to travel overseas to join ISIS, became isolated from his peers after a sexual assault required him to register as a sex offender, according to press reporting.³⁰ He was told to leave his housing because he was a sex offender, and he was never able to have a romantic relationship, according to a press interview with Van Haften's mother and her partner.³¹ The FBI assesses isolation to be one of many factors in Van Haften's radicalization, but not the primary one. Similarly, the now-deceased foreign-born former editor of AQAP's Inspire magazine, Samir Khan, and now-deceased ISIS foreign fighter Abdullah Ramo Pazara felt isolated or different from their communities and peers, according to multiple press reports.^{32,33,34}
- » (U//FOUO) At least five foreign-born US violent extremists were exposed to violence or substance abuse as children, according to a review of available press reporting.³⁵⁻³⁹ We judge, however, there are likely additional individuals included in our dataset who were also exposed to violence during their childhood, based on our finding that 41 foreign-born US violent extremists in our dataset entered the United States as a refugee, asylee, or child of a refugee or asylee.

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(U//FOUO) CVE Opportunities to Prevent Radicalization of Foreign-born, US-based Individuals

(U//FOUO) We assess that the integration and mentoring services provided by federal, state, and private sector entities to refugees and asylees offer an opportunity to help foreign-born US residents adjust to their new communities and raise their awareness of and resistance to violent extremist narratives and recruiters, and likely increase their resistance to radicalization. Immigrants not entering the United States as refugees or asylees must prove their ability to provide basic needs for themselves before arriving in the United States, and thus they would not be eligible to receive many of these healthcare, housing, employment, and education services; however, there are many programs available to all immigrants to assist with integration into US society.

- » (U) There are a variety of federal, state, local, and nongovernmental programs aimed at helping refugees and asylees integrate into US society by addressing their basic healthcare, housing, employment, and education needs.⁴⁰ Additionally, USCIS, through its Citizenship and Integration Grant Program, as of September 2016 awarded \$63 million through 308 competitive grants in 37 states to help immigrants prepare and apply for US citizenship, according to USCIS.⁴¹
- » (U) Many nonprofit organizations engage with immigrant communities, including a Georgia-based nonprofit that serves the cultural, psychological, and social-economic needs of refugees and immigrants in Atlanta, according to their website.⁴²

(U//FOUO) The experiences and grievances we assessed as common within these individuals present opportunities for CVE programs focused on integration and mentorship. Such programs could address adolescent immigrants' feelings of isolation, anger, and depression caused by immigration experiences—which could in turn reduce the ability of FTOs to exploit these feelings for recruitment. Program administrators would be positioned to assist adolescents if the administrators are made aware of common radicalization vulnerabilities and behavioral indicators, as well as effective counter-narratives to challenge FTO messaging.

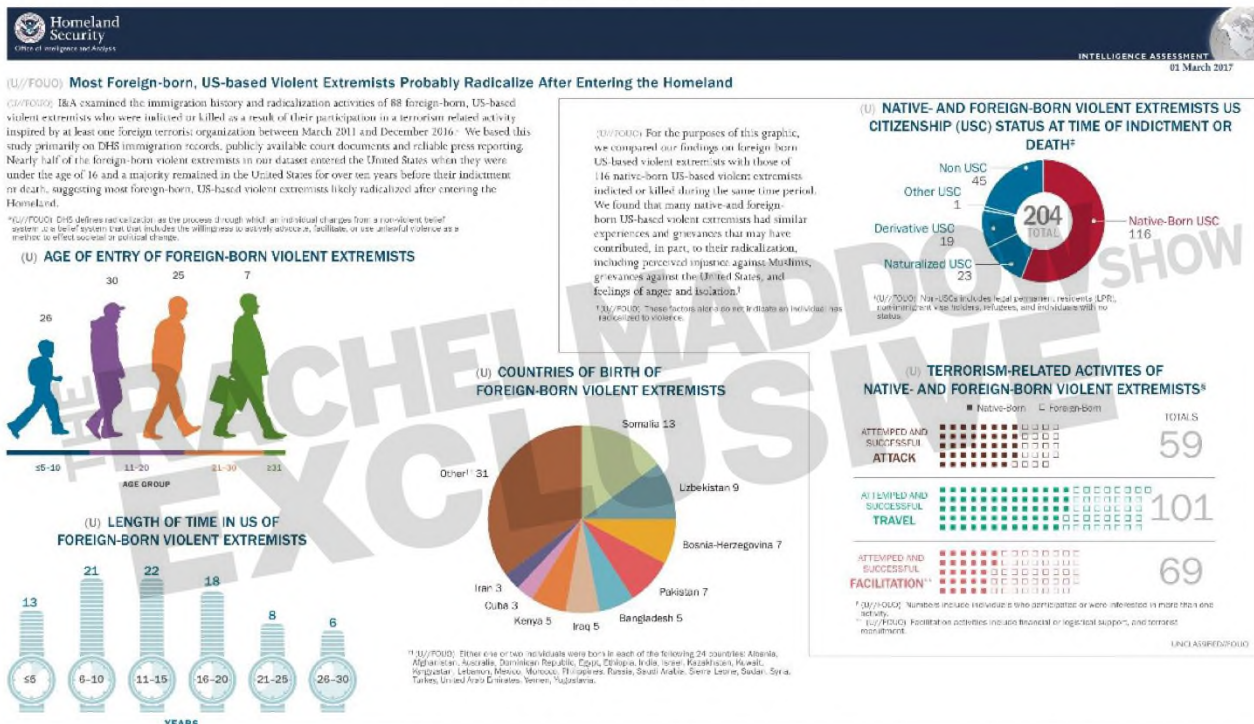
- » (U//FOUO) Guled Omar^{USPER}, who was sentenced in 2016 for attempting travel overseas to join ISIS, claimed in a December 2016 press interview that after his older brother traveled to Somalia in 2007 to join al-Shabaab, he was shunned and isolated from the Somali-American community in Minneapolis, which led to his depression, drug use, and taunting by peers.⁴³
- » (U) Successful programs for adolescent immigrants could include convening youth from varying cultural backgrounds to promote cultural understanding and providing opportunities to counter anti-immigrant attitudes in mainstream culture, according to research published by a State University of New York at Albany^{USPER} program called Voices for Change: Immigrant Women and State Policy.⁴⁴ Separately, the Department of Health and Human Services' Child Welfare Information Gateway offers online resources for immigrant youth, including a guide on living in America, educational and safety resources for parents, and a handbook for raising children in a new country.⁴⁵

(U//FOUO) We also judge that open discussions with community and religious centers about overseas conflicts and ways that violent extremists may use religion to justify their actions would likely help dissuade some foreign-born, US-based individuals who are seeking answers to their questions from relying exclusively on research conducted online, which is often dominated by FTO messaging that offers only a violent extremist perspective.

- » (U//FOUO) Some individuals in our dataset who became interested in conflict zones or their religion sought to educate themselves on the Internet—where they encountered videos and literature espousing violent extremist ideology—rather than their local religious or community leaders, according to press reporting.^{46,47} Somali-Americans Abdi Nur^{USPER} and Guled Omar—who have since been indicted for attempting to provide material support to ISIS—were asked to leave their respective mosques because of their expressions of violent extremist beliefs, which, in effect, pushed their research underground, where they turned to the Internet and had their nascent violent extremist views reinforced, according to a press report.⁴⁸ Abdi Nur was indicted on conspiracy charges for providing material support to ISIS in 2014, according to a DOJ press release.⁴⁹
- » (U//FOUO) Abdizirak Warsame stated in his court appearance that he was always listening to one side, referring to the “radical” messages he saw online, according to a press report. Warsame claimed that at the time he did not realize innocent people were being killed, according to the same report, which was likely a reference to terrorists' targeting of civilians.⁵⁰

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(U) Source Summary Statement

(U//FOUO) This Assessment is based primarily on I&A's review of DHS immigration and travel records and publicly available court documents as well as relevant reliable press reporting. The scope of our study did not include consideration of non-disseminated investigative information.

(U//FOUO) I&A has **moderate confidence** that most foreign-born US violent extremists likely radicalize several years after their entry to the United States, based on a review of court documents and press reporting from which we determined the first known sign of radicalization to violence among recent US violent extremists and a body of USCIS data from which we determined the length of time the individuals examined in our current dataset spent in the United States before their indictment or death. We note that there are challenges in determining the exact date that radicalization began, which is often a personal and individualized process that is difficult to observe. Additional reporting on the online activities of the US violent extremists, as well as information from the US violent extremists themselves or their family and friends about possible indicators of their loved ones' radicalization would further strengthen our confidence in this assessment. Our assessment is further supported by our finding that nearly half of the foreign-born individuals in our dataset entered the United States when they were younger than 16 years old, an age group that is typically younger than the age most violent extremists begin radicalizing.

(U//FOUO) We have **moderate confidence** in our assessment that nearly all parents who entered the country with these foreign-born, US-based violent extremists likely did not espouse a violent extremist ideology or exhibit any violent radicalization or mobilization indicators at the time they entered or since. Our assessment is based on a qualitative review of reliable press reporting describing the family life and parents of the individuals in our dataset. Additional information about the parents of these individuals—which is likely contained in immigration screening and vetting interview transcripts related to these individuals and their parents, which we lacked access to—would strengthen our confidence in this assessment.

(U//FOUO) We have **moderate confidence** that provision of services to refugees and asylees and programs tailored to adolescents offer opportunities to provide CVE programs to address radicalization factors possibly relevant to foreign-born US residents. Our assessment is based on a review of services provided to refugees and asylum seekers and current programs focused on immigrant youth, which, collectively, can address many

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- ¹ (U); United States District Court, Southern District of Florida; "United States of America v. Miguel Moran Diaz"; 06 APR 2015.
- ² (U); USCIS; CLAIMS 3; SRC9702052653; accessed on 22 DEC 2016; DOI 21 OCT 1996; (U); N400 Application for Naturalization; Extracted information is UNCLASSIFIED; Overall document classification is UNCLASSIFIED.
- ³ (U); DOJ Office of Public Affairs; Press Release; "Miami Resident and ISIL Sympathizer Sentenced to 10 Years in Prison for Illegally Possessing a Firearm"; 28 JUL 2015; <https://www.justice.gov/opa/pr/miami-resident-and-isil-sympathizer-sentenced-10-years-prison-illegally-possessing-firearm>; accessed on 28 OCT 2016.
- ⁴ (U); USCIS; CIS; A041544571; accessed on 22 DEC 16; DOI 12 SEP 1990; (U); USCIS A-File; Extracted information is UNCLASSIFIED; Overall document classification is UNCLASSIFIED.
- ⁵ (U); Adam Goldman; *The Washington Post*; "'I am fed up with this evil': How an American went from Ivy League student to disillusioned ISIS fighter"; 30 JUN 2016; https://www.washingtonpost.com/world/national-security/i-am-fed-up-with-this-evil-how-an-american-went-from-ivy-league-student-to-disillusioned-isis-fighter/2016/06/29/155e777e-3e07-11e6-80bc-d06711fd2125_story.html?utm_term=.f3268b20b17f#comments; accessed on 13 DEC 2016.
- ⁶ (U); Adam Goldman; *The Washington Post*; "'I am fed up with this evil': How an American went from Ivy League student to disillusioned ISIS fighter"; 30 JUN 2016; https://www.washingtonpost.com/world/national-security/i-am-fed-up-with-this-evil-how-an-american-went-from-ivy-league-student-to-disillusioned-isis-fighter/2016/06/29/155e777e-3e07-11e6-80bc-d06711fd2125_story.html?utm_term=.f3268b20b17f#comments; accessed on 13 DEC 2016.
- ⁷ (U); Dave Urbanski; *The Blaze*; "Ivy League Student Traveled to Syria to Join Islamic State — a Few Months Later, He Was Begging U.S. to Save Him"; 01 JUL 2016; <http://www.theblaze.com/stories/2016/07/01/ivy-league-student-traveled-to-syria-to-join-islamic-state-a-few-months-later-he-was-begging-u-s-to-save-him/>; accessed on 13 DEC 2016.
- ⁸ (U); Adam Goldman; *The Washington Post*; "'I am fed up with this evil': How an American went from Ivy League student to disillusioned ISIS fighter"; 30 JUN 2016; https://www.washingtonpost.com/world/national-security/i-am-fed-up-with-this-evil-how-an-american-went-from-ivy-league-student-to-disillusioned-isis-fighter/2016/06/29/155e777e-3e07-11e6-80bc-d06711fd2125_story.html?utm_term=.f3268b20b17f#comments; accessed on 13 DEC 2016.
- ⁹ (U); United States District Court, the District of Minnesota; "United States of America v. Mohamed Abdihamid Farah, Adnan Abdihamid Farah, Abdurahman Yasin Daud, Zacharia Yusuf Abdurahman, Hanad Mustafe Musse and Guled Ali Omar"; 18 APR 2015.
- ¹⁰ (U); US District Court, District of Minnesota; "United States of American v. Abdullahi Yusuf, Abdi Nur"; Criminal Complaint; 24 NOV 2014.
- ¹¹ (U); United States District Court, District of Colorado; "United States of America v. Bakhtiyor Jumaev"; Criminal Complaint; 14 MAR 2012.
- ¹² (U); United States District Court, District of Colorado; "United States of America v. Jamshid Muhtorov"; 19 JAN 2012.
- ¹³ (U); United States District Court, Eastern District of New York; "United States of America v. Abdurasul Hasanovich Juraboev, Akhror Saidakhmetov, and Abror Habibov"; 24 FEB 2015.
- ¹⁴ (U); United States District Court, Eastern District of New York; "United States of America v. Akhror Saidakhmetov, Abror Habibov, Azizjon Rakhmatov, Akmal Zakirov and Dilkhayot Kasimov"; 09 MAY 2016.
- ¹⁵ (U); US District Court, Eastern District of Missouri Eastern Division; "United States of America v. Ramiz Zijad Hodzic, Sedina Unkic Hodzic, Nihad Rosic, Mediha Medy Salkicevic, Armin Harcevic and Jasminka Ramic"; 05 FEB 2015.
- ¹⁶ (U); Robert Patrick; *St. Louis Post-Dispatch*; "Allegations of St. Louis Terrorism Support Rooted Back in Bosnian War"; 11 APR 2015; http://www.sltoday.com/news/local/crime-and-courts/allegations-of-st-louis-terrorism-support-rooted-back-in-bosniarticle_0a3b08c5-29da-5f7c-ab4e-b281f086f29f.html; accessed on 15 DEC 2016.
- ¹⁷ (U); United States District Court, Southern District of Florida; "United States of America v. Raees Alam Qazi and Sheheryar Alam Qazi"; 30 NOV 2012.
- ¹⁸ (U); CBS Minnesota; "Abdirizak Mohamed Warsame And ISIS: A Cautionary Tale"; 09 APR 2016; <http://minnesota.cbslocal.com/2016/04/09/abdirizak-warsame/>; accessed on 07 DEC 2016.
- ¹⁹ (U); Jennie Lissarrague and Beth McDonough; KSTP-TV; "Day 1: Sentences Vary for 3 Minn. Men Who Pleaded Guilty to Terrorism Charges"; 14 NOV 2016; <http://kstp.com/news/somali-minnesotans-terrorism-charges-sentencing/4316829/>; accessed on 07 DEC 2016.
- ²⁰ (U); Cammy Clark; *Miami Herald*; "Where FBI Sees Terrorist, Keys Family Sees Naïve Young Man"; 07 AUG 2015; <http://www.miamiherald.com/news/local/community/florida-keys/article30470679.html>; accessed on 04 JAN 2016.
- ²¹ (U); Cammy Clark; *Miami Herald*; "Where FBI Sees Terrorist, Keys Family Sees Naïve Young Man"; 07 AUG 2015; <http://www.miamiherald.com/news/local/community/florida-keys/article30470679.html>; accessed on 04 JAN 2016.
- ²² (U); WPTV; "Trial Delayed Until April for Florida Backpack Bomb Suspect Harlem Suarez"; 23 DEC 2016; <http://www.wptv.com/news/state/trial-delayed-until-april-for-florida-backpack-bomb-suspect-harlem-suarez>; accessed on 29 DEC 2016.
- ²³ (U); Ray Sanchez; *Huffington Post*; "Jose Pimentel, New York Bombing Suspect, Was Frustrated By Unemployment, Mother Says"; 22 NOV 2011; http://www.huffingtonpost.com/2011/11/21/jose-pimentel-new-york-bombing-suspect-frustrated-by-unemployment-mother-says_n_1105956.html; accessed on 07 DEC 2016.
- ²⁴ (U); CBS News; "Man pleads guilty in New York City pipe bomb terrorism plot"; 19 FEB 2014; <http://www.cbsnews.com/news/man-pleads-guilty-in-new-york-city-pipe-bomb-terrorism-plot/>; accessed on 07 DEC 2016.

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- ²⁵ (U); Patrick Hedlund; DNAinfo.com; "Mother of Alleged Terrorist Plotter Jose Pimentel Apologizes for Son"; 21 NOV 2011; <https://www.dnainfo.com/new-york/2011/11/21/harlem/mother-of-alleged-terrorist-plotter-jose-pimentel-apologizes-for-son>; accessed on 07 DEC 2016; (U); Online news service covering neighborhood issues.
- ²⁶ (U); CBS News; "Man pleads guilty in New York City pipe bomb terrorism plot"; 19 FEB 2014; <http://www.cbsnews.com/news/man-pleads-guilty-in-new-york-city-pipe-bomb-terrorism-plot/>; accessed on 07 December 2016.
- ²⁷ (U); United States District Court, District of New Jersey; "United States of America v. Alaa Saadeh"; 29 JUN 2015.
- ²⁸ (U); United States District Court, District of New Jersey; "United States of America v. Nader Saadeh"; 01 AUG 2015.
- ²⁹ (U); United States District Court, Northern District of Ohio; "United States of America v. Yahya Farooq Mohammad, Ibrahim Zubair Mohammad, Asif Ahmed Salim, and Sultane Roome Salim"; NOV 2015.
- ³⁰ (U); Rob Schultz; *Wisconsin State Journal*; "Mother Says Joshua Van Haften, Accused of Trying to Join ISIS, Has Mental Illness"; 11 APR 2015; http://host.madison.com/wjs/news/local/crime_and_courts/mother-says-joshua-van-haften-accused-of-trying-to-join/article_c94fe848-c964-5d14-9e5b-f1dfd087c793.html; accessed on 22 DEC 2016.
- ³¹ (U); Rob Schultz; *Wisconsin State Journal*; "Mother Says Joshua Van Haften, Accused of Trying to Join ISIS, Has Mental Illness"; 11 APR 2015; http://host.madison.com/wjs/news/local/crime_and_courts/mother-says-joshua-van-haften-accused-of-trying-to-join/article_c94fe848-c964-5d14-9e5b-f1dfd087c793.html; accessed on 22 DEC 2016.
- ³² (U); Matthew Chayes, Anthony Destefano, Robert Kessler, Greg Lacour, and Victor Ramos; *Newsday*; "Samir Khan, Al-Qaida Figure, Grew Up On Long Island"; 06 OCT 2011; www.newsday.com/long-island/samir-khan-al-qaida-figure-grew-up-on-long-island; accessed on 16 February 2017.
- ³³ (U); Peter Neumann; *Radicalized: New Jihadists and the Threat to the West*; 2016.
- ³⁴ (U); Laura Yuen; MPR News; "Guled Omar: The Path to ISIS and The Story You Haven't Heard"; 22 DEC 2016; <https://www.mprnews.org/story/2016/12/21/path-to-isis-minnesota-guled-omar-mpr-interviews>; accessed on 27 DEC 2016.
- ³⁵ (U); Laura Yuen; MPR News; "Guled Omar: The Path to ISIS and The Story You Haven't Heard"; 22 DEC 2016; <https://www.mprnews.org/story/2016/12/21/path-to-isis-minnesota-guled-omar-mpr-interviews>; accessed on 27 DEC 2016.
- ³⁶ (U); Robert Patrick; *St. Louis Post-Dispatch*; "Allegations of St. Louis Terrorism Support Rooted Back in Bosnian War"; 11 APR 2015; http://www.stltoday.com/news/local/crime-and-courts/allegations-of-st-louis-terrorism-support-rooted-back-in-bosniarticle_0a3b08c5-29da-5f7c-ab4e-b281f086f29f.html; accessed on 15 DEC 2016.
- ³⁷ (U); CBS Minnesota; "Abdirizak Mohamed Warsame And ISIS: A Cautionary Tale"; 09 APR 2016; <http://minnesota.cbslocal.com/2016/04/09/abdirizak-warsame/>; accessed on 29 DEC 2016.
- ³⁸ (U); PBS News Hour; "An Extremist's Path to Academia—and Fighting Terrorism"; 29 AUG 2016; <http://www.pbs.org/newshour/bb/extremists-path-academia-fighting-terrorism/>; accessed on 15 DEC 2016.
- ³⁹ (U); Sean Rubinsztein-Dunlop; ABC News; "Amina Karroum and Tyler Casey: How a Young Australian Couple Came to Die in Syria"; 08 SEP 2014; accessed on 27 DEC 2016.
- ⁴⁰ (U); The White House; "Fact Sheet: The Federal Role in Immigrant & Refugee Integration"; 16 JUL 2014; <https://www.whitehouse.gov/the-press-office/2014/07/16/fact-sheet-strengthening-communities-welcoming-all-residents>; accessed on 21 DEC 2016.
- ⁴¹ (U); USCIS; "Citizenship and Integration Grant Program"; 01 SEP 2016; <https://www.uscis.gov/about-us/citizenship-and-integration-grant-program>; accessed on 21 DEC 2016.
- ⁴² (U); Somali American Community Center; "About Us"; 2014; www.somalilacat.org/about_us; accessed on 30 DEC 2016; (U); Nonprofit organization's website.
- ⁴³ (U); Laura Yuen; MPR News; "Guled Omar: The Path to ISIS and The Story You Haven't Heard"; 22 DEC 2016; <https://www.mprnews.org/story/2016/12/21/path-to-isis-minnesota-guled-omar-mpr-interviews>; accessed on 27 DEC 2016; (U) News Web site.
- ⁴⁴ (U); ACT for Youth; "Creating Successful Programs for Immigrant Youth"; DEC 2004; http://www.actforyouth.net/resources/pm/pm_creatingsuccess_1204.pdf; accessed on 27 DEC 2016; (U); Publication authored by SUNY Albany's Voices for Change program.
- ⁴⁵ (U); Child Welfare Information Gateway; "Helping Immigrant Families Overcome Challenges"; <https://www.childwelfare.gov>; accessed on 26 JAN 2017.
- ⁴⁶ (U); Casey Tolan; Fusion; "How a High School Class Project Led an 18-year-old to Try to Join ISIS"; 13 MAY 2016; <http://fusion.net/story/3022272/abdullahi-yusuf-minneapolis-isis-trial/>; accessed on 28 DEC 2016.
- ⁴⁷ (U); Richard Engel, Ben Plessner, and Tracy Connor; NBC News; "American ISIS Defector: 'I've Let my Nation Down'"; 23 MAY 2016; <http://www.nbcnews.com/storyline/isis-uncovered/american-isis-defector-i-ve-let-my-nation-down-n578216>; accessed on 15 DEC 2016.
- ⁴⁸ (U); Laura Yuen; MPR News; "Guled Omar: The Path to ISIS and The Story You Haven't Heard"; 22 DEC 2016; <https://www.mprnews.org/story/2016/12/21/path-to-isis-minnesota-guled-omar-mpr-interviews>; accessed on 27 DEC 2016.
- ⁴⁹ (U); US Attorney's Office - District of Minnesota; Press Release; "To Minnesotans Charged with Conspiracy to Provide Material Support to Islamic State of Iraq and the Levant"; 25 NOV 2014; <https://www.justice.gov/usao-mn/pr/two-minnesotans-charged-conspiracy-provide-material-support-islamic-state-iraq-and-levants>; accessed on 29 DEC 2016.
- ⁵⁰ (U); CBS Minnesota; "Abdirizak Mohamed Warsame And ISIS: A Cautionary Tale"; 09 APR 2016; <http://minnesota.cbslocal.com/2016/04/09/abdirizak-warsame/>; accessed on 29 DEC 2016.

Explore: The MaddowBlog

Thursday's Mini-Report, 3.2.17

Team Trump's Russian communications come...

EXHIBIT E

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 17-35105

STATE OF WASHINGTON, et al.	)	
	)	
Plaintiffs-Appellees,	)	
	)	JOINT DECLARATION OF
vs.	)	MADELEINE K. ALBRIGHT,
	)	AVRIL D. HAINES
	)	MICHAEL V. HAYDEN
	)	JOHN F. KERRY
	)	JOHN E. McLAUGHLIN
DONALD J. TRUMP, President of the	)	LISA O. MONACO
United States, et al.,	)	MICHAEL J. MORELL
	)	JANET A. NAPOLITANO
Defendants-Appellants.	)	LEON E. PANETTA
	)	SUSAN E. RICE
	)	
	)	
	)	

We, Madeleine K. Albright, Avril D. Haines, Michael V. Hayden, John F. Kerry, John E. McLaughlin, Lisa O. Monaco, Michael J. Morell, Janet A. Napolitano, Leon E. Panetta, and Susan E. Rice declare as follows:

1. We are former national security, foreign policy, and intelligence officials in the United States Government:
 - a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee and naturalized American citizen, she served as U.S. Permanent Representative to the United Nations from 1993 to 1997 and has been a member of the Central Intelligence Agency External Advisory Board since 2009 and the Defense Policy Board since 2011, in which capacities she has received assessments of threats facing the United States.
 - b. Avril D. Haines served as Deputy Director of the Central Intelligence Agency from 2013 to 2015, and as Deputy National Security Advisor from 2015 to January 20, 2017.
 - c. Michael V. Hayden served as Director of the National Security Agency from 1999 to 2005, and Director of the Central Intelligence Agency from 2006 to 2009.
 - d. John F. Kerry served as Secretary of State from 2013 to January 20, 2017.

- e. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency from 2000-2004 and Acting Director of CIA in 2004. His duties included briefing President-elect Bill Clinton and President George W. Bush.
- f. Lisa O. Monaco served as Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor from 2013 to January 20, 2017.
- g. Michael J. Morell served as Acting Director of the Central Intelligence Agency in 2011 and from 2012 to 2013, Deputy Director from 2010 to 2013, and as a career official of the CIA from 1980. His duties included briefing President George W. Bush on September 11, 2001, and briefing President Barack Obama regarding the May 2011 raid on Osama bin Laden.
- h. Janet A. Napolitano served as Secretary of Homeland Security from 2009 to 2013.
- i. Leon E. Panetta served as Director of the Central Intelligence Agency from 2009-11 and as Secretary of Defense from 2011-13.
- j. Susan E. Rice served as U.S. Permanent Representative to the United Nations from 2009-13 and as National Security Advisor from 2013 to January 20, 2017.

2. We have collectively devoted decades to combatting the various terrorist threats that the United States faces in a dynamic and dangerous world. We have all held the highest security clearances. A number of us have worked at senior levels in administrations of both political parties. Four of us (Haines, Kerry, Monaco and Rice) were current on active intelligence regarding all credible terrorist threat streams directed against the U.S. as recently as one week before the issuance of the Jan. 27, 2017 Executive Order on “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Order”).

3. We all agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. We all are nevertheless unaware of any specific threat that would justify the travel ban established by the Executive Order issued on January 27, 2017. We view the Order as one that ultimately undermines the national security of the United States, rather than making us safer. In our professional opinion, this Order cannot be justified on national security or foreign policy grounds. It does not perform its declared task of “protecting the nation from foreign terrorist entry into the United States.” To the contrary, the Order disrupts thousands of lives, including those of refugees and visa holders all previously vetted by standing procedures that the Administration has not shown to be inadequate. It could do long-term damage to our national security and foreign policy interests, endangering U.S. troops in the field and disrupting counterterrorism and national security partnerships. It will aid ISIL’s propaganda effort and serve its recruitment message by feeding into the narrative that the United States is at war with Islam. It will hinder relationships with the very communities that law enforcement professionals need to address the threat. It will have a damaging humanitarian and economic impact on the lives and jobs of American citizens and residents. And apart from all of these concerns, the Order offends our nation’s laws and values.

4. There is no national security purpose for a total bar on entry for aliens from the seven named countries. Since September 11, 2001, not a single terrorist attack in the United States has been perpetrated by aliens from the countries named in the Order. Very few attacks on U.S. soil since September 11, 2001 have been traced to foreign nationals at all. The overwhelming majority of attacks have been committed by U.S. citizens. The Administration has identified no information or basis for believing there is now a heightened or particularized future threat from the seven named countries. Nor is there any rational basis for exempting from the ban particular religious minorities (e.g., Christians), suggesting that the real target of the ban remains one religious group (Muslims). In short, the Administration offers no reason why it abruptly shifted to group-based bans when we have a tested individualized vetting system developed and implemented by national security professionals across the government to guard the homeland, which is continually re-evaluated to ensure that it is effective.

5. In our professional opinion, the Order will harm the interests of the United States in many respects:

- a. The Order will endanger U.S. troops in the field. Every day, American soldiers work and fight alongside allies in some of the named countries who put their lives on the line to protect Americans. For example, allies who would be barred by the Order work alongside our men and women in Iraq fighting against ISIL. To the extent that the Order bans travel by individuals cooperating against ISIL, we risk placing our military efforts at risk by sending an insulting message to those citizens and all Muslims.
- b. The Order will disrupt key counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining the necessary information sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels to address the threat posed by terrorist groups such as ISIL. The international criticism of the Order has been intense, and it has alienated U.S. allies. It will strain our relationships with partner countries in Europe and the Middle East, on whom we rely for vital counterterrorism cooperation, undermining years of effort to bring them closer. By alienating these partners, we could lose access to the intelligence and resources necessary to fight the root causes of terror or disrupt attacks launched from abroad, before an attack occurs within our borders.
- c. The Order will endanger intelligence sources in the field. For current information, our intelligence officers may rely on human sources in some of the countries listed. The Order breaches faith with those very sources, who have risked much or all to keep Americans safe – and whom our officers had promised always to protect with the full might of our government and our people.
- d. Left in place, the Executive Order will likely feed the recruitment narrative of ISIL and other extremists that portray the United States as at war with Islam. As government officials, we took every step we could to counter violent extremism. Because of the Order's disparate impact against Muslim travelers and immigrants, it feeds ISIL's narrative and sends the wrong message to the Muslim community here at home and all over the world: that

the U.S. government is at war with them based on their religion. The Order may even endanger Christian communities, by handing ISIL a recruiting tool and propaganda victory that spreads their message that the United States is engaged in a religious war.

- e. The Order will disrupt ongoing law enforcement efforts. By alienating Muslim-American communities in the United States, it will harm our efforts to enlist their aid in identifying radicalized individuals who might launch attacks of the kind recently seen in San Bernardino and Orlando.
- f. The Order will have a devastating humanitarian impact. When the Order issued, those disrupted included women and children who had been victimized by actual terrorists. Tens of thousands of travelers today face deep uncertainty about whether they may travel to or from the United States: for medical treatment, study or scholarly exchange, funerals or other pressing family reasons. While the Order allows for the Secretaries of State and Homeland Security to agree to admit travelers from these countries on a case-by-case basis, in our experience it would be unrealistic for these overburdened agencies to apply such procedures to every one of the thousands of affected individuals with urgent and compelling needs to travel.
- g. The Order will cause economic damage to American citizens and residents. The Order will affect many foreign travelers, particularly students, who annually inject hundreds of billions into the U.S. economy, supporting well over a million U.S. jobs. Since the Order issued, affected companies have noted its adverse impacts on many strategic economic sectors, including defense, technology, medicine, culture and others.

6. As a national security measure, the Order is unnecessary. National security-based immigration restrictions have consistently been tailored to respond to: (1) specific, credible threats based on individualized information, (2) the best available intelligence and (3) thorough interagency legal and policy review. This Order rests not on such tailored grounds, but rather, on (1) general bans (2) not supported by any new intelligence that the Administration has claimed, or of which we are aware, and (3) not vetted through careful interagency legal and policy review. Since the 9/11 attacks, the United States has developed a rigorous system of security vetting, leveraging the full capabilities of the law enforcement and intelligence communities. This vetting is applied to travelers not once, but multiple times. Refugees receive the most thorough vetting of any traveler to the United States, taking on the average more than a year. Successive administrations have continually worked to improve this vetting through robust information-sharing and data integration to identify potential terrorists without resorting to a blanket ban on all aliens and refugees. Because various threat streams are constantly mutating, as government officials, we sought continually to improve that vetting, as was done in response to particular threats identified by U.S. intelligence in 2011 and 2015. Placing additional restrictions on individuals from certain countries in the visa waiver program –as has been done on occasion in the past – merely allows for more individualized vettings before individuals with particular passports are permitted to travel to the United States.

7. In our professional opinion, the Order was ill-conceived, poorly implemented and ill-explained. The “considered judgment” of the President in the prior cases where courts have

deferred was based upon administrative records showing that the President's decision rested on cleared views from expert agencies with broad experience on the matters presented to him. Here, there is little evidence that the Order underwent a thorough interagency legal and policy processes designed to address current terrorist threats, which would ordinarily include a review by the career professionals charged with implementing and carrying out the Order, an interagency legal review, and a careful policy analysis by Deputies and Principals (at the cabinet level) before policy recommendations are submitted to the President. We know of no interagency process underway before January 20, 2017 to change current vetting procedures, and the repeated need for the Administration to clarify confusion after the Order issued suggest that that Order received little, if any advance scrutiny by the Departments of State, Justice, Homeland Security or the Intelligence Community. Nor have we seen any evidence that the Order resulted from experienced intelligence and security professionals recommending changes in response to identified threats.

8. The Order is of unprecedented scope. We know of no case where a President has invoked his statutory authority to suspend admission for such a broad class of people. Even after 9/11, the U.S. Government did not invoke the provisions of law cited by the Administration to broadly bar entrants based on nationality, national origin, or religious affiliation. In past cases, suspensions were limited to particular individuals or subclasses of nationals who posed a specific, articulable threat based on their known actions and affiliations. In adopting this Order, the Administration alleges no specific derogatory factual information about any particular recipient of a visa or green card or any vetting step omitted by current procedures.

9. Maintaining the district court's temporary restraining order while the underlying legal issues are being adjudicated would not jeopardize national security. It would simply preserve the status quo ante, still requiring that individuals be subjected to all the rigorous legal vetting processes that are currently in place. Reinstating the Executive Order would wreak havoc on innocent lives and deeply held American values. Ours is a nation of immigrants, committed to the faith that we are all equal under the law and abhor discrimination, whether based on race, religion, sex, or national origin. As government officials, we sought diligently to protect our country, even while maintaining an immigration system free from intentional discrimination, that applies no religious tests, and that measures individuals by their merits, not stereotypes of their countries or groups. Blanket bans of certain countries or classes of people are beneath the dignity of the nation and Constitution that we each took oaths to protect. Rebranding a proposal first advertised as a "Muslim Ban" as "Protecting the Nation from Foreign Terrorist Entry into the United States" does not disguise the Order's discriminatory intent, or make it necessary, effective, or faithful to America's Constitution, laws, or values.

10. For all of the foregoing reasons, in our professional opinion, the January 27 Executive Order does not further – but instead harms – sound U.S. national security and foreign policy.

Respectfully submitted,

s/MADELEINE K. ALBRIGHT*

s/AVRIL D. HAINES

s/MICHAEL V. HAYDEN

s/JOHN F. KERRY

s/JOHN E. McLAUGHLIN

s/LISA O. MONACO

s/MICHAEL J. MORELL

s/JANET A. NAPOLITANO

s/LEON E. PANETTA

s/SUSAN E. RICE

*All original signatures are on file with Harold Hongju Koh, Rule of Law Clinic, Yale Law School, New Haven, CT. 06520-8215 203-432-4932

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. [Individual signature pages follow]

EXECUTED this 5th day of February, 2017

Madeline Albright

MADELEINE K. ALBRIGHT

EXECUTED this 5th day of February, 2017

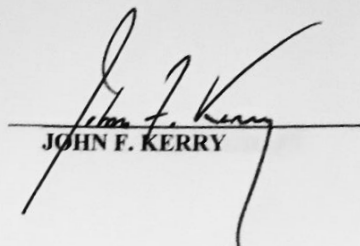


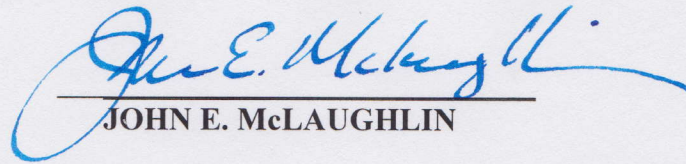
AVRIL D. HAINES

EXECUTED this 5th day of February, 2017


MICHAEL V. HAYDEN

EXECUTED this 5th day of February, 2017


JOHN F. KERRY



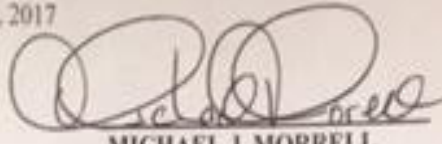
JOHN E. McLAUGHLIN

EXECUTED this 5th day of February, 2017

A handwritten signature in dark ink, appearing to read "Lisa Monaco", written in a cursive style.

LISA O. MONACO

EXECUTED this 5th day of February, 2017

A handwritten signature in dark ink, appearing to read "Michael J. Morrell", written over a horizontal line.

MICHAEL J. MORRELL

MORELL

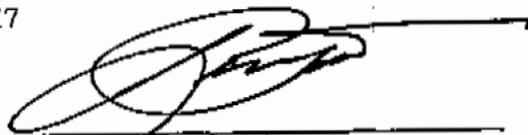
Handwritten initials "mjm" enclosed within a hand-drawn circle.

EXECUTED this 5th day of February, 2017

_____/s/_____
JANET A. NAPOLITANO

13

EXECUTED this 5th day of February, 2017


LEONE E. PANETTA

EXECUTED this 5th day of February, 2017

_____/s/_____
SUSAN E. RICE

EXHIBIT F

March 10, 2017

The Honorable Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20050

Dear Mr. President,

We have worked for years, under both Democratic and Republican administrations, to protect America's national security. We are deeply concerned that the March 6, 2017 executive order halting refugee resettlement and suspending visa issuance and travel from six Muslim-majority countries will, like the prior version, weaken U.S. national security and undermine U.S. global leadership. The United States faces serious threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. But the recent order suffers from the same core substantive defects as the previous version.

The revised executive order will jeopardize our relationships with allies and partners on whom we rely for vital counterterrorism cooperation and information-sharing. To Muslims— including those victimized by or fighting against ISIS—it will send a message that reinforces the propaganda of ISIS and other extremist groups, that falsely claim the United States is at war with Islam. Welcoming Muslim refugees and travelers, by contrast, exposes the lies of terrorists and counters their warped vision.

We must remain vigilant to keep our nation safe from terrorists, whether foreign or homegrown. At the same time, we must remain true to our ideals. These are not mutually exclusive goals. In fact, resettlement initiatives advance U.S. national security interests by protecting the stability of U.S. allies and partners struggling to host large numbers of refugees.

Following the 9/11 attacks, the United States developed a rigorous system of security vetting for travelers to our homeland, leveraging the full capabilities of the intelligence and law enforcement communities. Since then, the U.S. has added enhanced vetting procedures for travelers and has revised them continuously. Our government applies this process to travelers not once, but multiple times. Refugees are vetted more intensively than any other category of traveler. They are screened by national intelligence agencies and INTERPOL, their fingerprints and other biometric data are checked against terrorist and criminal databases, and they are interviewed several times. These processes undergo review on an ongoing basis to ensure that the most updated and rigorous measures are applied, and any additional enhancements can be added without halting refugee resettlement or banning people from certain countries.

We welcome the removal of Iraq from the 90-day travel ban, but we remain concerned that the Iraqis who risked their lives to work with the U.S. military, U.S. government and other U.S. organizations will be left in harm's way for even longer due to the order's 120-day suspension of the U.S. Refugee Admissions Program and overall reduction in refugee admissions. These individuals were given priority access to U.S. resettlement under the Refugee Crisis in Iraq Act, but their resettlement, like that of many

other vetted refugees, will now likely be delayed as security clearances and other approvals expire, adding many more months onto their processing. The United States has a moral obligation to protect these allies.

Bans like those included in this order are harmful to U.S. national security and beneath the dignity of our great nation. Further, the order's drastic reduction in the number of refugees to be resettled in this fiscal year after the 120-day moratorium weakens this country's ability to provide global leadership and jeopardizes our national security interests by failing to support the stability of our allies that are struggling to host large numbers of refugees. America's much-admired compassion and openness are sources not of weakness but strength. These qualities accord with the ideals on which our nation was founded, and on which our greatness rests.

The revised executive order is damaging to the strategic and national security interests of the United States. We urge that, in moving forward, the United States: ensure any vetting enhancements are necessary, non-discriminatory and otherwise consistent with the U.S. Constitution; implement any necessary enhancements without a counterproductive ban or suspension on entry of nationals of particular countries or religions; and immediately restart a strong non-discriminatory refugee resettlement initiative, which will in turn advance U.S. global leadership and national security interests.

We firmly believe that these steps will strengthen U.S. national security and appreciate your attention to the concerns we raise in this letter.

Sincerely,
(names in alphabetical order)

Wally Adeyemo
Former Deputy Assistant to the President and
Deputy National Security Advisor for International
Economics

Christopher Le Mon
Former Special Assistant to the President for
National Security Affairs

Dr. Madeleine K. Albright
Former Secretary of State

Marcel Lettre
Former Under Secretary of Defense for
Intelligence

Steven L. Arnold
Lieutenant General
U.S. Army (Ret.)

George Little
Former Assistant Secretary of Defense for Public
Affairs

Alyssa Ayres
Former Deputy Assistant Secretary of State for
South Asia

Albert J. Madora
Major General
U.S. Army (Ret.)

Jeremy Bash
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Department of Defense

Kelly Magsamen
Former Principal Deputy Assistant Secretary of
Defense for Asian and Pacific Security Affairs

Rand Beers
Former Acting Secretary of the Department of
Homeland Security

Daniel Benjamin
Former Coordinator for Counterterrorism,
Department of State

Rob Berschinski
Former Deputy Assistant Secretary of State for
Democracy, Human Rights, and Labor

Nisha Biswal
Former Assistant Secretary of State for South and
Central Asian Affairs

Jarrett Blanc
Former Deputy Special Representative to
Afghanistan and Pakistan

Charles Blanchard
Former General Counsel
U.S. Air Force

Antony Blinken
Former Deputy Secretary of State

Max Boot
Jeane J. Kirkpatrick Senior Fellow in National
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Council on Foreign Relations

David M. Brahms
Brigadier General
U.S. Marine Corps (Ret.)

Michael Breen
Retired United States Army Officer

Thomas Malinowski
Former Assistant Secretary of State for
Democracy, Human Rights, and Labor

Robert Malley
Former Special Assistant to the President and
White House Coordinator for the Middle East,
North Africa, and the Persian Gulf Region

Brian McKeon
Former Acting Under Secretary of Defense for
Policy

Pete McCloskey, Jr.
U.S. Congressman, 1967-1983
11th, 17th, and 12th Congressional Districts of CA

John McLaughlin
Former Deputy Director and Acting Director of
Central Intelligence Agency

Philip McNamara
Former Assistant Secretary for Partnerships and
Engagement, Department of Homeland Security

Bernadette Meehan
Former Special Assistant to the President for
National Security Affairs

Sarah Mendelson
Former Ambassador to the Economic and Social
Council, United Nations

James Miller
Former Undersecretary of Defense for Policy

Lisa Monaco
Former Assistant to President for Homeland
Security and Counterterrorism and Deputy
National Security Advisor

Rosa Brooks
Former Counselor to Under Secretary of Defense
for Policy

Ambassador (ret.) Nicholas Burns
Former Under Secretary of State for Political
Affairs, Ambassador to NATO and to Greece

Ambassador William J. Burns
Former Deputy Secretary of State

Luis C.deBaca
Former Ambassador at Large to Monitor and
Combat Trafficking in Persons

Michael Carpenter
Former Deputy Assistant Secretary of Defense for
Russia, Ukraine, Eurasia

Derek Chollet
Former Assistant Secretary of Defense for
International Security Affairs

Richard Clarke
Former National Coordinator for Security,
Infrastructure Protection and Counterterrorism
for the U.S.

David Cohen
Former Deputy Director, Central Intelligence
Agency

Bathsheba Crocker
Former Assistant Secretary of State for
International Organization Affairs

Ryan C. Crocker
Former U.S. Ambassador to Lebanon, Kuwait,
Syria, Pakistan, Iraq, and Afghanistan

James P. Cullen
Brigadier General
U.S. Army (Ret.)

Alberto Mora
Former General Counsel, Department of the Navy

Janet Napolitano
Former Secretary of the Department of
Homeland Security

William L. Nash
Major General
U.S. Army (Ret.)

Thomas Nides
Former Deputy Secretary of State for
Management and Resources

Michael P. Noonan
U.S. Army Veteran
Director of Research, Foreign Policy Research
Institute

Suzanne Nossel
Former Deputy Assistant Secretary of State for
International Organizations Affairs

James C. O'Brien
Former Special Envoy for Hostage Recovery

Matthew Olsen
Former Director of the National Counterterrorism
Center

Rick Olson
Former Special Representative for Afghanistan
and Pakistan

Charles Otstott
Lieutenant General
U.S. Army (Ret.)

Eric Pelofsky
Former Special Assistant to the President and
Senior Director for North Africa and Yemen

Mary DeRosa
Former Deputy Counsel to the President for
National Security Affairs

Gale Pollock
Major General
U.S. Army (Ret.)

Daniel Drezner
Professor
Fletcher School of Law and Diplomacy

Amy Pope
Former Deputy Homeland Security Advisor and
Deputy Assistant to the President for National
Security Affairs

Paul D. Eaton
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U.S. Army (Ret.)

Michael Posner
Former Assistant Secretary of State for
Democracy, Human Rights and Labor

Mari K. Eder
Major General
U.S. Army (Ret.)

Samantha Power
Former United States Ambassador to the United
Nations

Brian Egan
Former Legal Adviser
U.S. State Department

Jeffrey Prescott
Former Senior Director for Iran, Iraq, Syria, and
the Gulf States, National Security Council

Evelyn Farkas
Former Executive Director, Commission on the
Prevention of WMD Proliferation and Terrorism

Ned Price
Former Special Assistant to the President and
National Security Council Spokesperson

Daniel Feldman
Former Special Representative for Afghanistan
and Pakistan

Dafna Rand
Former Deputy Assistant Secretary of State for
Democracy, Human Rights, and Labor

Steve Feldstein
Former Deputy Assistant Secretary of State for
Democracy, Human Rights, and Labor

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Major General
U.S. Army (Ret.)

Jose W. Fernandez
Former Assistant Secretary of State for Economic,
Energy, and Business Affairs

Susan Rice
Former National Security Advisor to the President
of the U.S.

Jonathan Finer
Former Director of Policy Planning, Department of
State

Bill Richardson
Former Governor of New Mexico and United
States Ambassador to the United Nations

Michele Flournoy
Former Under Secretary of Defense for Policy

Leon Rodriguez
Former Director, U.S. Citizenship and
Immigration Services

Eugene Fox
Major General
U.S. Army (Ret.)

Laura Rosenberger
Former Chief of Staff to the Deputy Secretary of
State

Danielle Garbe
Former Director for Lebanon and Jordan, National
Security Council

Tommy Ross
Former Deputy Assistant Secretary of Defense for
Security Cooperation

Dennis P. Geoghan
Brigadier General
U.S. Army (Ret.)

Murray G. Sagsveen
Brigadier General
U.S. Army (Ret.)

Suzy George
Former Deputy Assistant to the President, Chief of
Staff and Executive Secretary, National Security
Council

Eric Schwartz
Former Assistant Secretary of State for
Population, Refugees, and Migration

F. Stephen Glass
Rear Admiral, JAGC
U.S. Navy (Ret.)

Norman R. Seip
Lieutenant General
U.S. Air Force (Ret.)

Rachel Goldbrenner
Former Senior Policy Advisor to the U.S.
Ambassador to the United Nations

Wendy Sherman
Former Under Secretary of State for Political
Affairs

Mary Beth Goodman
Former Special Assistant to the President for
Development and Democracy

Vikram Singh
Former Deputy Assistant Secretary of Defense for
South and Southeast Asia

Philip Gordon
Former Special Assistant to the President and
White House Coordinator for the Middle East,
North Africa, and the Persian Gulf Region

Elissa Slotkin
Former Acting Assistant Secretary of Defense for
International Security Affairs

Wilton Scott Gorske
Major General
U.S. Army (Ret.)

Jeff Smith
Former General Counsel, Central Intelligence
Agency

Donald J. Guter
Rear Admiral, JACG
U.S. Navy (Ret.)

Julianne "Julie" Smith
Former Deputy National Security Advisor to the
Vice President of the United States

Ziad Haider
Former Special Representative for Commercial
and Business Affairs, U.S. Department of State

Tara Sonenshine
Former Under Secretary of State for Public
Diplomacy and Public Affairs

Irv Halter
Major General
U.S. Air Force (Ret.)

Matthew Spence
Former Deputy Assistant Secretary of Defense for
Middle East Policy

Lee H. Hamilton
U.S. Congressman, 1965-1999
9th Congressional District of IN

James Steinberg
Former Deputy Secretary of State

Keith Harper
Former Ambassador to the United Nations Human
Rights Council

Nik Steinberg
Former Counselor to the U.S. Permanent
Representative to the United Nations

Luke Hartig
Former Senior Director for Counterterrorism
National Security Council

Seth M.M. Stodder
Former Assistant Secretary of Homeland Security
for Border, Immigration & Trade Policy

Caitlin Hayden
Former National Security Council Spokesperson

Jake Sullivan
Former National Security Advisor to the Vice
President of the U.S.

Leif H. Hendrickson
Brigadier General
U.S. Marine Corps (Ret.)

Timothy S. Sullivan
Rear Admiral
U.S. Coast Guard (Ret.)

Heather Higginbottom
Former Deputy Secretary of State for
Management and Resources

Antonio M. Taguba
Major General
U.S. Army (Ret.)

John D. Hutson
Rear Admiral, JACG
U.S. Navy (Ret.)

Jim Townsend
Former Deputy Assistant Secretary of Defense for
European and NATO Policy

David. R. Irvine
Brigadier General
U.S. Army (Ret.)

Michael G. Vickers
Former Under Secretary of Defense for
Intelligence

John H. Johns
Brigadier General
U.S. Army (Ret.)

David Wade
Former Chief of Staff,
Department of State

Colin Kahl
Former National Security Advisor to the Vice
President of the United States

William Wechsler
Former Deputy Assistant Secretary of Defense for
Counterterrorism and Special Operations

Gil Kerlikowske
Former Commissioner, United States Customs and
Border Protection

Moira Whelan
Former Deputy Assistant Secretary of State for
Public Affairs

John Kerry
Former Secretary of State

Catherine Wiesner
Former Deputy Assistant Secretary of State,
Bureau of Population, Refugees, and Migration

Jeremy Konyndyk
Former Director, Office of U.S. Foreign Disaster
Assistance, USAID

Douglas Wilson
Former Assistant Secretary of Defense for Public
Affairs

Charles Kupchan
Former Special Assistant to the President for
National Security Affairs

Tamara Cofman Wittes
Former Deputy Assistant Secretary of State for
Near Eastern Affairs

Mark P. Lagon
Former U.S. Ambassador-at-Large to Combat
Trafficking in Persons

Jon Brook Wolfsthal
Former Special Assistant to the President for
National Security Affairs

Jonathan Lee
Former Deputy Chief of Staff,
Department of Homeland Security

Lee Wolosky
Former Special Envoy for Guantanamo Closure

Michael R. Lehnert
Major General
U.S. Marine Corps (Ret.)

Tom Wyler
Former Counselor to the Secretary of Commerce
and Senior Advisor for International Economics

Paul N. Lekas
Former Deputy General Counsel for Legal Counsel,
Department of Defense

Stephen N. Xenakis
Brigadier General
U.S. Army (Ret.)

CC:

The Honorable Rex W. Tillerson, Secretary of State
The Honorable James N. Mattis, Secretary of Defense
The Honorable Jefferson B. Sessions, Attorney General of the United States
The Honorable John F. Kelly, Secretary of Homeland Security
The Honorable Michael P. Dempsey, Acting Director of National Intelligence

EXHIBIT G

DECLARATION OF JOINT FORMER NATIONAL SECURITY

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

CIVIL ACTION NO. 2:17-cv-00141-JLR

**JOINT DECLARATION OF
FORMER NATIONAL SECURITY OFFICIALS**

Pursuant to 28 U.S.C. § 1746(2), we, the below named former national security officials, hereby declare as follows:

1. We are former national security, foreign policy, and intelligence officials in the United States Government:
 - a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee and naturalized American citizen, she served as U.S. Permanent Representative to the United Nations from 1993 to 1997. She has also been a member of the Central Intelligence Agency External Advisory Board since 2009

and of the Defense Policy Board since 2011, in which capacities she has received assessments of threats facing the United States.

- b. Rand Beers served as Deputy Homeland Security Advisor to the President of the United States from 2014 to 2015.
- c. John B. Bellinger III served as the Legal Adviser for the U.S. Department of State from 2005 to 2009. He previously served as Senior Associate Counsel to the President and Legal Adviser to the National Security Council from 2001 to 2005.
- d. Daniel Benjamin served as Ambassador-at-Large for Counterterrorism at the U.S. Department of State from 2009 to 2012.
- e. Antony Blinken served as Deputy Secretary of State from 2015 to January 20, 2017. He previously served as Deputy National Security Advisor to the President of the United States from 2013 to 2015.
- f. John O. Brennan served as Director of the Central Intelligence Agency from 2013 to 2017. He previously served as Deputy National Security Advisor for Homeland Security and Counterterrorism and Assistant to the President from 2009 to 2013.
- g. R. Nicholas Burns served as Under Secretary of State for Political Affairs from 2005 to 2008. He previously served as U.S. Ambassador to NATO and as U.S. Ambassador to Greece.
- h. William J. Burns served as Deputy Secretary of State from 2011 to 2014. He previously served as Under Secretary of State for Political Affairs from 2008 to 2011, as U.S. Ambassador to Russia from 2005 to 2008, as Assistant Secretary of State for Near Eastern Affairs from 2001 to 2005, and as U.S. Ambassador to Jordan from 1998 to 2001.

- i. James Clapper served as U.S. Director of National Intelligence from 2010 to January 20, 2017.
- j. David S. Cohen served as Under Secretary of the Treasury for Terrorism and Financial Intelligence from 2011 to 2015 and as Deputy Director of the Central Intelligence Agency from 2015 to January 20, 2017.
- k. Eliot A. Cohen served as Counselor of the U.S. Department of State from 2007 to 2009.
- l. Bathsheba N. Crocker served as Assistant Secretary of State for International Organization Affairs from 2014 to 2017.
- m. Ryan Crocker served as U.S. Ambassador to Afghanistan from 2011 to 2012, as U.S. Ambassador to Iraq from 2007 to 2009, as U.S. Ambassador to Pakistan from 2004 to 2007, as U.S. Ambassador to Syria from 1998 to 2001, as U.S. Ambassador to Kuwait from 1994 to 1997, and U.S. Ambassador to Lebanon from 1990 to 1993.
- n. Thomas Donilon served as U.S. National Security Advisor from 2010 to 2013.
- o. Jen Easterly served as Special Assistant to the President and Senior Director for Counterterrorism from October 2013 to December 2016.
- p. Daniel Feldman served as U.S. Special Representative for Afghanistan and Pakistan from 2014 to 2015, Deputy U.S. Special Representative for Afghanistan and Pakistan from 2009 to 2014, and previously Director for Multilateral and Humanitarian Affairs at the National Security Council.
- q. Jonathan Finer served as Chief of Staff to the Secretary of State from 2015 until January 20, 2017, and Director of the Policy Planning Staff at the U.S. Department of State from 2016 to January 20, 2017.
- r. Michèle Flournoy served as Under Secretary of Defense for Policy from 2009 to 2013.

- s. Robert S. Ford served as U.S. Ambassador to Syria from 2011 to 2014, as Deputy Ambassador to Iraq from 2009 to 2010, and as U.S. Ambassador to Algeria from 2006 to 2008.
- t. Josh Geltzer served as Senior Director for Counterterrorism at the National Security Council from 2015 to 2017. Previously, he served as Deputy Legal Advisor to the National Security Council and as Counsel to the Assistant Attorney General for National Security at the Department of Justice.
- u. Suzy George served as Deputy Assistant to the President and Chief of Staff and Executive Secretary to the National Security Council from 2014 to 2017.
- v. Phil Gordon served as Special Assistant to the President and White House Coordinator for the Middle East, North Africa and the Gulf from 2013 to 2015, and Assistant Secretary of State for European and Eurasian Affairs from 2009 to 2013.
- w. Chuck Hagel served as Secretary of Defense from 2013 to 2015, and previously served as Co-Chair of the President's Intelligence Advisory Board. From 1997 to 2009, he served as U.S. Senator for Nebraska, and as a senior member of the Senate Foreign Relations and Intelligence Committees.
- x. Avril D. Haines served as Deputy National Security Advisor to the President of the United States from 2015 to January 20, 2017. From 2013 to 2015, she served as Deputy Director of the Central Intelligence Agency.
- y. Luke Hartig served as Senior Director for Counterterrorism at the National Security Council from 2014 to 2016.
- z. General (ret.) Michael V. Hayden, USAF, served as Director of the Central Intelligence Agency from 2006 to 2009. From 1995 to 2005, he served as Director of the National Security Agency.

- aa. Heather A. Higginbottom served as Deputy Secretary of State for Management and Resources from 2013 to 2017.
- bb. Christopher R. Hill served as Assistant Secretary of State for East Asian and Pacific Affairs from 2005 to 2009. He also served as U.S. Ambassador to Macedonia, Poland, the Republic of Korea, and Iraq.
- cc. John F. Kerry served as Secretary of State from 2013 to January 20, 2017.
- dd. Prem Kumar served as Senior Director for the Middle East and North Africa on the National Security Council staff of the White House from 2013 to 2015.
- ee. Richard Lugar served as U.S. Senator for Indiana from 1977 to 2013, and as Chairman of the Senate Committee on Foreign Relations from 1985 to 1987 and 2003 to 2007, and as ranking member of the Senate Committee on Foreign Relations from 2007 to 2013.
- ff. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency from 2000 to 2004 and as Acting Director in 2004. His duties included briefing President-elect Bill Clinton and President George W. Bush.
- gg. Lisa O. Monaco served as Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor from 2013 to January 20, 2017.
- hh. Cameron P. Munter served as U.S. Ambassador to Pakistan from 2009 to 2012 and to Serbia from 2007 to 2009.
- ii. James C. O'Brien served as Special Presidential Envoy for Hostage Affairs from 2015 to January 20, 2017. He served in the U.S. Department of State from 1989 to 2001, including as Principal Deputy Director of Policy Planning and as Special Presidential Envoy for the Balkans.
- jj. Matthew G. Olsen served as Director of the National Counterterrorism Center from 2011 to 2014.

- kk. Leon E. Panetta served as Secretary of Defense from 2011 to 2013. From 2009 to 2011, he served as Director of the Central Intelligence Agency.
- ll. Jeffrey Prescott served as Special Assistant to the President and Senior Director for Iran, Iraq, Syria and the Gulf States from 2015 to 2017.
- mm. Samantha J. Power served as U.S. Permanent Representative to the United Nations from 2013 to January 20, 2017. From 2009 to 2013, she served as Senior Director for Multilateral and Human Rights on the National Security Council.
- nn. Susan E. Rice served as U.S. Permanent Representative to the United Nations from 2009 to 2013 and as National Security Advisor from 2013 to January 20, 2017.
- oo. Anne C. Richard served as Assistant Secretary of State for Population, Refugees and Migration from 2012 to January 20, 2017.
- pp. Kori Schake served as the Deputy Director for Policy Planning at the U.S. Department of State from December 2007 to May 2008. Previously, she was the director for Defense Strategy and Requirements on the National Security Council in President George W. Bush's first term.
- qq. Eric P. Schwartz served as Assistant Secretary of State for Population, Refugees and Migration from 2009 to 2011. From 1993 to 2001, he was responsible for refugee and humanitarian issues on the National Security Council, ultimately serving as Special Assistant to the President for National Security Affairs and Senior Director for Multilateral and Humanitarian Affairs.
- rr. Wendy R. Sherman served as Under Secretary of State for Political Affairs from 2011 to 2015.

- ss. Vikram Singh served as Deputy Special Representative for Afghanistan and Pakistan from 2010 to 2011 and as Deputy Assistant Secretary of Defense for Southeast Asia from 2012 to 2014.
- tt. Jeffrey H. Smith served as General Counsel of the Central Intelligence Agency from 1995 to 1996. Previously, he served as General Counsel of the Senate Armed Services Committee.
- uu. James B. Steinberg served as Deputy National Security Adviser from 1996 to 2000 and as Deputy Secretary of State from 2009 to 2011.
- vv. William Wechsler served as Deputy Assistant Secretary for Special Operations and Combating Terrorism at the U.S. Department of Defense from 2012 to 2015.
- ww. Samuel M. Witten served as Principal Deputy Assistant Secretary of State for Population, Refugees, and Migration from 2007 to 2010. From 2001 to 2007, he served as Deputy Legal Adviser at the State Department.

We have collectively devoted decades to combatting the various terrorist threats that the United States faces in a dynamic and dangerous world. We have held the highest security clearances, and many of us were current on active intelligence regarding all credible terrorist threat streams directed against the United States as recently as one week before the issuance of the Jan. 27, 2017 Executive Order on “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Travel Ban 1.0”). A number of us signed a declaration that was filed on February 6, 2017 with the Ninth Circuit in this case, as an exhibit to the plaintiffs’ response to the defendants’ motion for a stay of this court’s temporary restraining order blocking that initial Executive Order.¹ Each of us also joined an amicus brief that was filed in the Supreme

¹ Joint Decl. of Madeline Albright et al., No. 17-35105 (9th Cir. Feb. 6, 2017).

Court in support of two separate groups of plaintiffs challenging the subsequent March 6, 2017 Executive Order (“Travel Ban 2.0”).²

2. The Administration has now replaced the Travel Ban 2.0 with a new Proclamation titled “Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats.” The Proclamation is dated September 24, 2017, and is scheduled to take effect fully on October 18, 2017 (“Travel Ban 3.0” or “Ban”).

3. The Ban preserves the basic approach of the original two Orders, without providing any persuasive evidence that these measures are necessary to enhance our national security or foreign policy interests. The Ban includes a few new exceptions to the prior Order, adds a couple of countries to the list (Chad, North Korea, and Venezuela) and removes a country (Sudan). But it still relies on unprecedented and sweeping nationality-based bans, directed at a list of almost exclusively Muslim-majority countries that is substantially similar to the prior lists. (The North Korea and Venezuela additions will affect exceedingly few people, and Chad is a majority-Muslim country.) The Ban blocks well over 150 million people from entering the United States.³

4. We agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. Yet, we are unaware of any national security threat that would justify Travel Ban 3.0. To the contrary, its enforcement would cause serious harm to the national security and foreign policy of the United States.

² Br. of Amici Curiae Former National Security Officials in Support of Respondents, Nos. 16-1436 and 16-1540 (U.S. Sup. Ct. Sept. 18, 2017).

³ This figure reflects the population of the listed countries in the Proclamation, excluding North Korea and Venezuela.

I. Travel Ban 3.0 Serves No Genuine National Security Purpose

5. As a national security measure, this Ban is unnecessary. National security-based immigration restrictions have consistently been tailored to respond to: (1) specific, credible threats based on individualized information, (2) the best available intelligence, and (3) thorough interagency legal and policy review. Travel Ban 3.0 rests not on such tailored grounds, but rather, on (1) general bans (2) that are not responsive to an actual national security threat informed by intelligence, and (3) that emerged from a January Order that was not vetted through the kind of careful interagency legal and policy review that we would expect from a serious national security process.

6. The Ban is of unprecedented scope. Apart from Travel Bans 1.0 and 2.0, we know of no case where a President has invoked his statutory authority to suspend admission for such a broad class of people. Even after the 9/11 attacks, the U.S. Government did not invoke the provisions of law cited by the Administration to broadly bar entrants based on nationality, national origin, or religious affiliation. Suspensions were limited to particular individuals or subclasses of nationals who posed a specific, articulable threat based on their known actions and affiliations. In adopting Travel Ban 3.0, the Administration alleges no derogatory factual information about any particular recipient of a visa or green card or any credible threat from nationals of the countries banned.

7. Since the 9/11 attacks, the United States has developed a rigorous system of security vetting, leveraging the full capabilities of the law enforcement and intelligence communities. This vetting is applied to travelers not once, but multiple times. As government officials, we sought continually to improve that vetting, as was done in response to particular threats identified by U.S. intelligence in 2011 and 2015. Indeed, successive administrations have continually worked to improve this vetting through robust information-sharing and data integration, without resorting to multiple, sweeping bans on travel. We have seen no evidence from the Government for why the country suddenly needs to shift from this tested system of

individualized vetting, developed and implemented by national security professionals across the government, to a national origin-based ban.

8. The current individualized vetting system places the burden of proof on the traveler to prove her identity and eligibility for travel. If the traveler is unable to make this showing, the U.S. Government can deny her a visa based on an individualized review. This has been the policy of the U.S. Government across multiple administrations.

9. Travel Ban 3.0's generalized, country-based approach is substantially the same as its predecessors, although its bans on travel are now indefinite rather than temporary, and the stated rationale has shifted. Removing most of the emphasis on terrorism, the new Ban is purportedly necessary "to elicit improved identity-management and information-sharing protocols and practices from foreign governments." We have seen no evidence, however, that such a sweeping, country-based ban on travel is necessary for this objective.

10. In fact, the only concrete evidence to emerge from this administration on this point to date has shown just the opposite, that country-based bans are ineffective. A leaked DHS Office of Intelligence and Analysis memorandum analyzing the ban in the January Order found that "country of citizenship is unlikely to be a reliable indicator of potential terrorist activity." The memorandum went on to note that a majority of the U.S.-based individuals who were inspired by a foreign terrorist organization to participate in terrorism-related activity were citizens of the United States; the minority of foreign-born individuals were scattered from among twenty-six different countries; and most of the top origin countries of those individuals are not the countries listed in the Order.⁴

11. Imposing a ban on all or most of the travelers for a series of countries due to the information sharing practices of their government is a massively overbroad and imprecise response, especially *when the data does not show any particularized threat from those*

⁴ *Citizenship Likely an Unreliable Indicator of Terrorist Threat to the United States*, <https://assets.documentcloud.org/documents/3474730/DHS-intelligence-document-on-President-Donald.pdf>.

countries. Defendants have provided no evidence or specific information that nationals of the banned countries pose a credible threat to the safety of Americans if they are allowed to enter the United States after individualized screenings, or of the alleged harm that would occur in the absence of the ban. The Ban targets a list of countries whose nationals have committed no deadly terrorist attacks on U.S. soil in the last forty years.⁵ In fact, a recent analysis by the Cato Institute shows that each new version of the travel ban is “even further divorced from threats of terrorism to the United States than the prior order.”⁶

In particular:

- a. The Ban newly adds Chad to the list of countries subject to a ban. No citizen of Chad has carried out a terrorist attack or been convicted of planning an attack on U.S. soil in the last forty years. Chad, a Muslim-majority country, has long been one of the United States’ most effective counterterrorism partners in the region. Chad has been used as a staging ground by the U.S. Air Force in its surveillance of Boko Haram, hosted about 2,000 U.S. troops for an annual military exercise in March 2017, and is the base of the Multinational Joint Task Force, the coordinated effort to fight Boko Haram in the region. The presence of Boko Haram in Chad is dwarfed by their activity in other countries in the region that were not included in the ban. Chad’s inclusion on the Travel Ban 3.0 list reportedly occurred over objections by officials in the State Department, the Pentagon, the U.S. Embassy in Chad, and U.S. Africa Command, a decision that left administration officials “befuddled and frustrated.”⁷

⁵ Alex Nowrasteh, *President Trump’s New Travel Executive Order Has Little National Security Justification*, Cato Institute: Cato at Liberty, September 25, 2017.

⁶ David Bier, *New Travel Ban Would Not Have Prevented the Entry of Any Terrorists Since 9/11*, Cato Institute: Cato at Liberty, September 25, 2017.

⁷ Helene Cooper et al., *Chad’s Inclusion in Travel Ban Could Jeopardize American Interests, Officials Say*, N.Y. Times, Sept. 26, 2017.

- b. The Ban newly adds North Korea (DPRK) to the list of countries subject to a ban. No citizen of North Korea has carried out a terrorist attack or been convicted of planning an attack on U.S. soil in the last forty years. Because of severe exit restrictions imposed by the North Korean government, very few North Koreans actually travel to the United States at all. North Korean defectors typically first receive South Korean passports in any event.⁸ In addition, such defectors would likely have a well-founded fear of political persecution if returned to North Korea, and thus deserve careful consideration for refugee status.
- c. The Ban newly adds Venezuela to the list of countries subject to a ban. No citizen of Venezuela has carried out a terrorist attack or been convicted of planning an attack on U.S. soil in the last forty years. The Ban only applies to officials from government agencies involved in screening and vetting procedures. Such targeted sanctions are more appropriately done by the Treasury Department under the International Emergency Economic Powers Act and other legal authorities rather than through overbroad country bans.

12. Notably, the Ban does not include non-Muslim majority countries such as Belgium where there have been widely-documented problems with information sharing, and whose nationals have carried out terrorist attacks on Europe. And although for some of the countries, the Ban applies only to certain non-immigrant visas, together those visas are far and away the most frequently used non-immigrant visas from these nations.

⁸ Darla Cameron, *Why Trump's Latest Travel Ban Included These Eight Countries*, Wash. Post (Sept. 26, 2017); Emily Rauhala, *Almost No North Koreans Travel to the U.S., So Why Ban Them?*, Wash. Post (Sept. 25, 2017).

II. Travel Ban 3.0 Will Harm the National Security and Foreign Policy Interests of the United States

13. In our professional judgment, Travel Ban 3.0 would undermine the national security of the United States, rather than making us safer. If given effect, Travel Ban 3.0 would do long-term damage to our national security and foreign policy interests, and disrupt counterterrorism and national security partnerships. It would aid the propaganda effort of the Islamic State (“IS”) and serve its recruitment message by feeding into the narrative that the United States is at war with Islam. It would hinder relationships with the very communities law enforcement professionals need to engage to address the threat. And apart from all of these concerns, the Ban offends our nation’s laws and values.

In particular:

- a. The Ban would disrupt critical counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining the necessary information sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels to address the threat posed by terrorist groups such as IS. The Ban would further strain our relationships with partner countries in Europe and the Middle East, on whom we rely for vital counterterrorism cooperation, undermining years of effort to bring them closer. By alienating these partners, we would frustrate access to the intelligence and resources necessary to fight the root causes of terror or disrupt attacks launched from abroad, before an attack occurs within our borders.
- b. The Ban would endanger intelligence sources in the field. For current information, our intelligence officers may rely on human sources in some of the countries listed. The Ban breaches faith with those very sources, who have risked much or all to keep Americans safe—and whom our officers had

promised always to protect with the full might of our government and our people.

- c. The Ban would feed the recruitment narrative of IS and other extremists that portray the United States as at war with Islam. As government officials, we took every step we could to counter violent extremism. Because of the Ban's disparate impact on Muslim travelers and immigrants, it would fuel IS's narrative and sends the wrong message to the Muslim community here at home and all over the world: that the U.S. Government is hostile to them and their religion. The Ban also might endanger Christian communities, by handing IS a recruiting tool and propaganda victory that spreads their message that the United States is engaged in a religious war.
- d. The Ban would disrupt ongoing law enforcement efforts. By alienating Muslim-American communities in the United States, it would harm our efforts to enlist their aid in identifying radicalized individuals who might launch attacks of the kind recently seen in San Bernardino and Orlando.
- e. The Ban would have a devastating humanitarian impact. The current bans have already disrupted the movement of countless people, including women and children, who are fleeing danger and have been victimized by actual terrorists. Travelers face deep uncertainty about whether they may travel to or from the United States: for medical treatment, funerals or other pressing family reasons.
- f. The Ban would cause serious economic damage to American citizens and residents. The Ban would affect many foreign travelers who annually inject hundreds of billions into the U.S. economy, supporting well over a million U.S. jobs. Affected companies have noted the adverse impact of the bans to date on many strategic economic sectors, including defense, technology, medicine, culture and others.

14. For all of the foregoing reasons, in our professional opinion, Travel Ban 3.0 does not further—but instead harms—sound U.S. national security and foreign policy. Issuing a new preliminary injunction against Travel Ban 3.0 would not jeopardize national security. It would simply preserve the status quo ante, still requiring individuals to be subjected to all the rigorous legal vetting processes that are currently in place. Allowing the Ban to take effect would wreak havoc on innocent lives and deeply held American values.

15. Ours is a nation of immigrants, committed to the faith that we are all equal under the law and abhor discrimination, whether based on race, religion, sex, or national origin. As government officials, we sought diligently to protect our country, even while maintaining an immigration system as free as possible from discrimination, that applies no religious tests, and that measures individuals by their merits, not stereotypes of their countries or groups. Blanket bans of certain countries or classes of people are beneath the dignity of the nation and Constitution that we each took oaths to protect. Rebranding a proposal first advertised as a “Muslim Ban” as “Protecting the Nation from Foreign Terrorist Entry” or “Enhancing Vetting Capabilities and Processes” does not disguise the Ban’s discriminatory intent, or make it necessary, effective, or faithful to America’s Constitution, laws, or values.

Respectfully submitted,

s/MADELINE K. ALBRIGHT
s/RAND BEERS
s/JOHN D. BELLINGER III
s/DANIEL BENJAMIN
s/ANTONY BLINKEN
s/JOHN O. BRENNAN
s/R. NICHOLAS BURNS
s/WILLIAM J. BURNS
s/JAMES CLAPPER
s/DAVID S. COHEN
s/ELIOT A. COHEN
s/BATHSHEBA N. CROCKER
s/RYAN CROCKER

s/THOMAS DONILON
s/JEN EASTERLY
s/DANIEL FELDMAN
s/JONATHAN FINER
s/MICHÈLE FLOURNOY
s/ROBERT S. FORD
s/JOSH GELTZER
s/SUZY GEORGE
s/PHIL GORDON
s/CHUCK HAGEL
s/AVRIL D. HAINES
s/LUKE HARTIG
s/MICHAEL V. HAYDEN
s/HEATHER A. HIGGINBOTTOM
s/CHRISTOPHER R. HILL
s/JOHN F. KERRY
s/PREM KUMAR
s/RICHARD LUGAR
s/JOHN E. MCLAUGHLIN
s/LISA O. MONACO
s/CAMERON P. MUNTER
s/JAMES C. O'BRIEN
s/MATTHEW G. OLSEN
s/LEON E. PANETTA
s/JEFFREY PRESCOTT
s/SAMANTHA J. POWER
s/SUSAN E. RICE
s/ANNE C. RICHARD
s/KORI SCHAKE
s/ERIC P. SCHWARTZ
s/WENDY R. SHERMAN
s/VIKRAM SINGH
s/JEFFREY H. SMITH
s/JAMES B. STEINBERG
s/WILLIAM WECHSLER
s/SAMUEL M. WITTEN

Executed on this 10th day of October, 2017.

*All original signatures are on file with Harold Hongju Koh, Rule of Law Clinic, Yale Law School, New Haven, CT. 06520-8215 203-432-4932.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXHIBIT H

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEWISH FAMILY SERVICE OF
SEATTLE, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official
capacity as President of the United States,
et al.,

Defendants.

No. 2:17-cv-01707-RSM

JOINT DECLARATION OF FORMER
NATIONAL SECURITY OFFICIALS

JOINT DECLARATION OF FORMER NATIONAL SECURITY OFFICIALS

We, the below named individuals, declare as follows:

1. We are former national security, foreign policy, and intelligence officials in the
United States Government:

- a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee
and naturalized American citizen, she served as U.S. Permanent Representative to
the United Nations from 1993 to 1997. She has also been a member of the
Central Intelligence Agency External Advisory Board since 2009 and of the
Defense Policy Board since 2011, in which capacities she has received
assessments of threats facing the United States.

- 1 b. Rand Beers served as Deputy Homeland Security Advisor to the President of the
2 United States from 2014 to 2015.
- 3 c. John B. Bellinger III served as the Legal Adviser for the U.S. Department of State
4 from 2005 to 2009. He previously served as Senior Associate Counsel to the
5 President and Legal Adviser to the National Security Council from 2001 to 2005.
- 6 d. Daniel Benjamin served as Ambassador-at-Large for Counterterrorism at the U.S.
7 Department of State from 2009 to 2012.
- 8 e. Antony Blinken served as Deputy Secretary of State from 2015 to January 20,
9 2017. He previously served as Deputy National Security Advisor to the President
10 of the United States from 2013 to 2015.
- 11 f. John O. Brennan served as Director of the Central Intelligence Agency from 2013
12 to 2017. He previously served as Deputy National Security Advisor for Homeland
13 Security and Counterterrorism and Assistant to the President from 2009 to 2013.
- 14 g. R. Nicholas Burns served as Under Secretary of State for Political Affairs from
15 2005 to 2008. He previously served as U.S. Ambassador to NATO and as U.S.
16 Ambassador to Greece.
- 17 h. William J. Burns served as Deputy Secretary of State from 2011 to 2014. He
18 previously served as Under Secretary of State for Political Affairs from 2008 to
19 2011, as U.S. Ambassador to Russia from 2005 to 2008, as Assistant Secretary of
20 State for Near Eastern Affairs from 2001 to 2005, and as U.S. Ambassador to
21 Jordan from 1998 to 2001.
- 22 i. James Clapper served as U.S. Director of National Intelligence from 2010 to
23 January 20, 2017.
- 24 j. David S. Cohen served as Under Secretary of the Treasury for Terrorism and
25 Financial Intelligence from 2011 to 2015 and as Deputy Director of the Central
26 Intelligence Agency from 2015 to January 20, 2017.

- k. Eliot A. Cohen served as Counselor of the U.S. Department of State from 2007 to 2009.
- l. Bathsheba N. Crocker served as Assistant Secretary of State for International Organization Affairs from 2014 to 2017.
- m. Ryan Crocker served as U.S. Ambassador to Afghanistan from 2011 to 2012, as U.S. Ambassador to Iraq from 2007 to 2009, as U.S. Ambassador to Pakistan from 2004 to 2007, as U.S. Ambassador to Syria from 1998 to 2001, as U.S. Ambassador to Kuwait from 1994 to 1997, and U.S. Ambassador to Lebanon from 1990 to 1993.
- n. Thomas Donilon served as U.S. National Security Advisor from 2010 to 2013.
- o. Jen Easterly served as Special Assistant to the President and Senior Director for Counterterrorism from October 2013 to December 2016.
- p. Daniel Feldman served as U.S. Special Representative for Afghanistan and Pakistan from 2014 to 2015, Deputy U.S. Special Representative for Afghanistan and Pakistan from 2009 to 2014, and previously Director for Multilateral and Humanitarian Affairs at the National Security Council.
- q. Jonathan Finer served as Chief of Staff to the Secretary of State from 2015 until January 20, 2017, and Director of the Policy Planning Staff at the U.S. Department of State from 2016 to January 20, 2017.
- r. Michèle Flournoy served as Under Secretary of Defense for Policy from 2009 to 2013.
- s. Robert S. Ford served as U.S. Ambassador to Syria from 2011 to 2014, as Deputy Ambassador to Iraq from 2009 to 2010, and as U.S. Ambassador to Algeria from 2006 to 2008.
- t. Josh Geltzer served as Senior Director for Counterterrorism at the National Security Council from 2015 to 2017. Previously, he served as Deputy Legal

1 Advisor to the National Security Council and as Counsel to the Assistant Attorney
2 General for National Security at the Department of Justice.

3 u. Suzy George served as Deputy Assistant to the President and Chief of Staff and
4 Executive Secretary to the National Security Council from 2014 to 2017.

5 v. Phil Gordon served as Special Assistant to the President and White House
6 Coordinator for the Middle East, North Africa and the Gulf from 2013 to 2015,
7 and Assistant Secretary of State for European and Eurasian Affairs from 2009 to
8 2013.

9 w. Chuck Hagel served as Secretary of Defense from 2013 to 2015, and previously
10 served as Co-Chair of the President's Intelligence Advisory Board. From 1997 to
11 2009, he served as U.S. Senator for Nebraska, and as a senior member of the
12 Senate Foreign Relations and Intelligence Committees.

13 x. Avril D. Haines served as Deputy National Security Advisor to the President of
14 the United States from 2015 to January 20, 2017. From 2013 to 2015, she served
15 as Deputy Director of the Central Intelligence Agency.

16 y. Luke Hartig served as Senior Director for Counterterrorism at the National
17 Security Council from 2014 to 2016.

18 z. General (ret.) Michael V. Hayden, USAF, served as Director of the Central
19 Intelligence Agency from 2006 to 2009. From 1995 to 2005, he served as
20 Director of the National Security Agency.

21 aa. Heather A. Higginbottom served as Deputy Secretary of State for Management
22 and Resources from 2013 to 2017.

23 bb. Christopher R. Hill served as Assistant Secretary of State for East Asian and
24 Pacific Affairs from 2005 to 2009. He also served as U.S. Ambassador to
25 Macedonia, Poland, the Republic of Korea, and Iraq.

26 cc. John F. Kerry served as Secretary of State from 2013 to January 20, 2017.

- 1 dd. Prem Kumar served as Senior Director for the Middle East and North Africa on
- 2 the National Security Council staff of the White House from 2013 to 2015.
- 3 ee. Richard Lugar served as U.S. Senator for Indiana from 1977 to 2013, and as
- 4 Chairman of the Senate Committee on Foreign Relations from 1985 to 1987 and
- 5 2003 to 2007, and as ranking member of the Senate Committee on Foreign
- 6 Relations from 2007 to 2013.
- 7 ff. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency
- 8 from 2000 to 2004 and as Acting Director in 2004. His duties included briefing
- 9 President-elect Bill Clinton and President George W. Bush.
- 10 gg. Lisa O. Monaco served as Assistant to the President for Homeland Security and
- 11 Counterterrorism and Deputy National Security Advisor from 2013 to January 20,
- 12 2017.
- 13 hh. Cameron P. Munter served as U.S. Ambassador to Pakistan from 2009 to 2012
- 14 and to Serbia from 2007 to 2009.
- 15 ii. James C. O'Brien served as Special Presidential Envoy for Hostage Affairs from
- 16 2015 to January 20, 2017. He served in the U.S. Department of State from 1989
- 17 to 2001, including as Principal Deputy Director of Policy Planning and as Special
- 18 Presidential Envoy for the Balkans.
- 19 jj. Matthew G. Olsen served as Director of the National Counterterrorism Center
- 20 from 2011 to 2014.
- 21 kk. Leon E. Panetta served as Secretary of Defense from 2011 to 2013. From 2009 to
- 22 2011, he served as Director of the Central Intelligence Agency.
- 23 ll. Jeffrey Prescott served as Special Assistant to the President and Senior Director
- 24 for Iran, Iraq, Syria and the Gulf States from 2015 to 2017.
- 25
- 26

- 1 mm. Samantha J. Power served as U.S. Permanent Representative to the United
2 Nations from 2013 to January 20, 2017. From 2009 to 2013, she served as Senior
3 Director for Multilateral and Human Rights on the National Security Council.
- 4 nn. Susan E. Rice served as U.S. Permanent Representative to the United Nations
5 from 2009 to 2013 and as National Security Advisor from 2013 to January 20,
6 2017.
- 7 oo. Anne C. Richard served as Assistant Secretary of State for Population, Refugees
8 and Migration from 2012 to January 20, 2017.
- 9 pp. Kori Schake served as the Deputy Director for Policy Planning at the U.S.
10 Department of State from December 2007 to May 2008. Previously, she was the
11 director for Defense Strategy and Requirements on the National Security Council
12 in President George W. Bush's first term.
- 13 qq. Eric P. Schwartz served as Assistant Secretary of State for Population, Refugees
14 and Migration from 2009 to 2011. From 1993 to 2001, he was responsible for
15 refugee and humanitarian issues on the National Security Council, ultimately
16 serving as Special Assistant to the President for National Security Affairs and
17 Senior Director for Multilateral and Humanitarian Affairs.
- 18 rr. Wendy R. Sherman served as Under Secretary of State for Political Affairs from
19 2011 to 2015.
- 20 ss. Vikram Singh served as Deputy Special Representative for Afghanistan and
21 Pakistan from 2010 to 2011 and as Deputy Assistant Secretary of Defense for
22 Southeast Asia from 2012 to 2014.
- 23 tt. Jeffrey H. Smith served as General Counsel of the Central Intelligence Agency
24 from 1995 to 1996. Previously, he served as General Counsel of the Senate
25 Armed Services Committee.
26

uu. James B. Steinberg served as Deputy National Security Adviser from 1996 to 2000 and as Deputy Secretary of State from 2009 to 2011.

vv. William Wechsler served as Deputy Assistant Secretary for Special Operations and Combating Terrorism at the U.S. Department of Defense from 2012 to 2015.

ww. Samuel M. Witten served as Principal Deputy Assistant Secretary of State for Population, Refugees, and Migration from 2007 to 2010. From 2001 to 2007, he served as Deputy Legal Adviser at the State Department.

2. We have collectively devoted decades to combatting the various terrorist threats that the United States faces in a dynamic and dangerous world. We have held the highest security clearances, and many of us were current on active intelligence regarding all credible terrorist threat streams directed against the United States as recently as one week before the issuance of the Jan. 27, 2017 Executive Order on “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Travel Ban 1.0”). A number of us joined a declaration that was filed in support of a legal challenge to that first Executive Order.¹ Each of us also joined an amicus brief that was filed in the Supreme Court in support of the challenge of the plaintiffs in this case to the subsequent March 6, 2017 Executive Order (“Travel Ban 2.0”),² and a joint declaration filed in the U.S. District Court for the District of Maryland in support of the plaintiffs’ challenge to the September 24, 2017 Proclamation titled “Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats” (“Travel Ban 3.0”).³ Because Travel Ban 3.0 does not address the entry of those seeking refugee status in the United States, we file this additional declaration with respect to that issue.

¹ Joint Decl. of Madeline Albright et al., No. 17-35105 (9th Cir. Feb. 6, 2017), <https://apps.washingtonpost.com/g/documents/politics/declaration-of-national-security-officials/2324/>.

² Br. of Amici Curiae Former National Security Officials in Support of Respondents, Nos. 16-1436 and 16-1540 (U.S. Sup. Ct. Sept. 18, 2017), https://law.yale.edu/system/files/documents/pdf/Clinics/rolc_amicus_9.19.17_.pdf.

³ Joint Decl. of Madeline Albright et al., No. TDC-17-0361 (D.Md. Oct. 11, 2017).

3. The Refugee Ban

- a. Travel Ban 1.0 included an indefinite ban on Syrian refugees, a 120-day suspension of the U.S. Refugee Admission Program (USRAP), and an explicit preference for admission of refugees who are religious minorities. On February 3, 2017, the U.S. District Court for the Western District of Washington (Robart, J.) issued a temporary restraining order against each of these aspects of Travel Ban 1.0 suspending refugee admissions.
- b. Travel Ban 2.0 included a 120-day suspension of USRAP, subject to case by case waivers. On March 29, 2017, the U.S. District Court for the District of Hawaii (Watson, J.), preliminarily enjoined the U.S. Government's suspension of USRAP, but the Supreme Court later permitted it to go into effect pending appeal for refugees lacking a "credible claim of a bona fide relationship with a person or entity in the United States."
- c. Travel Ban 3.0 did not speak to the issue of refugees.
- d. On October 24, 2017, when the 120-day suspension in Travel Ban 2.0 expired, President Trump issued a new Executive Order that purported to resume USRAP with the exception of "[c]ertain [c]ategories of [r]efugees." A Memorandum accompanying this Executive Order then proceeded to create a new effective ban ("Refugee Ban 3.0" or "Ban") for nearly half of the refugees in USRAP via: (1) a 90-day de facto suspension of entry for refugees who are nationals of (or stateless persons who last habitually resided in) 11 countries that are subject to Security Advisory Opinions (SAO), through the reallocation of resources away from processing those applications, with admission permitted only through case-by-case waivers, and (2) an indefinite suspension of the "follow-to-join" family

reunification program.⁴ According to one analysis, 76 percent of all Muslim refugees who entered the United States during the last 15 years came from the 11 countries described in the Memorandum.⁵

4. Refugee Ban 3.0 preserves the sweeping country-based approach of the original Travel Bans, without providing any persuasive evidence that these measures are necessary to enhance our national security or foreign policy interests. We agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. Yet, we are unaware of any national security threat that would justify Refugee Ban 3.0. To the contrary, its enforcement would cause serious harm to the national security and foreign policy of the United States.

II. Refugee Ban 3.0 Serves No Genuine National Security or Foreign Policy Purpose

5. As a national security measure, this Ban is of unprecedented scope. Yet in adopting Refugee Ban 3.0, the Administration alleges no derogatory factual information or any credible threat about any particular refugee applicant from the countries banned. The new Executive Order does not even allude to any such information, while the Memorandum only references unspecified “concerns” as a rationale for its restrictions.

6. Refugee Ban 3.0’s generalized, country-based approach with respect to countries subject to SAO is substantially the same as its predecessors’. We have seen no evidence, however, that such a sweeping, country-based ban on refugees is necessary for this objective. In fact, the only concrete evidence to emerge from this administration on this point to date has shown just the opposite—that country-based bans are ineffective. A leaked DHS Office of Intelligence and Analysis memorandum analyzing the ban in the January Order found that “country of citizenship is unlikely to be a reliable indicator of potential terrorist activity.” The

⁴ Memorandum to the President, *Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities* (Oct. 23, 2017), <https://www.state.gov/documents/organization/275306.pdf>.

⁵ See, e.g., Alex Nowrasteh, *Make “Enhanced” Vetting Great Again*, CATO Institute: CATO at Liberty (Oct. 31, 2017).

1 memorandum went on to note that a majority of the U.S.-based individuals who were inspired by
 2 a foreign terrorist organization to participate in terrorism-related activity were citizens of the
 3 United States; the minority of foreign-born individuals were scattered from among twenty-six
 4 different countries; and most of the top origin countries of those individuals are not the countries
 5 listed in the Order.⁶

6 7. A number of us held for extended periods of time the most senior responsibility
 7 within the U.S. Government for overseeing the refugee resettlement process. We know of no
 8 factual basis for the Government's claim that the targeted refugees pose a particular security
 9 threat to the United States that would justify the bans. To the contrary, the Government's
 10 position entirely misunderstands the realities of—and the national security protections provided
 11 by—the existing vetting process.

12 8. Refugees already receive the most thorough vetting of any travelers to the United
 13 States.⁷ Refugee candidates are vetted repeatedly throughout the resettlement process, as
 14 “pending applications continue to be checked against terrorist databases, to ensure new, relevant
 15 terrorism information has not come to light.”⁸ By the time refugees referred by the United
 16 Nations High Commissioner for Refugees (“UNHCR”) are approved for resettlement in the
 17 United States, they have been reviewed not only by UNHCR but also by the National
 18 Counterterrorism Center, the Federal Bureau of Investigation, the Department of Homeland
 19 Security, the Department of Defense, the Department of State, and the U.S. intelligence
 20 community.⁹

23 ⁶ U.S. Dep't of Homeland Sec., *Citizenship Likely an Unreliable Indicator of Terrorist Threat to the United States*, <https://assets.documentcloud.org/documents/3474730/DHS-intelligence-document-on-President-Donald.pdf>.

24 ⁷ U.S. Dep't of State, *U.S. Refugee Admissions Program FAQs*,
 25 <http://www.state.gov/j/prm/releases/factsheets/2017/266447.htm>.

26 ⁸ Amy Pope, *The Screening Process for Refugee Entry into the United States* (Nov. 20, 2015),
<http://obamawhitehouse.archives.gov/blog/2015/11/20/infographic-screening-process-refugee-entry-united-states>.

⁹ U.S. Dep't of State, *The Refugee Processing and Screening System*,
<http://www.state.gov/documents/organization/266671.pdf>.

9. The refugee vetting process is also reviewed and enhanced on an ongoing basis in response to particular threats.¹⁰ For example, in 2015 the Department of Homeland Security described a layer of enhanced review for Syrian applicants that involves collaboration between the U.S. Citizenship and Immigration Services' Refugee, Asylum, and International Operations Directorate and the Fraud Detection and National Security Directorate. Among other measures, this review provided additional, intelligence-driven support to refugee adjudicators that U.S. officials could then use to more precisely question refugees during their security interviews.¹¹

10. Under current vetting procedures, refugees often wait eighteen to twenty-four months to be cleared for entry into the United States.¹² Fewer than one percent of all refugees determined by the UNHCR to be eligible for resettlement were settled in any single country in 2015.¹³ Because refugees do not decide where they will be resettled, the odds that any terrorist posing as a refugee will be resettled in the United States are vanishingly small.

11. So-called "derivative refugees" who follow-to-join family members who have already been resettled in the United States are also already subjected to their own thorough vetting and security screening procedures.¹⁴

12. During the four decades from 1975 to the end of 2015, over three million refugees have been admitted to the United States. Despite this number, only three refugees have killed people in terrorist attacks on U.S. soil during this period. None of these refugees were from the 11 listed countries in the Memorandum.¹⁵ Between October 1, 2011 and December 31, 2016,

¹⁰ U.S. Citizenship and Immigration Services, *Fact Sheet: Refugee Security Screening* (Dec. 3, 2015), http://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%27%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf.

¹¹ U.S. Dep't of State, *supra* note 9; Andorra Bruno, Cong. Research Serv., R44277, *Syrian Refugee Admissions and Resettlement in the United States: In Brief* 4-5 (Sept. 16, 2016).

¹² U.S. Dep't of State, *U.S. Refugee Resettlement Processing for Iraqi and Syrian Beneficiaries of an Approved I-130 Petition* (Mar. 11, 2016).

¹³ U.N. High Commissioner for Refugees, *Resettlement*, <http://www.unhcr.org/en-us/resettlement.html>.

¹⁴ U.S. Dep't of State, *Follow-to-Join Refugees and Asylees*, <https://travel.state.gov/content/visas/en/immigrate/join-refugees-and-asylees.html#overseas>.

¹⁵ Nowrasteh, *supra* note 5.

more than 18,000 Syrian refugees were resettled in the United States; we know of none who has been detained due to an alleged connection with terror.¹⁶

13. In imposing yet another country-based set of restrictions, the Executive Order and the Memorandum address none of this overwhelming evidence. The Government alleges no specific information about any vetting step omitted by these current procedures that would demand a generalized suspension of the refugee program in the way that has been done here.

III. Refugee Ban 3.0 Will Harm the National Security and Foreign Policy Interests of the United States

14. In our professional judgment, Refugee Ban 3.0 would undermine the national security of the United States, rather than making us safer. In particular, based on public reporting about the countries that are subject to the SAO:

- a. The Refugee Ban harms interpreters and others who assisted our troops abroad at great risk to their own lives. The reallocation of resources away from processing the applications of nationals of countries subject to the SAO would affect individuals, who because they assisted the United States overseas, are waiting for admission as refugees under the already-backlogged refugee program.¹⁷ By discouraging future assistance and cooperation from these and other affected military allies and partners, the ban would jeopardize the safety and security of our troops.
- b. The Ban will disrupt critical counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining information sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels necessary to address the threat posed by terrorist groups such as IS. The Ban will further strain our relationships with partner countries in Europe and the Middle

¹⁶ *Ibid.*

¹⁷ Jill Colvin, *Refugee Advocates Denounce Trump's Latest Order*, Wash. Post (Oct. 25, 2017).

1 East, many of whom are shouldering the burden of taking in great numbers of
 2 refugees, and on whom we rely for vital counterterrorism cooperation. By
 3 alienating these partners, we frustrate access to the intelligence and resources
 4 necessary to fight the root causes of terror or disrupt attacks launched from
 5 abroad, before an attack occurs within our borders.¹⁸

- 6 c. For current information, our intelligence officers may rely on human sources in
 7 some of the 11 countries in Refugee Ban 3.0. The Ban breaches faith with these
 8 sources, who have risked much to keep Americans safe—and whom our officers
 9 have promised to always protect with the full might of our government and our
 10 people.
- 11 d. The Refugee Ban’s disparate impact on Muslim refugees would feed the
 12 recruitment narrative of IS and other extremists that portray the United States as
 13 at war with Islam. As government officials, we took every step we could to
 14 counter violent extremism. Because of the Ban’s disparate impact on Muslim
 15 travelers and immigrants, it would fuel IS’s narrative and send the wrong message
 16 to the Muslim community here at home and all over the world: that the U.S.
 17 Government is hostile to them and their religion. The Ban also might endanger
 18 Christian communities, by handing IS a recruiting tool and propaganda victory that
 19 spreads their message that the United States is engaged in a religious war.
- 20 e. The Refugee Ban disrupts ongoing law enforcement efforts. By alienating
 21 Muslim-American communities in the United States, it would harm our efforts to
 22 enlist their aid in identifying radicalized individuals who might launch attacks of
 23 the kind recently seen in San Bernardino and Orlando.

24
 25 ¹⁸ As just one illustration, after Travel Ban 3.0 issued, Chad withdrew hundreds of troops from a regional
 26 effort to fight against Boko Haram. Two weeks earlier, their communications minister said that Travel Ban 3.0
 “seriously undermines Chad’s image and the good relations between the two countries, notably in the fight against
 terrorism.” Conor Gaffey, *After Trump Travel Ban, Chad Pulls Troops From Boko Haram Fight in Niger*,
 Newsweek (Oct. 13, 2017).

f. The Refugee Ban has a devastating humanitarian impact. The refugee suspensions in the prior two travel bans have already disrupted the movement of countless people, including women and children, who are fleeing danger and have been victimized by actual terrorists.

15. For all of the foregoing reasons, in our professional opinion, Refugee Ban 3.0 does not further—but instead harms—sound U.S. national security and foreign policy. Issuing an order against Refugee Ban 3.0 would not jeopardize national security. It would simply preserve the status quo ante, still requiring individuals to be subjected to all the rigorous legal vetting processes that are currently in place. Allowing Refugee Ban 3.0 to take effect would wreak havoc on innocent lives and deeply held American values.

16. The current administration of the USRAP ensures that all refugees in the program will develop close *bona fide* relationships with U.S.-based entities by virtue of the refugee process, in some cases well before a formal assurance of admittance is provided. The decision to admit individual refugees, once screened, depends on the U.S. Government’s assessment that an agency in the United States is prepared to handle the particularized and often unique cultural, medical, and familial needs of individual refugees. By the time refugees have made their way through this intensive vetting process of matching individuals to resources, and have been formally admitted, all have necessarily acquired a formal and documented “*bona fide* relationship” with the United States.¹⁹

17. At bottom, the U.S. refugee resettlement program is a humanitarian assistance program that was not set up to benefit relatives of American citizens or residents, nor to serve the employment or educational needs of American companies or institutions. It was instead established to further the noble and historic American tradition of aiding people fleeing persecution. Of course, this includes people with relatives and other prior connections to the

¹⁹ See generally Br. of Amici Curiae Former National Security Officials in Opposition to the Motion for Clarification at 6-9, *Trump v. Hawaii*, No. 16-1540 (U.S. July 19, 2017), 2017 WL 3045234.

1 United States. But it also includes people who, before having their case considered, had no
 2 relationship at all with the United States, and after full vetting under rigorous, individualized,
 3 and modern procedures, have been found to pose no national security threat.

4 18. Ours is a nation of immigrants and refugees, committed to the faith that we are all
 5 equal under the law and abhor discrimination, whether based on race, religion, sex, or national
 6 origin. As government officials, we sought diligently to protect our country, even while
 7 maintaining an immigration system as free as possible from discrimination, that applies no
 8 religious tests, and that measures individuals by their merits, not stereotypes of their countries or
 9 groups. Blanket restrictions, without evidence, of refugees from certain countries are beneath the
 10 dignity of the nation and Constitution that we each took oaths to protect.

11 Respectfully submitted,

12 s/MADELINE K. ALBRIGHT
 13 s/RAND BEERS
 14 s/JOHN D. BELLINGER III
 15 s/DANIEL BENJAMIN
 16 s/ANTONY BLINKEN
 17 s/JOHN O. BRENNAN
 18 s/R. NICHOLAS BURNS
 19 s/WILLIAM J. BURNS
 20 s/JAMES CLAPPER
 21 s/DAVID S. COHEN
 22 s/ELIOT A. COHEN
 23 s/BATHSHEBA N. CROCKER
 24 s/RYAN CROCKER
 25 s/THOMAS DONILON
 26 s/JEN EASTERLY
 s/DANIEL FELDMAN
 s/JONATHAN FINER
 s/MICHÈLE FLOURNOY
 s/ROBERT S. FORD
 s/JOSH GELTZER
 s/SUZY GEORGE
 s/PHIL GORDON
 s/CHUCK HAGEL
 s/AVRIL D. HAINES
 s/LUKE HARTIG
 s/MICHAEL V. HAYDEN
 s/HEATHER A. HIGGINBOTTOM
 s/CHRISTOPHER R. HILL
 s/JOHN F. KERRY

1 s/PREM KUMAR
2 s/RICHARD LUGAR
3 s/JOHN E. MCLAUGHLIN
4 s/LISA O. MONACO
5 s/CAMERON P. MUNTER
6 s/JAMES C. O'BRIEN
7 s/MATTHEW G. OLSEN
8 s/LEON E. PANETTA
9 s/JEFFREY PRESCOTT
10 s/SAMANTHA J. POWER
11 s/SUSAN E. RICE
12 s/ANNE C. RICHARD
13 s/KORI SCHAKE
14 s/ERIC P. SCHWARTZ
15 s/WENDY R. SHERMAN
16 s/VIKRAM SINGH
17 s/JEFFREY H. SMITH
18 s/JAMES B. STEINBERG
19 s/WILLIAM WECHSLER
20 s/SAMUEL M. WITTEN

21 Executed this 9th day of November, 2017

22 *All original signatures are on file with Harold Hongju Koh, Rule of Law Clinic, Yale Law
23 School, New Haven, CT. 06520-8215 203-432-4932

24 We declare under penalty of perjury under the laws of the United States of America that the
25 foregoing is true and correct.
26