

No. 17-1351

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, *et al.*
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, *et al.*
Defendants-Appellants

On Appeal from an Order of the United States District Court
for the District of Maryland (Chuang, J.)
Civil Action No. TDC-17-0361

**ADDENDUM OF SUPPLEMENTAL MATERIALS CITED IN
CORRECTED BRIEF OF *AMICUS CURIAE* T.A., A U.S. RESIDENT OF
YEMENI DESCENT, IN SUPPORT OF APPELLEES, AFFIRMANCE OF
THE PRELIMINARY INJUNCTION, AND DENIAL OF THE
GOVERNMENT’S MOTION FOR A STAY**

WILLKIE FARR & GALLAGHER LLP
Richard D. Bernstein
rbernstein@willkie.com
1875 K Street, N.W.
Washington D.C. 20006-1238
Telephone: (202) 303-1000
Facsimile: (202) 303-2000

Counsel for Amicus Curiae T.A.

Date: April 12, 2017

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EXHIBIT 1

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Action: SOMALIA, USMISSION IMMEDIATE ;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE

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Captions: SENSITIVE

Reference: A) 17 STATE 24324

B) 17 STATE 24800

Subject: SUPERSEDING 17 STATE 24324: IMPLEMENTING IMMEDIATE
HEIGHTENED

SCREENING AND VETTING OF VISA APPLICATIONS

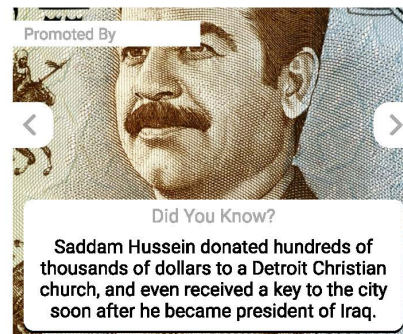
1. (SBU) THIS IS AN ACTION REQUEST. This guidance supersedes that provided to the field field in REFTEL A.

2. (U) Simultaneous with the release of Executive Order 13780 on Protecting the Nation from Terrorist Attacks by Foreign Nationals (E.O.) on March 6, 2017, the President signed a Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security. Courts have temporarily barred the Department from enforcing section 2 of the E.O., which relates to the suspension of entry to the United States and the issuance of visas for nationals of designated countries, as well as section 6, which relates to the Refugee Admissions Program. This cable provides guidance for implementing section 2 of the Presidential Memorandum, which states: "The Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General, shall, as permitted by law, implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and all other immigration benefits, so as to increase the safety and security of the American people. These additional protocols and procedures should focus on:

- (a) preventing the entry into the United States of foreign nationals who may aid, support, or commit violent, criminal, or terrorist acts; and
- (b) ensuring the proper collection of all information necessary to rigorously evaluate all grounds of inadmissibility or deportability, or grounds for the denial of other immigration benefits."

3. (U) The President also underscored: "[T]his Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country. Moreover, because it is my constitutional duty to 'take Care that the Laws be faithfully executed,' the executive branch is committed to ensuring that all laws related to entry into the United States are enforced rigorously and consistently."

4. (SBU) The E.O. and Presidential Memorandum highlight the critical importance of maintaining extra vigilance in the conduct of our work and continuing to increase scrutiny of visa applicants for potential security and non-security related ineligibilities. Consular officers should not hesitate to refuse any case presenting security concerns under §221(g) of the Immigration and Nationality Act (INA) in order to explore all available local leads and pending the outcome of an SAO as appropriate, or issue any other refusals or take other precautionary actions pursuant to any



WORLD NEWS



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applicable ground of inadmissibility under the INA. All officers should remember that all visa decisions are national security decisions. A consular officer should refuse under §214(b) of the INA any nonimmigrant visa applicant whom the consular officer believes may fail to abide by the requirements of the visa category in question.

5. (SBU) As part of our ongoing efforts to refine and improve visa applicant vetting, to supplement the initiatives set out in the E.O. (other than section 2) and the concepts undergirding the Presidential Memoranda, the Department instructs posts to implement immediately the following guidance. These are preliminary measures. Additional screening measures will be introduced based on the conclusions of the interagency working groups mandated by the E.O., acting in accordance with applicable court orders. (U) Increased Screening Worldwide of Certain Visa Populations

6. (SBU) If they have not already done so in response to refel A, Consular Chiefs must immediately convene post's law enforcement and intelligence community partners under the auspices of existing Visa Viper or Law Enforcement Working Groups, as appropriate. These working groups will develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny.

7. (SBU) Once posts have documented these population sets, posts are required to direct adjudicating consular officers to attempt to identify individual applicants that fall within the population set during the course of a consular visa interview. If the applicant is otherwise eligible for a visa (including overcoming INA 214(b) for nonimmigrant visa applicants), the interviewing consular officer should consider sending a discretionary Donkey Security Advisory Opinion (SAO) request.

8. (SBU) In conducting visa interviews, consular officers must disregard the guidance in 17 STATE 24324, to the extent the guidance sets out specific questions to ask of applicants, unless and until notified by septel that the Department has received approval from the Office of Management and Budget (OMB) for those specific questions. Until that time, consular officers should, as always, ask additional questions as necessary to understand the applicant's answers on application forms, should thoroughly pursue any concerns that may arise during the interview, and should provide all relevant information in case notes or, when an SAO is warranted, in the "Additional Information Optional" field.

9. (SBU) Until the Department receives OMB approval for asking specific questions the Department would provide, officers should continue to follow all existing SAO guidance as outlined in 9 FAM 304.2, Security Advisory Opinions (SAO), for Donkey, Bear, Mantis, and Merlin/Merlin 92 SAOs based on IACT/PATRIOT Red, CLASS Hits, TAL, or Officer Discretion, and the country-specific Policy SAO guidance in 9 FAM 304.5, Special Clearance and Issuance Procedures, among other sections. (SBU) Mandatory social media check for applicants present in a territory at the time it was controlled by ISIS

10. (SBU) If post determines the applicant may have ties to ISIS or other terrorist organizations or has ever been present in an ISIS-controlled territory, post must/must refer the applicant to the Fraud Prevention Unit for a mandatory social media review, as described in more detail in 7-FAH-1 H-943.5-2. Post should scan the results of this review into the NIV case for consideration during the SAO process. Details on complying with this requirement will be provided via septel. If any post's Fraud Prevention Unit believes post has such a case, the Fraud Prevention Manager can contact post's CA/FPP and CA/VO/SAC liaison officers with any further questions. (SBU) Mandatory Donkey SAO for Iraqi nationals with presence in territory at the time it was controlled by ISIS

11. (SBU) While the E.O. exempts nationals of Iraq from the travel suspension provisions of Section 2, the Presidential Memorandum and Sections 1(g) and Section 4 of the E.O. contemplate additional screening for Iraqi nationals in addition to the robust vetting already in place.

12. (SBU) Effective immediately and until further notice, when adjudicating an application from an Iraqi national applying with an Iraqi passport, consular officers must consider whether the applicant was ever present in a territory at the time it was controlled by

ISIS. If so, post must submit a Donkey Security Advisory Opinion (SAO) for these applicants, except those applying for an A/G/C-2/C-3/NATO visa.

(SBU) Interview Guidelines

13. (SBU) In order to ensure that proper focus is given to each application, posts should generally not schedule more than 120 visa interviews per consular adjudicator/per day. Please that limiting scheduling may cause interview appointment backlogs to rise.

14. (U) Minimize considered.

Signature: Tillerson

by *cassandra.garnon* 3/23/2017 1:12:15 PM March 23 at 9:12 AM

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EXHIBIT 2

the WHITE HOUSE



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The White House

Office of the Press Secretary

For Immediate Release

March 07, 2017

Press Briefing by Press Secretary Sean Spicer, 3/7/2017, #18

James S. Brady Press Briefing Room

1:36 P.M. EST

MR. SPICER: Hey, guys. I brought a guest. Good afternoon. First off, at the top, I want to acknowledge that there's been an additional wave of threats to Jewish community centers and Anti-Defamation League offices. According to some reports, there have been over a hundred bomb threats phoned in to Jewish institutions since the start of this year alone.

As the President said at the beginning of his joint address, "We're a country that stands united in condemning hate and evil in all of its forms. We denounce these latest anti-Semitic and hateful threats in the strongest terms."

It is incredibly saddening that I have to continue to share these disturbing reports with you, and I share the President's thoughts that he fervently hopes that we don't continue to have to share these reports with you. But as long as they will -- as long as they do continue, we'll continue to condemn them and look at ways in which we can stop them.

Now, on to news of the day. You saw President Trump yesterday continue to deliver on two of his most significant campaign promises: protecting the country against radical Islamic terrorism, and repealing and replacing Obamacare with a patient-centric alternative.

We talked a lot about the executive order protecting the nation from foreign terrorists entering the United States yesterday. And so, on to Obamacare. I'd like to introduce the Secretary of Health and Human Services, Dr. Tom Price, to come up and talk to you a little bit about the plan to repeal and replace Obamacare.

Dr. Price.

SECRETARY PRICE: Thanks, Sean. Good afternoon. First, let me just share with you what an honor it is to serve as the Secretary of Health and Human Services. I'm the third physician out of 23 individuals who've had the privilege of serving as the Secretary of Health and Human Services. And the mission at our department is to improve the health and safety and well-being of the American people. And we take that mission very, very seriously.

And for many Americans, right now, their ability to gain healthcare or health coverage is a real challenge. For most Americans, they receive their health coverage through their employer. It's about 175 million folks. Those individuals will see no significant change other than there won't be a penalty for not purchasing coverage. For the folks in the Medicare system, there will be no changes at all in the current law. But we're talking about those people in the individual and small-group market, the moms and pops, the folks who run the corner grocery store, the corner cleaners. Those individuals out there are having huge challenges gaining care and gaining coverage.

And then Medicaid is a program that by and large has decreased the ability for folks to gain access to care, and we want to make certain that we address that.

This is about patients. This is not about money. This is not about something else. This is about patients. And sadly, the costs are going up for those folks in the individual and small-group market. The access is going down, and it's only getting worse. You know the stories. Premiums increased 25 percent over the last year, on average. Arizona had an increase of 116 percent. Deductibles are going up for many, many folks. If you're a mom or a dad out there and you make \$40,000, \$50,000, \$60,000, your deductible in this market, in that individual and small-group market, oftentimes is \$8,000, \$10,000, \$12,000 a year.

CERTIFICATE OF SERVICE

I certify that on this 12th day of April 2017, the foregoing addendum was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

Dated: April 12, 2017

/s/ Richard D. Bernstein

Richard D. Bernstein
WILLKIE FARR & GALLAGHER LLP