"I'd be glad to sell you a truck!" Hussein said.

"No," Mohamud answered, "I want it for something else."

The teen launched into a rant about the need to punish the U.S. for attacks against Muslims.

"You know what's going on right now?" Mohamud said, according to a transcript of the recordings included in the prosecution's trial memorandum. "The U.S. is losing the war. So they have resorted to intentionally killing civilians. And, you know, God, the glorified, the exalted, said in the Quran that if they kill your women and children intentionally, then you are allowed to do the same to them."

The conversation shifted toward more concrete plans. Had Mohamud found a target in the Portland area, like Youssef requested?

"Do you guys know Pioneer Square?" the teen said. "When they have events, everybody comes up there. So, on the 26th of November, they have a Christmas tree lighting and some 25,000 people attend. You know, the streets are packed. I thought, I thought if you could help me, you know, to have, to have a truck. ... You know, explosives, *inshallah*."

"And this is what's in your heart?" Youssef said. "You know, there's going to be a lot of children there."

"Yeah, I mean, that's what I'm looking for," Mohamud said.

"For kids?" Youssef asked.

"No, just for a huge mass," Mohamud said. "You know, for them to be attacked in their own element, with their families, celebrating the holidays."

Hussein asked Mohamud if he wanted to kill himself with the bomb.

The undercover FBI agent asked Mohamud if he wanted to kill himself with the bomb. "Yeah, I don't mind that," the teen said.

"Yeah, I don't mind that," the teenager said. He began to stutter. "That, that, that, I mean, if I wasn't in it, then, you know, then, they'll look for me."

"And you are not worried?" Youssef asked.

"If you were going to paradise, you wouldn't have to worry, right?" Mohamud answered. "Yes, I will push the button."

"Allah is looking at you right now," Youssef said.

"You know what I like, what makes me happy? You know what I like to see? When I see the enemy of Allah, and, you know, their bodies are torn everywhere," Mohamud said.

Anticipating an entrapment defense and a jury of liberal Portlanders, the undercover agents made sure to give Mohamud a way out. "We want to make sure that it's, you know, it's in your heart," Youssef told the teen. "If we get all the way there and you're like, uh-oh — even if that happens, we'll be disappointed, but you always have a choice, you understand? With us you always have a choice."

On the drive home, Mohamud burst into tears. After he left the car, with the cameras still rolling, Hussein looked at his partner. "It's almost too good to be true," he said.

Pioneer Courthouse Square, the site of Mohamud's attempted bombing, is seen on Nov. 27, 2010, in Portland, Oregon. *Craig Mitchelldyer / Getty Images*

Over the next few months, Youssef and Hussein met with Mohamud on five more occasions. They began giving him tasks. First, they sent him shopping for a timer, two cell phones, a toggle switch, and a snap connector. They asked him to find a few possible parking spots near Pioneer Square. Later, they told him to rent a storage shed where they could build the bomb.

More than anything else, they praised him: "You got a lot of talent, brother Mohamed." "You're probably smarter than most people." "I think you can be a great poet." "I trust you with my life." "We love you, for the sake of Allah."

As the operation progressed, the two agents grew concerned that Mohamud was becoming suicidal, so they decided to tell the teen that the Council would help him flee to a Muslim country after the attack. They were also worried that Mohamud would tell someone, so they gave him $2,700 to rent an off-campus apartment away from his friends. In a moment of telling naïveté, the teenager asked the two men he thought were al-Qaeda recruiters to sign as his guarantors for the lease.

The change in Mohamud's lifestyle did not go unnoticed by his friends. He wouldn't show up to class or parties. He stopped going to Friday prayers at the Corvallis mosque. "In the beginning, I didn't really understand why he was drifting away," Mohamed, one of the college friends, told BuzzFeed News. "And then Raed said, like, 'Hey man, we feel like there's something up. Like, he's not the same anymore.'" On the few occasions when they saw him, he seemed anxious and in distress.

"One of my friends and I, we'd be walking to a party," Raed said. "And Mohamed would be extremely drunk, and he would go to one of my friends and say, 'Are you the FBI? Are you the FBI?'"

The night before the bombing, Mohamud had Thanksgiving dinner in Beaverton with a few friends. Afterward, they went shopping at a nearby mall. Several people who were there told BuzzFeed News that Mohamud seemed to be having a really good time. He insisted on buying coffee for everyone. He poured marshmallow liquor into his cup. He made jokes and laughed and acted like his old self, the way he used to be freshman year, before he moved out of the dorms and began spending all of his time alone.

"He told me, 'I'm having the greatest morning of my life,'" Raed, who ran into Mohamud at 4 a.m. outside a J.C. Penney, told BuzzFeed News.

Later that day, Mohamud called his best friend to ask about his plans. The friend said he was going to see the Christmas tree lighting ceremony. Mohamud told him to stay home, but didn't explain. The two have not spoken since.

Marc Aspinall for BuzzFeed News

Shortly after his arrest, Mohamud was appointed three lawyers from the Portland Federal Public Defender's Office: Steve Sady, Steve Wax, and Lisa Hay. According to attorneys from around the country, the three were among the best terrorism lawyers in the U.S. All three declined to comment.

Mohamud's trial began on Jan. 10, 2013, more than two years after the arrest. In her opening statement, Assistant U.S. Attorney Pamala Holsinger called Mohamud a "prolific user" of extremist websites, saying he was "well known" for his work for Samir Khan.

Holsinger said the government had contacted Mohamud because a "known terrorist" was trying to recruit him. She said the government would prove Mohamud's attempt to travel to Alaska was a step toward his ultimate destination: Yemen. The prosecutor concluded by emphasizing the best evidence against Mohamud: "The defendant dialed this phone. And when the phone didn't go off, he dialed it again."

Sady, in his opening statement, accused the FBI of using "flattery" to get a manipulable teenager to do their bidding, invoking God and appealing to his fragile ego to make him do "the little things and big things that ended up bringing evidence into court today." The federal defender told the jury he understood the difficulty of putting aside emotion to acquit a person who thought he was carrying out a heinous act. He implored jurors to evaluate the case based on law rather than hypothetical destruction.

"We all want law enforcement to stop crime," Mohamud's defense lawyer said. "But the FBI cannot create the very crime they intend to stop."

"In America, we don't create crime. The entrapment defense is how this fundamental American value is made real in the courts," Sady said. "It's a line the government cannot cross. We all want law enforcement to stop crime. But the FBI cannot create the very crime they intend to stop."

The government's case was a rare look into an FBI undercover investigation — warts and all. Over nine days, 14 agents took the stand. Several were forced to confront off-color comments caught on tape during surveillance. During his cross-examination, Special Agent Mario Galindo — who had just explained to the jury that the reason the first face-to-face meeting was not recorded was because he accidentally left the recorder powered on the night before the operation — was asked to confirm a sexually suggestive comment he made after Mohamud first met the bomb expert, Hussein.

> **Sady:** Did you express a feeling of enthusiasm by using a metaphor for sexual excitement?
>
> **Galindo:** Which one?
>
> **Sady:** Did you say, "You've got a lot of people with woodies up here right now?"
>
> **Galindo:** Yes, I said that.

Both undercover agents testified for days. At one point, Lisa Hay grilled Youssef:

> **Hay:** Did Mohamud say what kind of truck?

> **Youssef:** He did not.
>
> **Hay:** So the FBI decided what kind of truck, didn't they?
>
> **Youssef:** Yes.
>
> **Hay:** The FBI decided the size of the bomb?
>
> **Youssef:** Yes.
>
> **Hay:** The FBI designed the bomb?
>
> **Youssef:** Yes.

Mohamud didn't testify in his own defense, though both his parents did. Barre told the court that he wished he had read his son's text messages to see what was going on with him. Then, during cross-examination by prosecutor Ethan Knight, the distraught father attacked the actions of the FBI:

> **Knight:** You were concerned, and that's why you went to the FBI?
>
> **Barre:** I went to the FBI to get help to stop him not to leave the country.
>
> **Knight:** Because you were concerned that he might be brainwashed, isn't that right?
>
> **Barre:** That is what I was afraid of. But can I tell you, the FBI brainwashed my son.

Several of Mohamud's friends took the stand on his behalf, calling him "goofy" and "fun-loving." Raed, however, was subpoenaed to testify for the prosecution. He wasn't happy about it and found a small way to rebel.

"The prosecution, they were like, 'Make sure you look at the jury and you talk to them eye to eye,'" Raed told BuzzFeed News. "But I'm like, no. If I were here on the defense side, sure, I can be talking straight to the jury. But I'm here because I'm forced to. So I'm going to answer your questions and go on with my day."

"I did look at Mohamed," Raed went on. "We did make eye contact. He was crying."

The trial closed after 14 days. Knight gave the government's summation. He reminded the jury that Mohamud had believed the bomb was real. The case, Knight argued, was about "a choice, a single and remarkable choice by this defendant to take the lives of thousands of people."

"An individual simply cannot be entrapped to commit an offense such as this," Knight said. "This is the type of offense that one commits only because one wholeheartedly wants to."

Steven T. Wax, left, and Stephen R. Sady, right. *Rick Bowmer / AP Photo*

Sady, the defense lawyer, gave an impassioned closing argument, citing Aleksandr Solzhenitsyn, the Soviet novelist who was forced into exile after publishing *The Gulag Archipelago*. "Solzhenitsyn says, 'There is a line between good and evil that runs through the hearts of all people,'" Sady said. "The government shouldn't be pushing that line."

After seven hours of deliberations, the jury returned a guilty verdict.

Nine months later, Mohamud was sentenced. The government asked that Mohamud be given 40 years in prison, while his defense team pleaded for 10 years. Judge Garr King sentenced Mohamud to 30, citing a case of "imperfect entrapment" carried out by the government.

"Now, the jury found that defendant was not entrapped, but imperfect entrapment is available as a defense," King said from the bench. "And in this case, it weighs slightly in favor of defendant in this case. The court realizes the agents often reminded the defendant he could back out of the plan if he had a change of heart, but that is balanced by the government's inducement through the agent's use of praise and religious references."

Marc Aspinall for BuzzFeed News

Just over a month after Mohamud's conviction, the Supreme Court published its decision not to hear the ACLU lawsuit challenging the constitutionality of the FISA Amendments Act, or FAA. As a criminal defendant who had been charged using evidence obtained through warrantless surveillance, Mohamud was one of the people who the court believed had standing to sue in place of the ACLU. The government, however, did not notify him of the surveillance until nearly a year after his conviction.

Sady and his team furiously litigated the issue. They filed a motion asking the court to force the government to disclose what it had learned about Mohamud using FAA warrantless surveillance. Although the attorneys were careful not to single out particular

pieces of evidence for scrutiny, their motion hinted at many possible questions. Did the FBI database that Special Agent DeLong searched when he found out that Mohamud corresponded with Khan include electronic data swept up by FAA laws? What about other types of FAA surveillance that had become publicly known since the Snowden disclosures? Were those surveillance methods used against Mohamud? Could Mohamud be sure he hadn't been targeted in a myriad of ways, some of them potentially unconstitutional?

For Mohamud, those questions meant the difference between prison and a new trial. Under a legal doctrine known as "the fruit of the poisonous tree," courts must suppress any evidence that has roots in illegal government conduct, even if a warrant is later issued to legally obtain the same evidence. If it turns out that unconstitutional surveillance first led the FBI to Mohamud, the prosecution's entire case could collapse.

Judge King, however, denied Mohamud's request for more information about the FBI's tactics, saying he would review the legality of the surveillance in private meetings with prosecutors.

Mohamud's attorneys resorted to broader legal arguments. Much like the ACLU, they claimed the FAA provided "none of the protections that the First and Fourth Amendments require to limit governmental intrusions on privacy." A vein of frustration ran through the pleadings, with the defense acknowledging at one point that it sought "suppression of unknown evidence [...] gathered at unknown times by unknown means by unknown persons and agencies operating under unknown protocols."

The government responded that the warrantless surveillance in the case did not originally target Mohamud, but rather unspecified foreigners living abroad "who generally are not protected by the Fourth Amendment." The fact that communications belonging to American citizens living within the borders of their own country — such as Khan and Mohamud — might have been "incidentally" acquired under the authority of the FAA did not "render the collection unreasonable."

Again, Judge King sided with the prosecution, denying Mohamud's request for a new trial. (King declined a request for an interview.)

On Sep. 4, 2015, Mohamud's attorneys filed a brief asking the 9th Circuit of the Court of Appeals to overturn King's decision. The government has until December to file its response. Oral arguments could happen as soon as January 2016. Regardless of the outcome, the losing party is likely to appeal the matter before the Supreme Court.

A victory for the defense could end a significant chapter in the history of American law enforcement. It would follow other incremental decisions — including June's passing of the USA Freedom Act, which curbed an NSA program that collected most Americans' phone records — that have begun to roll back the emergency policies enacted in the tense days after Sept. 11. Crucially, it wouldn't just end particular programs, but establish a

principle that will guide how courts must balance individual rights against collective security.

By contrast, a victory for the prosecution would not just keep Mohamud in prison, but also continue the preventive approach to law enforcement that has developed since Sept. 11.

“The history of the criminal justice system demonstrates that infringements on rights begin in cases against a particular targeted group that does not have any public support,” Joshua Dratel, a defense attorney who has represented many American Muslims accused of terrorism, told BuzzFeed News. “However, over time those methods that get approved in those cases contaminate ordinary cases against ordinary persons, and especially against those who have politically unpopular opinions.”

On a recent autumn evening, Raed and Mohamed met at a bar in Corvallis to share memories about their friend, the convicted terrorist. The two hadn’t talked about Mohamud for a while, in part because things had been rough around campus after he got arrested.

“I mean, my name is Mohamed,” Mohamed told BuzzFeed News. “A lot of racist things have happened to me, many times, even before the incident. Afterwards, when I was on campus and people knew I knew Mohamed or hung out with him, they’d say things like, ‘Oh, Mo, you fucking terrorist!’”

“It’s sad, you know,” Raed said, as he flipped through Facebook photos showing himself and his friends at an anti-jihad rally. “For us to have to show up and be like, ‘No, this isn’t really us.’”

Would they want to see him again? The friends said nothing for a long time. Eventually, Mohamed broke the silence.

“The only reason I’d want to see him again would be to sit down with him, just like this,” he said, making a sweeping gesture over the table. “Because I’m curious. I want to figure out why. I want to say to him, ‘Some of your friends were [at Pioneer Square]. Why did you want to do it to them?’ Not ‘Why did you want to do it to everybody?’ Because he, at that time, obviously did not care about everybody. But he had such a close relationship with so many people who were there or could have been there. Why would he specifically want to do that to them?”

Raed then mentioned that Mohamud had written him a few times from prison. “They’re, like, normal conversations,” he said of the letters. “Like we’re talking like friends. He’s asking how am I doing, how’s my family doing, how’re our friends doing.”

Raed never wrote back.

More

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Exhibit II

The Washington Post

National Security

A new travel ban with 'mostly minor technical differences'? That probably won't cut it, analysts say.

By Matt Zapotosky February 22

Senior policy adviser Stephen Miller said President Trump's revised travel ban will have "mostly minor technical differences" from the iteration frozen by the courts, and Americans would see "the same basic policy outcome for the country."

That is not what the Justice Department has promised. And legal analysts say it might not go far enough to allay the judiciary's concerns.

A senior White House official said Wednesday that Trump will issue a revised executive order on immigration next week, as the administration is working to make sure the implementation goes smoothly. Trump had said previously that the order would come this week. Neither the president nor his top advisers have detailed exactly what the new order will entail. Miller's comments on Fox News, while vague, seem to suggest the changes might not be substantive. And that could hurt the administration's bid to lift the court-imposed suspension on the ban, analysts said.

"If you're trying to moot out litigation, which is to say, 'Look, this litigation is no longer necessary,' it is very bad to say our intent here is to engage in the prohibited outcome," said Leon Fresco, who worked in the office of immigration litigation in President Barack Obama's Justice Department.

Trump's original travel ban temporarily barred from entering the United States refugees and citizens of seven Muslim-majority countries: Iraq, Iran, Sudan, Somalia, Syria, Yemen and Libya. When it was first implemented, State Department officials unilaterally revoked tens of thousands of visas, and the order seemed to affect even legal permanent residents, though the White House counsel soon clarified that it should not.

A federal district judge in Washington state suspended the ban Feb. 3, and a three-judge panel with the U.S. Court of Appeals for the 9th Circuit later upheld that freeze. While the Justice Department could have appealed to the full appeals court — or even to the Supreme Court — it asked the 9th Circuit judges last week to hold off because a new executive order was in the works.

"Rather than continuing this litigation, the President intends in the near future to rescind the Order and replace it with a new, substantially revised Executive Order to eliminate what the panel erroneously thought were constitutional concerns," Justice Department lawyers wrote.

Officials still plan a new order, but White House press secretary Sean Spicer said Tuesday that they would not rescind the old one. And speaking to Fox News's Martha MacCallum, Miller seemed to play down how substantial even the revisions would be — which would seem to put him at odds with the Justice Department.

"Well, one of the big differences that you're going to see in the executive order is that it's going to be responsive to the judicial ruling, which didn't exist previously. And so these are mostly minor technical differences," he said. "Fundamentally, you're still going to have the same basic policy outcome for the country, but you're going to be responsive to a lot of very technical issues that were brought up by the court and those will be addressed. But in terms of protecting the country, those basic policies are still going to be in effect."

Legal analysts have said previously that there are obvious ways in which the order could be cleaned up to help it pass legal muster — though anything that maintains outright bans might face a tough court battle.

Trump could craft an order that clearly exempts green-card holders — who have the best case to sue over the order — and he could also potentially exempt any current visa holders. But the 9th Circuit panel said that would not address claims "by citizens who have an interest in specific noncitizens' ability to travel to the United States."

And no matter what it does, the Trump administration must contend with the president's own call on the campaign trail for a "total and complete shutdown of Muslims entering the United States" and campaign surrogate Rudolph W. Giuliani's claim that Trump said "Muslim ban" and asked him to form a commission to determine "the right way to do it legally."

A federal judge in Virginia referenced those comments in ordering the ban frozen with respect to Virginia residents and institutions, calling it "unrebutted evidence" that Trump's directive might violate the First Amendment. That is important because if judges found even the new order was designed to discriminate against Muslims — and not to protect national security — they might similarly strike it down.The president does possess broad power to set immigration policy, and even his original executive order might ultimately pass legal muster, analysts have said. So far, courts have just weighed temporary injunctions on the ban, not directly and finally deciding whether Trump exceeded his authority.

"To the extent that the new executive order just makes technical changes, then we don't see it solving any of the legal problems," said Lee Gelernt, deputy director of the American Civil Liberties Union's national Immigrants' Rights Project, who is involved in a legal challenge to the ban in New York.

At the White House press briefing Wednesday, Spicer said he was confident the administration would ultimately prevail in court, but in the revised order officials had been "very clear about understanding what the court said, and trying to tailor that specifically."

He also said he was not concerned that Trump's prior remarks about targeting Muslims would hinder the administration's case.

"The president was very clear in his executive order that these were countries that we didn't have the proper vetting for when it came to ensuring the safety of Americans," Spicer said. "That's what the executive order said. … It was crafted in a way that was very clear about the countries and was not focused on anything else but the vetting requirements."

Revisions, analysts said, could ultimately help Trump prevail — particularly if he applied a ban only to the issuance of new visas, and if he issued robust procedures for those whose visas were revoked to challenge that action. His and Giuliani's comments would be an obstacle, but they would not necessarily block him forever from using his powers on immigration.

"Are you permanently prohibited from ever doing something like this because you at one time said something that was inappropriate?" Fresco said. "The courts will have to decide what they believe here."

Philip Rucker and John Wagner contributed to this report.

Matt Zapotosky covers the Justice Department for the Washington Post's National Security team.
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Exhibit JJ

Transcript of Donald Trump's Immigration Speech

SEPT. 1, 2016

Following is a transcript of the remarks by Donald J. Trump on immigration in Phoenix on Wednesday, as transcribed by the Federal News Service.

TRUMP: Wow. Thank you. That's a lot of people, Phoenix, that's a lot of people.

(APPLAUSE)

Thank you very much.

Thank you, Phoenix. I am so glad to be back in Arizona.

(APPLAUSE)

The state that has a very, very special place in my heart. I love people of Arizona and together we are going to win the White House in November.

Now, you know this is where it all began for me. Remember that massive crowd also? So, I said let's go and have some fun tonight. We're going to Arizona, O.K.?

This will be a little bit different. This won't be a rally speech, per se. Instead, I'm going to deliver a detailed policy address on one of the greatest challenges facing our country today, illegal immigration.

(APPLAUSE)

I've just landed having returned from a very important and special meeting with the president of Mexico, a man I like and respect very much. And a man who truly loves his country, Mexico.

And, by the way, just like I am a man who loves my country, the United States.

(APPLAUSE)

We agree on the importance of ending the illegal flow of drugs, cash, guns, and people across our border, and to put the cartels out of business.

(APPLAUSE)

We also discussed the great contributions of Mexican-American citizens to our two countries, my love for the people of Mexico, and the leadership and friendship between Mexico and the United States. It was a thoughtful and substantive conversation and it will go on for awhile. And, in the end we're all going to win. Both countries, we're all going to win.

This is the first of what I expect will be many, many conversations. And in a Trump administration we're going to go about creating a new relationship between our two countries, but it's going to be a fair relationship. We want fairness.

(APPLAUSE)

But to fix our immigration system, we must change our leadership in Washington and we must change it quickly. Sadly, sadly there is no other way. The

about them and the special interests spend a lot of money trying to cover them up because they are making an absolute fortune. That's the way it is.

Today, on a very complicated and very difficult subject, you will get the truth. The fundamental problem with the immigration system in our country is that it serves the needs of wealthy donors, political activists and powerful, powerful politicians. It's all you can do. Thank you. Thank you.

(APPLAUSE)

Let me tell you who it does not serve. It does not serve you the American people. Doesn't serve you. When politicians talk about immigration reform, they usually mean the following: amnesty, open borders, lower wages. Immigration reform should mean something else entirely. It should mean improvements to our laws and policies to make life better for American citizens.

(APPLAUSE)

Thank you. But if we're going to make our immigration system work, then we have to be prepared to talk honestly and without fear about these important and very sensitive issues. For instance, we have to listen to the concerns that working people, our forgotten working people, have over the record pace of immigration and it's impact on their jobs, wages, housing, schools, tax bills and general living conditions.

These are valid concerns expressed by decent and patriotic citizens from all backgrounds, all over. We also have to be honest about the fact that not everyone who seeks to join our country will be able to successfully assimilate. Sometimes it's just not going to work out. It's our right, as a sovereign nation, to chose immigrants that we think are the likeliest to thrive and flourish and love us.

(APPLAUSE)

Then there is the issue of security. Countless innocent American lives have been stolen because our politicians have failed in their duty to secure our borders and enforce our laws like they have to be enforced. I have met with many of the great

people, so many, many people. So sad. They will be joining me on this stage in a little while and I look forward to introducing, these are amazing, amazing people.

Countless Americans who have died in recent years would be alive today if not for the open border policies of this administration and the administration that causes this horrible, horrible thought process, called Hillary Clinton.

(APPLAUSE)

This includes incredible Americans like 21-year-old Sarah Root. The man who killed her arrived at the border, entered federal custody and then was released into the U.S., think of it, into the U.S. community under the policies of the White House Barack Obama and Hillary Clinton. Weak, weak policies. Weak and foolish policies.

He was released again after the crime, and now he's out there at large. Sarah had graduated from college with a 4.0, top student in her class one day before her death.

Also among the victims of the Obama-Clinton open-border policy was Grant Ronnebeck, a 21-year-old convenience store clerk and a really good guy from Mesa, Arizona. A lot of you have known about Grant.

He was murdered by an illegal immigrant gang member previously convicted of burglary, who had also been released from federal custody, and they knew it was going to happen again.

Another victim is Kate Steinle. Gunned down in the sanctuary city of San Francisco, by an illegal immigrant, deported five previous times. And they knew he was no good.

Then there is the case of 90-year-old Earl Olander, who was brutally beaten and left to bleed to death in his home, 90 years old and defenseless. The perpetrators were illegal immigrants with criminal records a mile long, who did not meet Obama administration standards for removal. And they knew it was going to happen.

with a hammer. Her killer had been arrested on multiple occasions but was never, ever deported, despite the fact that everybody wanted him out.

A 2011 report from the Government Accountability Office found that illegal immigrants and other non-citizens, in our prisons and jails together, had around 25,000 homicide arrests to their names, 25,000.

On top of that, illegal immigration costs our country more than $113 billion a year. And this is what we get. For the money we are going to spend on illegal immigration over the next 10 years, we could provide one million at-risk students with a school voucher, which so many people are wanting.

While there are many illegal immigrants in our country who are good people, many, many, this doesn't change the fact that most illegal immigrants are lower skilled workers with less education, who compete directly against vulnerable American workers, and that these illegal workers draw much more out from the system than they can ever possibly pay back.

And they're hurting a lot of our people that cannot get jobs under any circumstances.

But these facts are never reported. Instead, the media and my opponent discuss one thing and only one thing, the needs of people living here illegally. In many cases, by the way, they're treated better than our vets.

Not going to happen anymore, folks. November 8th. Not going to happen anymore.

(APPLAUSE)

AUDIENCE: Trump! Trump! Trump!

The truth is, the central issue is not the needs of the 11 million illegal immigrants or however many there may be — and honestly we've been hearing that number for years. It's always 11 million. Our government has no idea. It could be

Frankly our government has no idea what they're doing on many, many fronts, folks.

(APPLAUSE)

But whatever the number, that's never really been the central issue. It will never be a central issue. It doesn't matter from that standpoint. Anyone who tells you that the core issue is the needs of those living here illegally has simply spent too much time in Washington.

(APPLAUSE)

Only the out of touch media elites think the biggest problems facing America — you know this, this is what they talk about, facing American society today is that there are 11 million illegal immigrants who don't have legal status. And, they also think the biggest thing, and you know this, it's not nuclear, and it's not ISIS, it's not Russia, it's not China, it's global warming.

To all the politicians, donors, and special interests, hear these words from me and all of you today. There is only one core issue in the immigration debate, and that issue is the well being of the American people.

(APPLAUSE)

Nothing even comes a close second. Hillary Clinton, for instance, talks constantly about her fears that families will be separated, but she's not talking about the American families who have been permanently separated from their loved ones because of a preventable homicide, because of a preventable death, because of murder.

No, she's only talking about families who come here in violation of the law. We will treat everyone living or residing in our country with great dignity. So important.

We will be fair, just, and compassionate to all, but our greatest compassion must be for our American citizens.

Thank you.

President Obama and Hillary Clinton have engaged in gross dereliction of duty by surrendering the safety of the American people to open borders, and you know it better than anybody right here in Arizona. You know it.

President Obama and Hillary Clinton support sanctuary cities. They support catch and release on the border. They support visa overstays. They support the release of dangerous, dangerous, dangerous, criminals from detention. And they support unconstitutional executive amnesty.

Hillary Clinton has pledged amnesty in her first 100 days, and her plan will provide Obamacare, Social Security, and Medicare for illegal immigrants, breaking the federal budget.

On top of that she promises uncontrolled, low-skilled immigration that continues to reduce jobs and wages for American workers, and especially for African-American and Hispanic workers within our country. Our citizens.

Most incredibly, because to me this is unbelievable, we have no idea who these people are, where they come from. I always say Trojan horse. Watch what's going to happen, folks. It's not going to be pretty.

This includes her plan to bring in 620,000 new refugees from Syria and that region over a short period of time. And even yesterday, when you were watching the news, you saw thousands and thousands of people coming in from Syria. What is wrong with our politicians, our leaders if we can call them that. What the hell are we doing?

(APPLAUSE)

Hard to believe. Hard to believe. Now that you've heard about Hillary Clinton's plan, about which she has not answered a single question, let me tell you about my plan. And do you notice...

And do you notice all the time for weeks and weeks of debating my plan, debating, talking about it, what about this, what about that. They never even mentioned her plan on immigration because she doesn't want to get into the quagmire. It's a tough one, she doesn't know what she's doing except open borders and let everybody come in and destroy our country by the way.

(APPLAUSE)

While Hillary Clinton meets only with donors and lobbyists, my plan was crafted with the input from Federal Immigration offices, very great people. Among the top immigration experts anywhere in this country, who represent workers, not corporations, very important to us.

I also worked with lawmakers, who've led on this issue on behalf of American citizens for many years. And most importantly I've met with the people directly impacted by these policies. So important.

Number one, are you ready? Are you ready?

(APPLAUSE)

We will build a great wall along the southern border.

(APPLAUSE)

AUDIENCE: Build the wall! Build the wall! Build the wall!

And Mexico will pay for the wall.

(APPLAUSE)

One hundred percent. They don't know it yet, but they're going to pay for it. And they're great people and great leaders but they're going to pay for the wall.

On day one, we will begin working on an impenetrable, physical, tall, power, beautiful southern border wall.

We will use the best technology, including above and below ground sensors that's the tunnels. Remember that, above and below.

(APPLAUSE)

Above and below ground sensors. Towers, aerial surveillance and manpower to supplement the wall, find and dislocate tunnels and keep out criminal cartels and Mexico you know that, will work with us. I really believe it. Mexico will work with us. I absolutely believe it. And especially after meeting with their wonderful, wonderful president today. I really believe they want to solve this problem along with us, and I'm sure they will.

(APPLAUSE)

Number two, we are going to end catch and release. We catch them, oh go ahead. We catch them, go ahead.

(APPLAUSE)

Under my administration, anyone who illegally crosses the border will be detained until they are removed out of our country and back to the country from which they came.

(APPLAUSE)

And they'll be brought great distances. We're not dropping them right across. They learned that. President Eisenhower. They'd drop them across, right across, and they'd come back. And across.

Then when they flew them to a long distance, all of a sudden that was the end. We will take them great distances. But we will take them to the country where they came from, O.K.?

Number three. Number three, this is the one, I think it's so great. It's hard to believe, people don't even talk about it. Zero tolerance for criminal aliens. Zero.

Zero. They don't come in here. They don't come in here.

According to federal data, there are at least two million, two million, think of it, criminal aliens now inside of our country, two million people criminal aliens. We will begin moving them out day one. As soon as I take office. Day one. In joint operation with local, state, and federal law enforcement.

Now, just so you understand, the police, who we all respect — say hello to the police. Boy, they don't get the credit they deserve. I can tell you. They're great people. But the police and law enforcement, they know who these people are.

They live with these people. They get mocked by these people. They can't do anything about these people, and they want to. They know who these people are. Day one, my first hour in office, those people are gone.

(APPLAUSE)

And you can call it deported if you want. The press doesn't like that term. You can call it whatever the hell you want. They're gone.

Beyond the two million, and there are vast numbers of additional criminal illegal immigrants who have fled, but their days have run out in this country. The crime will stop. They're going to be gone. It will be over.

(APPLAUSE)

They're going out. They're going out fast.

Moving forward. We will issue detainers for illegal immigrants who are arrested for any crime whatsoever, and they will be placed into immediate removal proceedings if we even have to do that.

We will terminate the Obama administration's deadly, and it is deadly, non-enforcement policies that allow thousands of criminal aliens to freely roam our streets, walk around, do whatever they want to do, crime all over the place.

Since 2013 alone, the Obama administration has allowed 300,000 criminal aliens to return back into United States communities. These are individuals encountered or identified by ICE, but who were not detained or processed for deportation because it wouldn't have been politically correct.

My plan also includes cooperating closely with local jurisdictions to remove criminal aliens immediately. We will restore the highly successful Secure Communities Program. Good program. We will expand and revitalize the popular 287(g) partnerships, which will help to identify hundreds of thousands of deportable aliens in local jails that we don't even know about.

Both of these programs have been recklessly gutted by this administration. And those were programs that worked.

This is yet one more area where we are headed in a totally opposite direction. There's no common sense, there's no brain power in our administration by our leader, or our leaders. None, none, none.

On my first day in office I am also going to ask Congress to pass Kate's Law, named for Kate Steinle...

(APPLAUSE)

... to ensure that criminal aliens convicted of illegal reentry receive strong mandatory minimum sentences. Strong.

(APPLAUSE)

And then we get them out.

Another reform I'm proposing is the passage of legislation named for Detective Michael Davis and Deputy Sheriff Danny Oliver, two law enforcement officers recently killed by a previously deported illegal immigrant.

The Davis-Oliver bill will enhance cooperation with state and local authorities to

We're going to triple the number of ICE deportation officers.

(APPLAUSE)

Within ICE I am going to create a new special deportation task force focused on identifying and quickly removing the most dangerous criminal illegal immigrants in America who have evaded justice just like Hillary Clinton has evaded justice, O.K.?

(APPLAUSE)

Maybe they'll be able to deport her.

(APPLAUSE)

The local police who know every one of these criminals, and they know each and every one by name, by crime, where they live, they will work so fast. And our local police will be so happy that they don't have to be abused by these thugs anymore.

There's no great mystery to it, they've put up with it for years, and now finally we will turn the tables and law enforcement and our police will be allowed to clear up this dangerous and threatening mess.

We're also going to hire 5,000 more Border Patrol agents.

(APPLAUSE)

Who gave me their endorsement, 16,500 gave me their endorsement.

And put more of them on the border instead of behind desks which is good. We will expand the number of border patrol stations significantly.

I've had a chance to spend time with these incredible law enforcement officers, and I want to take a moment to thank them. What they do is incredible.

(APPLAUSE)

And getting their endorsement means so much to me. More to me really than I

Number four, block funding for sanctuary cities. We block the funding. No more funds.

(APPLAUSE)

We will end the sanctuary cities that have resulted in so many needless deaths. Cities that refuse to cooperate with federal authorities will not receive taxpayer dollars, and we will work with Congress to pass legislation to protect those jurisdictions that do assist federal authorities. Number five, cancel unconstitutional executive orders and enforce all immigration laws.

(APPLAUSE)

We will immediately terminate President Obama's two illegal executive amnesties in which he defied federal law and the Constitution to give amnesty to approximately five million illegal immigrants, five million.

(BOOING)

And how about all the millions that are waiting on line, going through the process legally? So unfair.

Hillary Clinton has pledged to keep both of these illegal amnesty programs, including the 2014 amnesty which has been blocked by the United States Supreme Court. Great.

Clinton has also pledged to add a third executive amnesty. And by the way, folks, she will be a disaster for our country, a disaster in so many other ways.

And don't forget the Supreme Court of the United States. Don't forget that when you go to vote on November 8. And don't forget your Second Amendment. And don't forget the repeal and replacement of Obamacare.

(APPLAUSE)

And don't forget building up our depleted military. And don't forget taking care

(APPLAUSE)

Clinton's plan would trigger a constitutional crisis unlike almost anything we have ever seen before. In effect, she would be abolishing the lawmaking powers of Congress in order to write her own laws from the Oval Office. And you see what bad judgment she has. She has seriously bad judgment.

(BOOING)

Can you imagine? In a Trump administration all immigration laws will be enforced, will be enforced. As with any law enforcement activity, we will set priorities. But unlike this administration, no one will be immune or exempt from enforcement. And ICE and Border Patrol officers will be allowed to do their jobs the way their jobs are supposed to be done.

(APPLAUSE)

Anyone who has entered the United States illegally is subject to deportation. That is what it means to have laws and to have a country. Otherwise we don't have a country.

Our enforcement priorities will include removing criminals, gang members, security threats, visa overstays, public charges. That is those relying on public welfare or straining the safety net along with millions of recent illegal arrivals and overstays who've come here under this current corrupt administration.

(APPLAUSE)

Number six, we are going to suspend the issuance of visas to any place where adequate screening cannot occur.

(APPLAUSE)

According to data provided by the Senate Subcommittee on Immigration, and the national interest between 9/11 and the end of 2014, at least 380 foreign born

now the largest number of people are under investigation for exactly this that we've ever had in the history of our country.

Our country is a mess. We don't even know what to look for anymore, folks. Our country has to straighten out. And we have to straighten out fast.

The number is likely higher. But the administration refuses to provide this information, even to Congress. As soon as I enter office I am going to ask the Department of State, which has been brutalized by Hillary Clinton, brutalized.

(BOOING)

Homeland Security and the Department of Justice to begin a comprehensive review of these cases in order to develop a list of regions and countries from which immigration must be suspended until proven and effective vetting mechanisms can be put in place.

I call it extreme vetting right? Extreme vetting. I want extreme. It's going to be so tough, and if somebody comes in that's fine but they're going to be good. It's extreme.

And if people don't like it, we've got have a country folks. Got to have a country. Countries in which immigration will be suspended would include places like Syria and Libya. And we are going to stop the tens of thousands of people coming in from Syria. We have no idea who they are, where they come from. There's no documentation. There's no paperwork. It's going to end badly folks. It's going to end very, very badly.

For the price of resettling one refugee in the United States, 12 could be resettled in a safe zone in their home region. Which I agree with 100 percent. We have to build safe zones and we'll get the money from Gulf states. We don't want to put up the money. We owe almost $20 trillion. Doubled since Obama took office, our national debt.

But we will get the money from Gulf states and others. We'll supervise it. We'll

Another reform involves new screening tests for all applicants that include, and this is so important, especially if you get the right people. And we will get the right people. An ideological certification to make sure that those we are admitting to our country share our values and love our people.

(APPLAUSE)

Thank you. We're very proud of our country. Aren't we? Really? With all it's going through, we're very proud of our country. For instance, in the last five years, we've admitted nearly 100,000 immigrants from Iraq and Afghanistan. And these two countries according to Pew Research, a majority of residents say that the barbaric practice of honor killings against women are often or sometimes justified. That's what they say.

(APPLAUSE)

That's what they say. They're justified. Right? And we're admitting them to our country. Applicants will be asked their views about honor killings, about respect for women and gays and minorities. Attitudes on radical Islam, which our president refuses to say and many other topics as part of this vetting procedure. And if we have the right people doing it, believe me, very, very few will slip through the cracks. Hopefully, none.

(APPLAUSE)

Number seven, we will insure that other countries take their people back when they order them deported.

(APPLAUSE)

There are at least 23 countries that refuse to take their people back after they've been ordered to leave the United States. Including large numbers of violent criminals, they won't take them back. So we say, O.K., we'll keep them. Not going to happen with me, not going to happen with me.

Due to a Supreme Court decision, if these violent offenders cannot be sent home, our law enforcement officers have to release them into your communities.

(APPLAUSE)

And by the way, the results are horrific, horrific. There are often terrible consequences, such as Casey Chadwick's tragic death in Connecticut just last year. Yet despite the existence of a law that commands the secretary of state to stop issuing visas to these countries.

Secretary Hillary Clinton ignored this law and refused to use this powerful tool to bring nations into compliance. And, they would comply if we would act properly.

In other words, if we had leaders that knew what they were doing, which we don't.

The result of her misconduct was the release of thousands and thousands of dangerous criminal aliens who should have been sent home to their countries. Instead we have them all over the place. Probably a couple in this room as a matter of fact, but I hope not.

According to a report for the Boston Globe from the year 2008 to 2014 nearly 13,000 criminal aliens were released back into U.S. communities because their home countries would not, under any circumstances, take them back. Hard to believe with the power we have. Hard to believe.

We're like the big bully that keeps getting beat up. You ever see that? The big bully that keeps getting beat up.

These 13,000 releases occurred on Hillary Clinton's watch. She had the power and the duty to stop it cold, and she decided she would not do it.

(BOOING)

And Arizona knows better than most exactly what I'm talking about.

Those released include individuals convicted of killings, sexual assaults, and some of the most heinous crimes imaginable.

The Boston Globe writes that a Globe review of 323 criminals released in New England from 2008 to 2012 found that as many as 30 percent committed new offenses, including rape, attempted murder, and child molestation. We take them, we take them.

(BOOING)

Number eight, we will finally complete the biometric entry-exit visa tracking system which we need desperately.

(APPLAUSE)

For years Congress has required biometric entry-exit visa tracking systems, but it has never been completed. The politicians are all talk, no action, never happens. Never happens.

Hillary Clinton, all talk. Unfortunately when there is action it's always the wrong decision. You ever notice?

In my administration we will ensure that this system is in place. And, I will tell you, it will be on land, it will be on sea, it will be in air. We will have a proper tracking system.

Approximately half of new illegal immigrants came on temporary visas and then never, ever left. Why should they? Nobody's telling them to leave. Stay as long as you want, we'll take care of you.

Beyond violating our laws, visa overstays pose — and they really are a big problem — pose a substantial threat to national security. The 9/11 Commission said that this tracking system should be a high priority and would have assisted law enforcement and intelligence officials in August and September 2001 in conducting a search for two of the 9/11 hijackers that were in the United States on expired visas.

And you know what that would have meant, what that could have meant. Wouldn't that have been wonderful, right? What that could have meant.

Last year alone nearly half a million individuals overstayed their temporary visas. Removing these overstays will be a top priority of my administration.

(APPLAUSE)

If people around the world believe they can just come on a temporary visa and never, ever leave, the Obama-Clinton policy, that's what it is, then we have a completely open border, and we no longer have a country.

We must send a message that visa expiration dates will be strongly enforced.

Number nine, we will turn off the jobs and benefits magnet.

(APPLAUSE)

We will ensure that E-Verify is used to the fullest extent possible under existing law, and we will work with Congress to strengthen and expand its use across the country.

Immigration law doesn't exist for the purpose of keeping criminals out. It exists to protect all aspects of American life. The work site, the welfare office, the education system, and everything else.

That is why immigration limits are established in the first place. If we only enforced the laws against crime, then we have an open border to the entire world. We will enforce all of our immigration laws.

(APPLAUSE)

And the same goes for government benefits. The Center for Immigration Studies estimates that 62 percent of households headed by illegal immigrants use some form of cash or non-cash welfare programs like food stamps or housing assistance.

Those who abuse our welfare system will be priorities for immediate removal.

(APPLAUSE)

Number 10, we will reform legal immigration to serve the best interests of America and its workers, the forgotten people. Workers. We're going to take care of our workers.

And by the way, and by the way, we're going to make great trade deals. We're going to renegotiate trade deals. We're going to bring our jobs back home. We're going to bring our jobs back home.

We have the most incompetently worked trade deals ever negotiated probably in the history of the world, and that starts with Nafta. And now they want to go TPP, one of the great disasters.

We're going to bring our jobs back home. And if companies want to leave Arizona and if they want to leave other states, there's going to be a lot of trouble for them. It's not going to be so easy. There will be consequence. Remember that. There will be consequence. They're not going to be leaving, go to another country, make the product, sell it into the United States, and all we end up with is no taxes and total unemployment. It's not going to happen. There will be consequences.

(APPLAUSE)

We've admitted 59 million immigrants to the United States between 1965 and 2015. Many of these arrivals have greatly enriched our country. So true. But we now have an obligation to them and to their children to control future immigration as we are following, if you think, previous immigration waves.

We've had some big waves. And tremendously positive things have happened. Incredible things have happened. To ensure assimilation we want to ensure that it works. Assimilation, an important word. Integration and upward mobility.

(APPLAUSE)

Within just a few years immigration as a share of national population is set to break all historical records. The time has come for a new immigration commission to develop a new set of reforms to our legal immigration system in order to achieve the following goals.

To keep immigration levels measured by population share within historical norms. To select immigrants based on their likelihood of success in U.S. society and their ability to be financially self- sufficient.

(APPLAUSE)

We take anybody. Come on in, anybody. Just come on in. Not anymore.

You know, folks, it's called a two-way street. It is a two-way street, right? We need a system that serves our needs, not the needs of others. Remember, under a Trump administration it's called America first. Remember that.

(APPLAUSE)

To choose immigrants based on merit. Merit, skill, and proficiency. Doesn't that sound nice? And to establish new immigration controls to boost wages and to ensure that open jobs are offered to American workers first. And that in particular African-American and Latino workers who are being shut out in this process so unfairly.

(APPLAUSE)

And Hillary Clinton is going to do nothing for the African-American worker, the Latino worker. She's going to do nothing. Give me your vote, she says, on November 8th. And then she'll say, so long, see you in four years. That's what it is.

She is going to do nothing. And just look at the past. She's done nothing. She's been there for 35 years. She's done nothing. And I say what do you have to lose? Choose me. Watch how good we're going to do together. Watch.

(APPLAUSE)

national interest. We've been living under outdated immigration rules from decades ago. They're decades and decades old.

To avoid this happening in the future, I believe we should sunset our visa laws so that Congress is forced to periodically revise and revisit them to bring them up to date. They're archaic. They're ancient. We wouldn't put our entire federal budget on auto pilot for decades, so why should we do the same for the very, very complex subject of immigration?

So let's now talk about the big picture. These 10 steps, if rigorously followed and enforced, will accomplish more in a matter of months than our politicians have accomplished on this issue in the last 50 years. It's going to happen, folks. Because I am proudly not a politician, because I am not behold to any special interest, I've spent a lot of money on my campaign, I'll tell you. I write those checks. Nobody owns Trump.

I will get this done for you and for your family. We'll do it right. You'll be proud of our country again. We'll do it right. We will accomplish all of the steps outlined above. And, when we do, peace and law and justice and prosperity will prevail. Crime will go down. Border crossings will plummet. Gangs will disappear.

And the gangs are all over the place. And welfare use will decrease. We will have a peace dividend to spend on rebuilding America, beginning with our American inner cities. We're going to rebuild them, for once and for all.

For those here illegally today, who are seeking legal status, they will have one route and one route only. To return home and apply for reentry like everybody else, under the rules of the new legal immigration system that I have outlined above. Those who have left to seek entry —

Thank you.

Thank you. Thank you. Those who have left to seek entry under this new system — and it will be an efficient system — will not be awarded surplus visas, but will have

future.TRUMP: We will break the cycle of amnesty and illegal immigration. We will break the cycle. There will be no amnesty.

(APPLAUSE)

Our message to the world will be this. You cannot obtain legal status or become a citizen of the United States by illegally entering our country. Can't do it.

(APPLAUSE)

This declaration alone will help stop the crisis of illegal crossings and illegal overstays, very importantly. People will know that you can't just smuggle in, hunker down and wait to be legalized. It's not going to work that way. Those days are over.

(APPLAUSE)

Importantly, in several years when we have accomplished all of our enforcement and deportation goals and truly ended illegal immigration for good, including the construction of a great wall, which we will have built in record time. And at a reasonable cost, which you never hear from the government.

(APPLAUSE)

And the establishment of our new lawful immigration system then and only then will we be in a position to consider the appropriate disposition of those individuals who remain.

That discussion can take place only in an atmosphere in which illegal immigration is a memory of the past, no longer with us, allowing us to weigh the different options available based on the new circumstances at the time.

(APPLAUSE)

Right now, however, we're in the middle of a jobs crisis, a border crisis and a terrorism crisis like never before. All energies of the federal government and the legislative process must now be focused on immigration security. That is the only

Whether it's dangerous materials being smuggled across the border, terrorists entering on visas or Americans losing their jobs to foreign workers, these are the problems we must now focus on fixing. And the media needs to begin demanding to hear Hillary Clinton's answer on how her policies will affect Americans and their security.

(APPLAUSE)

These are matters of life and death for our country and its people, and we deserve answers from Hillary Clinton. And do you notice, she doesn't answer.

She didn't go to Louisiana. She didn't go to Mexico. She was invited.

She doesn't have the strength or the stamina to make America great again. Believe me.

(APPLAUSE)

What we do know, despite the lack of media curiosity, is that Hillary Clinton promises a radical amnesty combined with a radical reduction in immigration enforcement. Just ask the Border Patrol about Hillary Clinton. You won't like what you're hearing.

The result will be millions more illegal immigrants; thousands of more violent, horrible crimes; and total chaos and lawlessness. That's what's going to happen, as sure as you're standing there.

This election, and I believe this, is our last chance to secure the border, stop illegal immigration and reform our laws to make your life better. I really believe this is it. This is our last time. November 8. November 8. You got to get out and vote on November 8.

(APPLAUSE)

It's our last chance. It's our last chance. And that includes Supreme Court

I am going to ask — these are really special people that I've gotten to know. I'm going to ask all of the "Angel Moms" to come join me on the stage right now.

These are amazing women.

(APPLAUSE)

These are amazing people.

(APPLAUSE)

AUDIENCE: USA! USA! USA!

I've become friends with so many. But Jamiel Shaw, incredible guy, lost his son so violently. Say just a few words about your child.

(SPEAKER'S VOICE): My son Ronald da Silva (ph) was murdered April 27, 2002 by an illegal alien who had been previously deported. And what so — makes me so outrageous is that we came here legally.

Thank you, Mr. Trump. I totally support you. You have my vote.

TRUMP: Thank you, thank you.

(SPEAKER'S VOICE): God bless you.

(APPLAUSE)

TRUMP: You know what? Name your child and come right by. Go ahead.

(SPEAKER'S VOICE): Laura Wilkerson. And my son was Joshua Wilkerson. He was murdered by an illegal in 2010. And I personally support Mr. Trump for our next president.

(APPLAUSE)

(SPEAKER'S VOICE): My name is Ruth Johnston Martin (ph). My husband

2002. And I support this man who's going to change this country for the better. God bless you.

(APPLAUSE)

(SPEAKER'S VOICE): My name Maureen Maloney (ph), and our son Matthew Denise (ph) was 23 years old when he was dragged a quarter of a mile to his death by an illegal alien, while horrified witnesses were banging on the truck trying to stop him.

(APPLAUSE)

(SPEAKER'S VOICE): Our son Matthew Denise, if Donald Trump were president in 2011, our son Matthew Denise and other Americans would be alive today.

(APPLAUSE)

(SPEAKER'S VOICE): Thank you. My name is Kathy Woods (ph). My son Steve (ph), a high school senior, 17 years old, went to the beach after a high school football game. A local gang came along, nine members. The cars were battered to — like war in Beirut. And all I can say is they murdered him and if Mr. Trump had been in office then the border would have been secure and our children would not be dead today.

(APPLAUSE)

(SPEAKER'S VOICE): Hi. My name is Brenda Sparks (ph), and my son is named Eric Zapeda (ph). He was raised by a legal immigrant from Honduras only to be murdered by an illegal in 2011. His murderer never did a second in handcuffs or jail. Got away with killing an American. So I'm voting for trump. And by the way, so is my mother.

(APPLAUSE)

Little Rock, Arkansas. Thank you. And if you don't vote Trump, we won't have a country. Trump all the way.

(APPLAUSE)

(SPEAKER'S VOICE): I'm Shannon Estes (ph). And my daughter Shaley Estes (ph), 22 years old, was murdered here in Phoenix last July 24 by a Russian who overstayed his visa. And vote Trump.

(APPLAUSE)

(SPEAKER'S VOICE): I'm Mary Ann Mendoza, the mother of Sergeant Brandon Mendoza, who was killed in a violent head-on collision in Mesa.

Thank you.

I want to thank Phoenix for the support you've always given me, and I want to tell you what. I'm supporting the man who will — who is the only man who is going to save our country, and what we our going to be leaving our children.

(APPLAUSE)

(SPEAKER'S VOICE): I'm Steve Ronnebeck, father of Grant Ronnebeck, 21 years old. Killed January 22, 2015 by an illegal immigrant who shot him in the face. I truly believe that Mr. Trump is going to change things. He's going to fight for my family, and he's going to fight for America.

(APPLAUSE)

TRUMP: These are amazing people, and I am not asking for their endorsement, believe me that. I just think I've gotten to know so many of them, and many more, from our group. But they are incredible people and what they're going through is incredible, and there's just no reason for it. Let's give them a really tremendous hand.

(APPLAUSE)

So, now is the time for these voices to be heard. Now is the time for the media to begin asking questions on their behalf. Now is the time for all of us as one country, Democrat, Republican, liberal, conservative to band together to deliver justice, and safety, and security for all Americans.

Let's fix this horrible, horrible, problem. It can be fixed quickly. Let's our secure our border.

(APPLAUSE)

Let's stop the drugs and the crime from pouring into our country. Let's protect our social security and Medicare. Let's get unemployed Americans off the welfare and back to work in their own country.

This has been an incredible evening. We're going to remember this evening. November 8, we have to get everybody. This is such an important state. November 8 we have to get everybody to go out and vote.

We're going to bring — thank you, thank you. We're going to take our country back, folks. This is a movement. We're going to take our country back.

Thank you.

(APPLAUSE)

Thank you.

This is an incredible movement. The world is talking about it. The world is talking about it and by the way, if you haven't been looking to what's been happening at the polls over the last three or four days I think you should start looking. You should start looking.

(APPLAUSE)

Together we can save American lives, American jobs, and American futures. Together we can save America itself. Join me in this mission, we're going to make

Thank you. I love you. God bless you, everybody. God bless you. God bless you, thank you.

Exhibit KK

JANUARY 30, 2017

Key facts about refugees to the U.S.

BY JENS MANUEL KROGSTAD (HTTP://WWW.PEWRESEARCH.ORG/AUTHOR/JKROGSTAD/) AND JYNNAH RADFORD (HTTP://WWW.PEWRESEARCH.ORG/AUTHOR/JRADFORD/)

Syrian refugees take notes during their vocational ESL class at the International Rescue Committee center in San Diego on Aug. 31, 2016. (Frederic J. Brown/AFP/Getty Images)

An executive order (https://www.nytimes.com/2017/01/27/us/politics/refugee-muslim-executive-order-trump.html) signed Jan. 27 by President Donald Trump suspends refugee admissions for 120 days while security procedures are reviewed, though the resettlement of persecuted religious minorities may continue during this time on a case-by-case basis. Under the plan, the maximum number of refugees allowed into the U.S. in fiscal 2017 will likely decline from 110,000 to 50,000. Separately, admission of Syrian refugees will be suspended pending a revision of security screening measures.

About 3 million refugees have been resettled in the U.S. since Congress passed the Refugee Act of 1980 (https://www.acf.hhs.gov/orr/resource/the-refugee-act) , which created the Federal Refugee Resettlement Program and the current national standard for the screening and admission of refugees into the country.

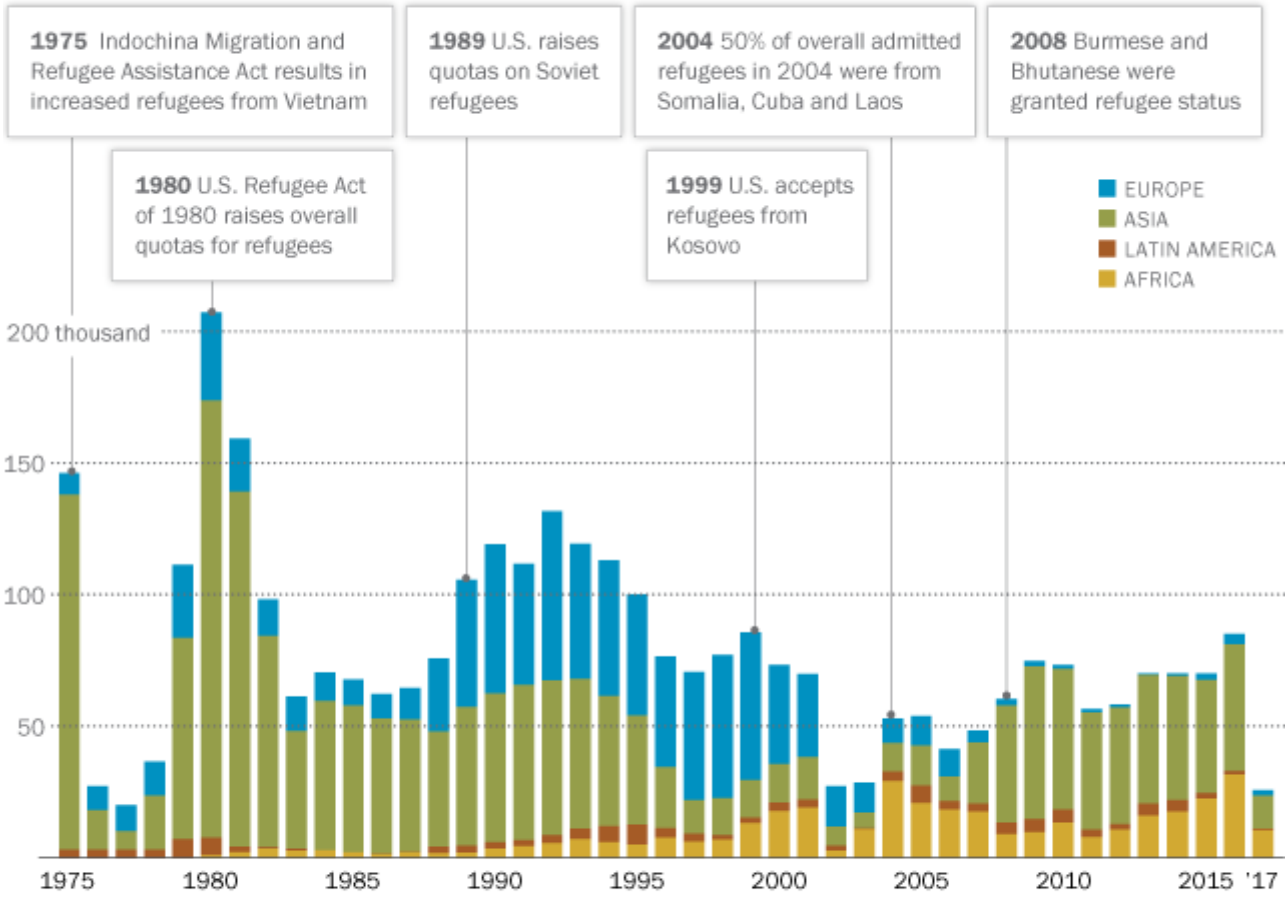
This is not the first time U.S. refugee admissions have been stopped. After the 2001 terrorist attacks, the U.S. largely suspended refugee resettlement for three months while security measures were examined. Today, the refugee admissions process (https://www.state.gov/j/prm/ra/admissions/) can take up to 18 to 24 months, and includes a review of applications by the State Department and other federal agencies, in-person interviews, health screenings and, for many, cultural orientations.

Here are key facts from our research about refugees entering the United States:

1 Historically, **the total number of refugees coming to the U.S. has fluctuated** (http://www.pewresearch.org/fact-tank/2016/06/17/where-refugees-to-the-u-s-come-from/) **along with global events and U.S. priorities**. From 1990 to 1995, an average of about 112,000 refugees arrived in the U.S. each year, with many coming from the former Soviet Union. However, refugee admissions dropped off to fewer than 27,000 in 2002 following the terrorist attacks in 2001. This number has since trended up.

The shifting origins of refugees to the U.S. over time

Number of refugees admitted to the U.S., by region of origin of principal applicant and fiscal year



Source: Refugee Processing Center, 1975-2016.
Note: Data do not include special immigrant visas and certain humanitarian parole entrants. Does not include refugees admitted under the Private Sector Initiative. Europe includes former Soviet Union states. Asia includes Middle Eastern and North African countries. Africa includes sub-Saharan Africa, but also Sudan and South Sudan. Latin America includes Caribbean. Data for fiscal 2017 are through Dec. 31, 2016; fiscal 2017 began Oct. 1, 2016.

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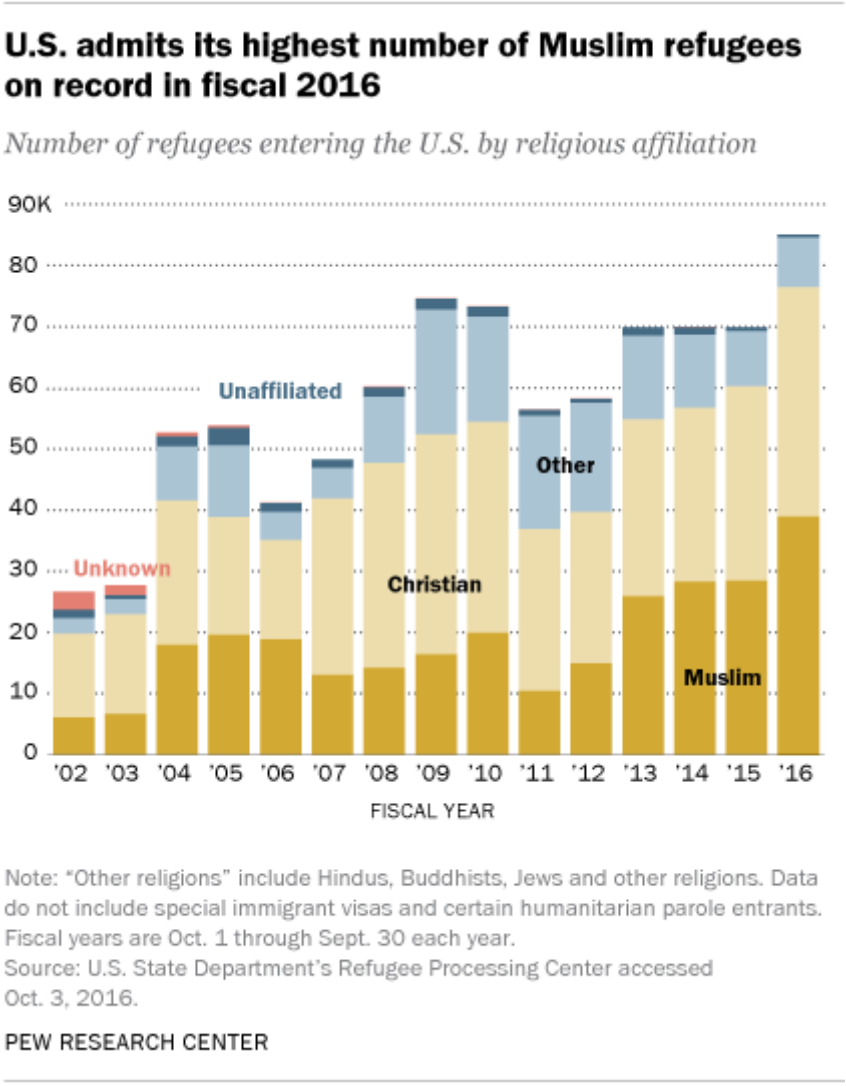
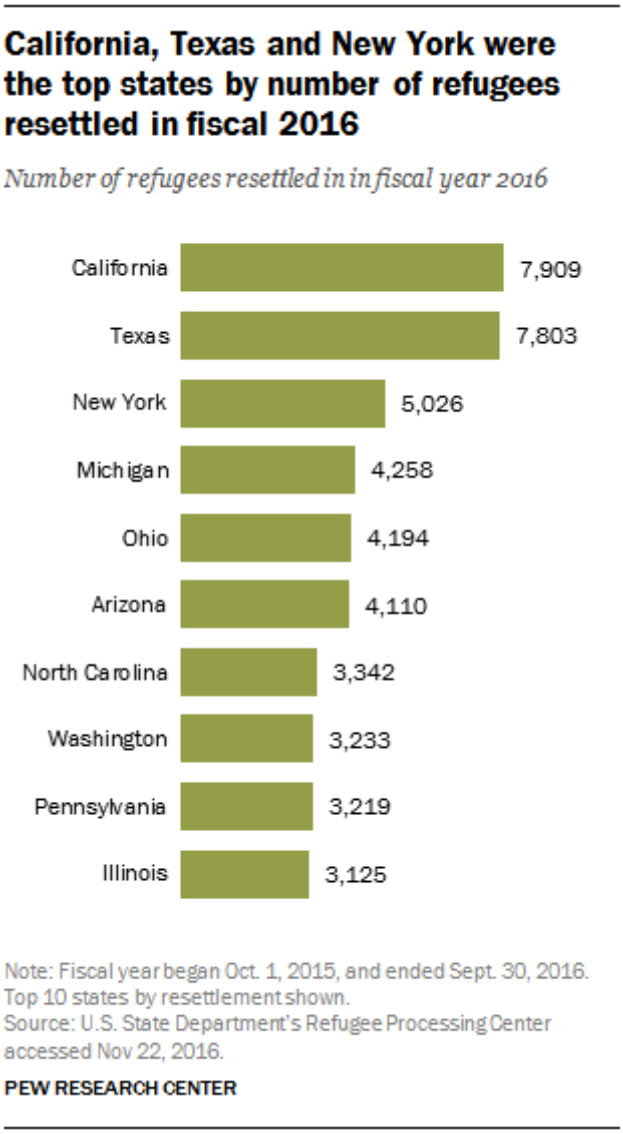
2 **The U.S. admitted 84,995 refugees in the fiscal year ending in September 2016, the most in any year during the Obama administration**. An additional 31,143 refugees have been admitted to the U.S. from Oct. 1 through Jan. 24, including more than 1,136 refugee admissions since Trump became president on Jan. 20. Though refugee admissions would drastically drop under Trump's proposal, the U.S. had been on pace to reach the Obama administration's goal of admitting 110,000 refugees (http://www.pewresearch.org/fact-tank/2017/01/20/u-s-on-track-to-reach-obama-administrations-goal-of-resettling-110000-refugees-this-year/) in fiscal 2017, which would have been the highest number since 1994.

3 In fiscal 2016, **the highest number of refugees from any nation came from the Democratic Republic of Congo**. The Congo accounted for 16,370 refugees followed by Syria (12,587), Burma (aka Myanmar, with 12,347), Iraq (9,880) and Somalia (9,020). Over the past decade, the largest numbers of refugees have come from Burma (159,692) and Iraq (135,643).

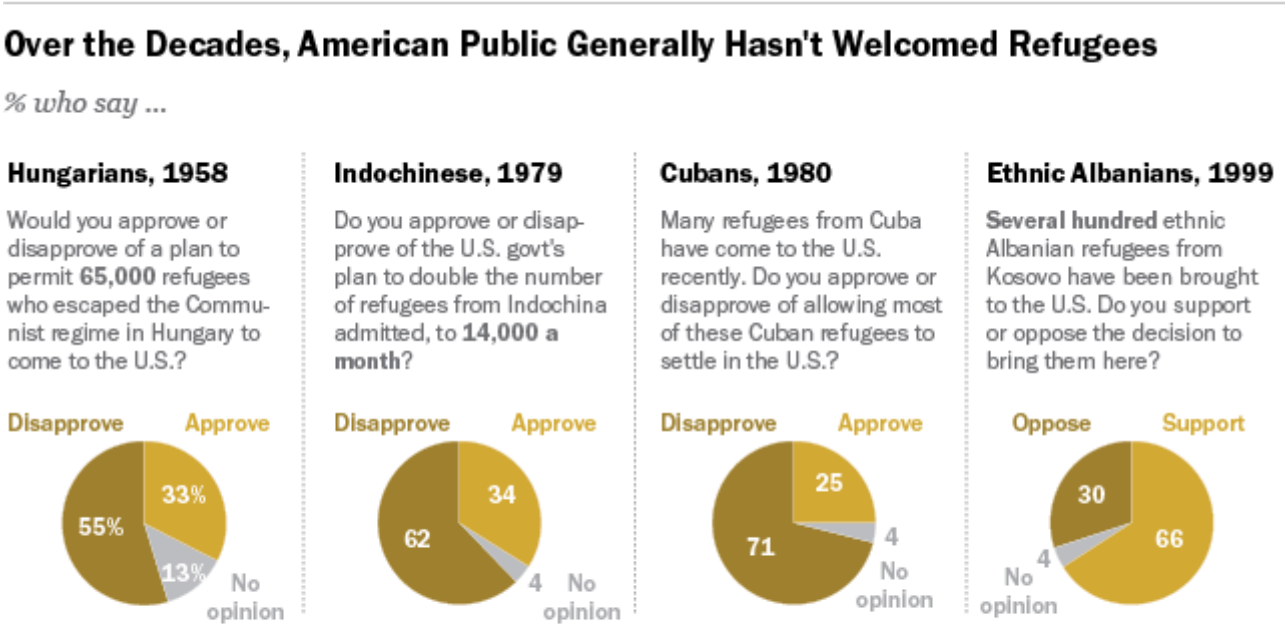


4 **Nearly 39,000 Muslim refugees** (http://www.pewresearch.org/fact-tank/2016/10/05/u-s-admits-record-number-of-muslim-refugees-in-2016/) **entered the U.S. in fiscal 2016, the highest number on record,** according to a Pew Research Center analysis of data from the State Department's Refugee Processing Center (http://ireports.wrapsnet.org/Interactive-Reporting/EnumType/Report?ItemPath=/rpt_WebArrivalsReports/MX%20-%20Arrivals%20by%20Nationality%20and%20Religion) . Muslims made up nearly half (46%) of refugee admissions, a higher share than for Christians, who accounted for 44% of refugees admitted. Muslims exceeded Christians on this measure for the first time since 2006, when a large number of Somali refugees entered the U.S. From fiscal years 2002 to 2016, the U.S. admitted 399,677 Christian refugees and 279,339 Muslim refugees, meaning that 46% of all refugees who have entered the U.S. during this time have been Christian while 32% have been Muslim.



(http://www.pewresearch.org/fact-tank/2016/12/06/just-10-states-resettled-more-than-half-of-recent-refugees-to-u-s/ft_16-12-02_usrefugees_total/) **California, Texas and New York** (http://www.pewresearch.org/fact-tank/2016/12/06/just-10-states-resettled-more-than-half-of-recent-refugees-to-u-s/) **resettled nearly a quarter of all refugees in fiscal 2016**, together taking 20,738 refugees. Other states that received at least 3,000 refugees included Michigan, Ohio, Arizona, North Carolina, Washington, Pennsylvania and Illinois. By contrast, Arkansas, the District of Columbia and Wyoming each resettled fewer than 10 refugees. Delaware and Hawaii took in no refugees.

6 **The U.S. public has seldom approved of accepting large numbers of refugees.** In October 2016, 54% of registered voters said the U.S. (http://www.people-press.org/2016/10/27/7-opinions-on-u-s-international-involvement-free-trade-isis-and-syria-russia-and-china/) does not have a responsibility to accept refugees from Syria, while 41% said it does. There was a wide partisan gap on this measure, with 87% of Trump supporters saying the U.S. doesn't have a responsibility to accept Syrians, compared with only 27% of Clinton supporters who said the same. U.S. public opinion polls (http://www.pewresearch.org/fact-tank/2015/11/19/u-s-public-seldom-has-welcomed-refugees-into-country/) from previous decades show Americans have largely opposed admitting large numbers of refugees from countries where people are fleeing war and oppression.



Note: This is an update of a post originally published on Jan. 27, 2017.

Jens Manuel Krogstad (http://www.pewresearch.org/author/jkrogstad/) *is a writer/editor focusing on Hispanics, immigration and demographics at Pew Research Center.*

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POSTS | EMAIL

60 Comments

Anonymous • 1 month ago (#comment-674937)

Believe or not, we know that most of “so-called Congolese Refugees” are actually Rwandese from RWANDA. They will all tell you that they are from Rutshuru or Mulenge, because these are the regions that were infiltrated by them. The Congolese citizenship is inherited from blood and as a rule in the East, you have to proof from which family you come

Exhibit LL

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

HAMEED KHALID DARWEESH, et al., on behalf of themselves and others similarly situated, *Petitioners*, v. DONALD J. TRUMP, President of the United States, et al., *Respondents*.	Case No. 1:17-cv-00480 (Amon, J.) Date: February 16, 2017

BRIEF OF FORMER NATIONAL SECURITY OFFICIALS AS AMICI CURIAE IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICI CURIAE*

Amici curiae are former national security, foreign policy and intelligence officials who have worked on pressing national security matters in the U.S. government. A number of amici have worked at senior levels in administrations of both political parties. Amici have collectively devoted decades to combatting the various terrorist threats that the United States faces in an increasingly dangerous and dynamic world. Amici have all held the highest security clearances. A significant number were current on active intelligence regarding credible terrorist threat streams directed against the United States as recently as one week before the issuance of the January 27, 2017 Executive Order on "Protecting the Nation from Foreign Terrorist Entry into the United States" ("Order").[1]

Amici 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. Amici are nevertheless not aware of any specific threat that would justify the broad bans on entry into the United States established by this Order. In amici's professional opinion, the Order

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[1] This amicus brief derives from the sworn Joint Declaration of ten of the signatories, first submitted in *Washington v. Trump*, No. 17-35105, __ F.3d__, 2017 WL 526497, slip op. (9th Cir. Feb. 9, 2017) [hereinafter "Ninth Circuit Opinion"], and also attached to the Petitioners' motion.

cannot be justified on national security or foreign policy grounds, and ultimately, the Order undermines—rather than enhances—the security of the United States.

ARGUMENT

The Order serves no rational national security or foreign policy purpose. Certainly, 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 who have already been vetted by standing procedures that Respondents have not shown to be inadequate.

Left in place, the Order could do long-term damage to our national security and foreign policy interests. It will endanger troops in the field, and disrupt key counterterrorism and national security partnerships. It will aid the propaganda effort of the Islamic State in Iraq and the Levant ("ISIL") and support its recruitment message. By feeding the narrative that the United States is at war with Islam, the Order will impair relationships with the very Muslim communities that law enforcement professionals rely on to address the threat of terrorism. And it will have a damaging humanitarian and economic impact.

In prior cases, courts have deferred to the "considered judgment" of the President only after administrative records have revealed that the President's decision rested on counsel from expert agencies with broad experience on the

matters presented. Here, there is no evidence that the Order was subjected to an interagency legal and policy process. 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, and values.

I. THE EXECUTIVE ORDER CANNOT BE JUSTIFIED ON NATIONAL SECURITY OR FOREIGN POLICY GROUNDS.

On January 27, 2017, President Donald Trump signed an executive order imposing a number of bans on the entry of non-citizens into the United States.[2] The President's stated goals for the Order were to "protect[] the nation from foreign terrorist entry into the United States" and to "ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism."[3]

As former U.S. officials responsible for the national security and foreign relations of the United States in multiple presidential administrations, we have devoted our careers to the same goals. Our first priority has always been the

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[2] Exec. Order No. 13,769, 82 Fed. Reg. 8,977 (Jan. 27, 2017). The Order bans entry into the United States by nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen for 90 days, bans all refugee admissions for 120 days, and indefinitely bans the entry of all Syrian refugees. The Order exempts diplomats (from the ban on entry for nationals) and refugees whom on a case-by-case basis are deemed to be in the national interest (from the ban on all refugee admissions for 120 days).

[3] *Id.*

safety and welfare of the American people. Yet the Order bears no rational relation to the President's stated aims. It targets countries whose nationals have committed no lethal terrorist attacks on U.S. soil in the last forty years. It bars the entry of refugees—the vast majority of whom are vulnerable women and children[4]—when in the modern era of screening, no refugee has ever killed a U.S. citizen in a terrorist attack in the United States.[5]

Even now, weeks after the signing of the Order, Respondents have supplied no information that would justify such a categorical ban. They identify no basis for believing that there is a heightened or particularized threat from these seven countries. They make no showing that our immigration system has suffered from inadequate consideration of national origin or religious affiliation, and identify no flaw in the current individualized vetting procedures—developed by national security officials across several presidential administrations in response to particular threats identified by U.S. intelligence.[6]

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[4] U.S. Dep't of State, *The Refugee Processing and Screening System*, https://www.state.gov/documents/organization/266671.pdf.

[5] Alex Nowrasteh, *Little National Security Benefit to Trump's Executive Order on Immigration*, CATO at Liberty (Jan. 25, 2017) [hereinafter "Nowrasteh 2017"].

[6] Ninth Circuit Opinion, *supra* note 1, at 26 ("Although we agree that the Government's interest in combating terrorism is an urgent objective of the highest order, the Government has done little more than reiterate that fact." (internal citations and quotation marks omitted)); *Aziz v. Trump*, No. 1:17-cv-00116-LMB-TCB, __ F.Supp.3d__ at 6, 2017 WL 580855 (E.D. Va. Feb. 13, 2017)

A. There is no national security or foreign policy basis for suspending entry of aliens from the seven named countries.

No rational national security purpose is served by the Order's blanket ban on entry into the United States of nationals of Iraq, Syria, Sudan, Iran, Somalia, Libya, and Yemen.

First, not a single American has died in a terrorist attack on U.S. soil at the hands of citizens of these seven nations in the last forty years.[7] The Order opens with a reference to the September 11, 2001 attacks, and White House officials have since pointed to those attacks as justification for its restrictions.[8] But none of the September 11 hijackers were citizens of the seven targeted countries.[9] In fact, the overwhelming majority of individuals who were charged with—or who died in the course of committing—terrorist-related crimes inside the United States since September 11 have been U.S. citizens or legal permanent residents.[10]

("Defendants . . . have not offered any evidence to identify the national security concerns that allegedly prompted this EO, or even described the process by which the president concluded that this action was necessary." (citations omitted)).

[7] Nowrasteh 2017, *supra* note 5.

[8] Jan. 27 Order §1; Sabrina Siddiqui, *Trump Signs 'Extreme Vetting' Executive Order for People Entering the US*, The Guardian (Jan. 27, 2017).

[9] Central Intelligence Agency, *11 September 2001 Hijackers*, https://www.cia.gov/news-information/speeches-testimony/2002/DCI_18_June_testimony_new.pdf.

[10] *See* Peter Bergen et al., *Terrorism in America After 9/11,* New America Foundation, www.newamerica.org/in-depth/terrorism-in-america/; George Washington University Program on Extremism, *ISIS in America: From Retweets to*

Second, Respondents have identified no information or basis for believing that a heightened or particularized future threat has suddenly arisen from the seven named countries. Those of us who were current on active intelligence concerning all credible terrorist threat streams directed against the United States as of January 20, 2017 know of no specific threat—just seven days later—that would justify the ban of these seven countries. The Order itself points to no such factual basis, and Respondents have offered none.[11]

Third, Respondents have identified no flaw in existing procedures that would justify the bans in the Order. They offer no reason to shift abruptly to group-based bans, when the United States already has a tested system of individualized vetting, developed and implemented by national security professionals across the government. Since the September 11, 2001 attacks, the United States has developed a rigorous system of security vetting, leveraging the

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Raqqa 6 (Dec. 2015), https://cchs.gwu.edu/isis-in-america; Nora Ellingsten, *It's Not Foreigners Who Are Plotting Here: What the Data Really Show*, Lawfare (Feb. 7, 2017); *see also* Felicia Schwartz & Ben Kesling, *Countries Under U.S. Entry Ban Aren't Main Sources of Terror Attacks*, The Wall St. J. (Jan. 29, 2017). One other set of data, relied on by White House officials, has been widely criticized for its definition of terrorism-related offenses, among other issues. *See, e.g.,* Molly Redden, *Trump Powers "Will Not be Questioned" on Immigration, Senior Official Says*, The Guardian (Feb. 12, 2007), https://www.theguardian.com/us-news/2017/feb/12/trump-administration-considering-narrower-travel-ban.

[11] Oral Argument, *Washington v. Trump*, No. 17-35105, at 9:30, http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000010885.

full capabilities of the law enforcement and intelligence communities. This vetting system is applied to travelers not once, but multiple times, and it is continually re-evaluated to ensure its effectiveness. Successive administrations have strengthened the vetting process through robust information-sharing and data integration. This allows the government to identify potential terrorists without resorting to blanket bans on countries or refugees.[12]

Finally, the Order cannot be defended as a mere continuation of recent U.S. counterterrorism policy. Because threat streams constantly evolve, we sought continually to improve vetting when serving as national security officials. That effort included reviews in 2011 and 2015-16, when the U.S. government acted in response to particular threats identified by intelligence sources. In 2011, after receiving derogatory information regarding two Iraqi nationals who had entered the United States as refugees, the U.S. government undertook an extensive interagency review of its vetting system. The flow of refugees from Iraq slowed during the pendency of the review,[13] and upon completion of the review, the U.S.

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[12] *See, e.g., The Security of U.S. Visa Programs: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2016) (written statements of David Donahue and Sarah R. Saldaña), https://www.hsgac.senate.gov/hearings/the-security-of-us-visa-programs.

[13] Refugee Processing Center, Interactive Reporting, http://ireports.wrapsnet.org/Interactive-Reporting/EnumType/Report?ItemPath=/rpt_WebArrivalsReports/MX%20-%20Arrivals%20by%20Nationality%20and%20Religion; Jon Finer, *Sorry, Mr.*

government implemented new, stronger security procedures in areas of identified vulnerability.[14]

Likewise, in late 2015 and early 2016, in response to the emerging threat posed by ISIL, the U.S. government took several steps to strengthen the Visa Waiver Program, which allows citizens from thirty-eight approved countries to travel to the United States without first obtaining a visa. President Obama introduced a series of new measures to enhance security screenings and traveler risk assessments in the program and bolster our relationship with partner countries.[15] Around the same time, President Obama signed into law a statute that removed from the Visa Waiver Program those nationals of existing Visa Waiver Program countries who: (1) had been present in Iraq, Syria, Iran or Sudan after

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President: The Obama Administration Did Nothing Similar to Your Immigration Ban, Foreign Policy (Jan. 30, 2017).

[14] *Ten Years After 9/11: Preventing Terrorist Travel, Hearing Before the United States S. Comm. on Homeland Sec. and Governmental Affairs*, 112th Cong. 522 (2011) (written statements of Rand Beers and Janice L. Jacobs), https://www.hsgac.senate.gov/hearings/ten-years-after-9/11-preventing-terrorist-travel; Andorra Bruno, *Iraqi and Afghan Special Immigrant Visa Programs*, Cong. Research Serv., 14 (2016).

[15] The White House, *Visa Waiver Program Enhancements* (Nov. 30, 2015), https://obamawhitehouse.archives.gov/the-press-office/2015/11/30/fact-sheet-visa-waiver-program-enhancements; U.S. Dep't of Homeland Security, *DHS Announces Further Travel Restrictions for the Visa Waiver Program* (Feb. 18, 2016), https://www.dhs.gov/news/2016/02/18/dhs-announces-further-travel-restrictions-visa-waiver-program.

March 1, 2011, or (2) were dual nationals of one of those four countries.[16] Several months later, the Secretary of Homeland Security—acting under the new statute and in consultation with the Director of National Intelligence and the Secretary of State—expanded the list of four countries to include Yemen, Libya and Somalia.[17]

Contrary to Respondents' claims, these previous reforms provide no justification for a blanket, group-based ban on the entry of nationals from these seven countries. The enhancement of security in the refugee system allowed for *more searching, individualized vetting* of travelers, the opposite of the categorical ban in this Order. Likewise, the reforms to the Visa Waiver Program did not automatically bar anyone—including nationals of any country—from travel to the United States. The affected individuals were simply required to obtain *individually-vetted visas* before entering the United States, just as nationals from the more than 150 other nations not currently part of the Visa Waiver Programs must do.

To keep our country safe from terrorist threats, the U.S. government must gather all credible evidence about growing threat streams—including through the

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[16] 8 U.S.C. § 1187; U.S. Dep't of State, *Visa Waiver Program*, https://travel.state.gov/content/visas/en/visit/visa-waiver-program.html.

[17] The exemptions for Yemen, Libya and Somalia only applied to those who had traveled to or been present in one of those countries, not dual nationals. U.S. Dep't of Homeland Security, *DHS Announces Further Travel Restrictions for the Visa Waiver Program*, *supra* note 15.

best available intelligence—to thwart those threats before they ripen. Through the years, national security-based immigration restrictions have: (1) responded to specific, credible threats based on individualized information, (2) rested on the best available intelligence, and (3) been subject to thorough interagency legal and policy review. The present Order does not rest on such tailored grounds, but rather on (1) generalized bans, (2) that are not supported by any new intelligence that Respondents have cited or of which we are aware, and (3) were not vetted through careful interagency legal and policy review.

B. The suspension of refugee admissions is not justified by national security or foreign policy concerns.

The Order's 120-day ban on refugee admissions, and its indefinite ban on Syrian refugee admissions, serve no national security or foreign policy purpose. We know of no factual basis for Respondents' claim that refugees pose a particular security threat to the United States that would justify the Order's categorical bans.

From 1975 to the end of 2015, over three million refugees have been admitted to the United States. According to a recent study, only three have killed people in terrorist attacks on U.S. soil.[18] All three were Cuban refugees, who murdered three people in two attacks in the 1970s. Critically, these refugees were admitted and carried out their crimes before the creation of the modern refugee

[18] Alex Nowrasteh, *Terrorism and Immigration: A Risk Analysis*, Cato Institute (Sept. 13, 2016).

vetting system in 1980.[19] No refugee has killed an American in a terrorist attack in the United States since that system was put in place.[20] According to the study, over that same period, only twenty refugees were convicted of any terrorism-related crimes on U.S. soil at all.[21]

In part, this is because refugees already receive the most thorough vetting of any travelers to the United States.[22] Refugee candidates are vetted recurrently throughout the resettlement process, as "pending applications continue to be checked against terrorist databases, to ensure new, relevant terrorism information has not come to light."[23] By the time refugees referred by the United Nations High Commissioner for Refugees ("UNHCR") are approved for resettlement in the United States, they have been reviewed not only by UNHCR but also by the National Counterterrorism Center, the Federal Bureau of Investigation, the Department of Homeland Security, the Department of Defense, the Department of State and the U.S. intelligence community more broadly.[24]

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[19] *Id.*

[20] *Id.*

[21] *Id.; see also* Nowrasteh 2017, *supra* note 5.

[22] U.S. Dep't of State, *U.S. Refugee Admissions Program FAQs*, https://www.state.gov/j/prm/releases/factsheets/2017/266447.htm.

[23] Amy Pope, *The Screening Process for Refugee Entry into the United States* (Nov. 20, 2015), https://obamawhitehouse.archives.gov/blog/2015/11/20/infographic-screening-process-refugee-entry-united-states.

[24] U.S. Dep't of State, *U.S. Refugee Admissions Programs FAQs*, supra note 22.

The refugee vetting process is also reviewed and strengthened on an ongoing basis in response to particular threats.[25] For Syrian applicants, the Department of Homeland Security recently added a layer of enhanced review that involves collaboration between the 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.[26] Respondents allege no specific information about any vetting step omitted by current procedures.

While the United States' own individualized vetting process is the most important step, additional considerations make the U.S. refugee system difficult for terrorists to exploit. Under current vetting procedures, refugees often wait eighteen to twenty-four months to be cleared for entry into the United States.[27] Further, of all refugees determined by the UNHCR to be eligible for resettlement, less than

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[25] U.S. Dep't of Homeland Security, *U.S. Citizenship and Immigration Services* (Dec. 3, 2015), https://www.uscis.gov/sites/default/files/USCIS/Refugee%2C%20Asylum%2C%20and%20Int%27l%20Ops/Refugee_Security_Screening_Fact_Sheet.pdf.

[26] U.S. Dep't of State, *The Refugee Processing and Screening System*, *supra* note 5; Andorra Bruno, *Syrian Refugee Admissions and Resettlement in the United States: In Brief*, Cong. Research Serv., 4-5 (2016).

[27] 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), https://www.state.gov/j/prm/releases/factsheets/2016/254649.htm.

one percent were resettled in any country at all in 2015,[28] meaning that a would-be terrorist posing as a refugee has very little chance of being resettled *anywhere*. Finally, the UNHCR resettlement program places refugees in dozens of countries, and refugees do not decide where they are resettled or which country accepts them, meaning that the odds of any individual refugee being settled into the United States in particular are exceedingly low.

II. THE ORDER'S OVERBREADTH HARMS OUR NATIONAL SECURITY AND FOREIGN POLICY INTERESTS.

The Order's overreach will do lasting harm to the national security and foreign policy interests of the United States.

A. The Order is of unprecedented scope.

The Order effectively amounts to a bar on entry to the United States of nationals from any of the seven listed countries. The Order revoked the visas of anywhere between 60,000 to 100,000 people,[29] initially encompassed as many as 500,000 green card holders,[30] and creates a forward-looking ban on countless more

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[28] U.N. High Commissioner for Refugees, *Resettlement*, http://www.unhcr.org/en-us/resettlement.html.

[29] Justin Jouvenal et al., *Justice Dept. Lawyer Says 100,000 Visas Revoked Under Travel Ban; State Dept. Says about 60,000*, Wash. Post (Feb. 3, 2017).

[30] Marcelo Rochabrun, *Trump Order Will Block 500,000 Legal U.S. Residents from Returning to America from Trips Abroad*, ProPublica (Jan. 28, 2017). The Order could conceivably again encompass green card holders depending upon whether a

individuals. The Order bars doctors and patients, grandmothers and infants, parents and children, tourists and business travelers, police officers and those fighting alongside our Service Members abroad, all without regard to individual threat or circumstance.

This is an order of unprecedented scope. We know of no case where a president has invoked authority under the Immigration and Nationality Act to suspend admission of such a sweeping class of people. Even after the September 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. Across the decades, executive orders under the Immigration and Nationality Act have generally targeted specific government officials,[31] undocumented immigrants[32] or individuals whose personalized screenings indicated that they posed a national security risk.[33]

White House Counsel opinion is deemed authoritative by the implementing agencies. *See* Ninth Circuit Opinion, *supra* note 2, at 21-22.

[31] *See, e.g.*, Proclamation No. 6958, 61 Fed. Reg. 60,007 (Nov. 22, 1996).

[32] *See, e.g.*, Exec. Order No. 12,807, 57 Fed. Reg. 23,133 (May 24, 1992); Exec. Order No. 12,324, 46 Fed. Reg. 48,109 (Sept. 29, 1981).

[33] *See, e.g.*, Exec. Order No. 13,726, 81 Fed. Reg. 23,559 (Apr. 19, 2016); Exec. Order No. 13,694, 80 Fed. Reg. 18,077 (Apr. 1, 2015).

Some have claimed that historical examples involving Cuba, Iran, or Haiti are akin to this Order. But the first two orders included large exceptions,[34] and the third imposed no restrictions on lawful travel by visa holders at all.[35] And above

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[34] In 1980, during the Iranian Hostage Crisis, President Carter invalidated all visas issued or reissued to Iranian citizens for future entry into the country. Sanctions Against Iran Remarks Announcing U.S. Actions, April 7, 1980, http://www.presidency.ucsb.edu/ws/?pid=33233. But the White House also carved out exceptions for humanitarian need, to include those "visiting a sick aunt," and students who were in a course of study in the United States. The White House even encouraged Iranians in the United States whose visas were set to expire to apply for asylum. One White House official said, "[o]nce in the good old United States legally, or illegally for the matter, they are cloaked in the mantle of the constitutional and legal protections we all value." Charles R. Babcock, *Carter's Visa Crackdown Won't Hurt Immediately*, Wash. Post (Apr. 9, 1980); Robert Pear, *Visa Restrictions Chiefly Apply to Iranians Outside of America*, N.Y. Times (Apr. 8, 1980); *see* U.S. Dep't of Justice, 1980 Statistical Yearbook of the Immigration and Naturalization Service (1981).

In 1986, in the course of a diplomatic impasse over a migration agreement, President Reagan issued a presidential proclamation suspending the "[e]ntry of Cuban nationals as immigrants" into the United States. Proclamation No. 5517, 51 Fed. Reg. 30,470 (Aug. 26, 1986). But that proclamation included a major exception for the immediate relatives of U.S. citizens. *Id.*; U.S. Dep't of Justice, 1987 Statistical Yearbook of the Immigration and Naturalization Service (1987); *see also* David Bier, Trump's Ban on Immigration from Certain Countries is Illegal, Cato at Liberty, Dec. 8, 2016. Both actions were taken to exert pressure against a particular national government—and in the case of Cuba, to "resume normal migration"—not to minimize a threat posed by particular people.

[35] In 1991, President Bush issued an Executive Order that imposed restrictions on "undocumented aliens" who were "coming by sea to the United States without necessary documents." Exec. Order 12,807, 57 Fed. Reg. 23,133 (June 1, 1992). However, legal travel and immigration continued from Haiti into the United States in this period. Even as to those without documents, the Bush Administration offered those repatriated the option of seeking in-country refugee processing. Maureen Taft-Morales, Cong. Research Serv., *Haiti: Efforts to Restore President*

all, no modern example even approaches the unqualified sweep of this Order, which bans nearly 220 million people from seven separate countries from traveling to the United States.

B. The Order will do serious damage to our national security and foreign policy interests.

The Order will harm the interests of the United States in a number of respects.

1. The Order will endanger U.S. troops in the field.

Every day, U.S. Service Members work and fight alongside allies from some of the named countries, who put their lives on the line to protect Americans and further American interests abroad. Those barred by the Order include individuals working alongside our men and women in Iraq fighting against ISIL.[36] Soldiers from these countries have already voiced resentment at the Order.[37] The Order

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Aristide, 1991-1994, 14 (1995); U.S. Dep't of State, Bureau of Consular Affairs, *Report of the Visa Office* (2000), tables XII, XIII, XIV, XV, XVIII, XIX, https://travel.state.gov/content/visas/en/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2000.html.

[36] Rebecca Kheel, *Trump Travel Order Complicates ISIS Fight in Iraq*, The Hill (Feb. 1, 2017); Dan de Luce, *Trump's Immigration Order Gives Ammunition to ISIS, Endangers U.S. Troops,* Foreign Policy (Jan. 29, 2017).

[37] David Zucchino, *Travel Ban Drives Wedge Between Iraqi Soldiers and Americans*, N.Y. Times (Feb. 3, 2017).

may also obstruct ongoing training, education, and other security cooperation programs underway with several of the listed countries.[38]

Moreover, the Order will affect interpreters and others who have assisted our troops at great risk to their own lives. The Order initially banned all such individuals from coming to the United States. Days later, U.S. officials announced that it would allow "the entry of Iraqi nationals with a Special Immigrant Visa to the United States."[39] But even that step leaves unaddressed tens of thousands of others who assisted the United States and who are waiting for admission as "Priority 2" refugees outside of the now closed Special Immigrant Visa program.[40] By discouraging future assistance and cooperation from these and other affected military allies and partners, the Order will jeopardize the safety and effectiveness of our troops.

2. The Order will disrupt essential counterterrorism, foreign policy, and national security partnerships.

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[38] U.S. Dep't of Defense & Dep't of State, *Joint Report to Congress: Foreign Military Training* (FY 2015-2016).

[39] U.S. Customs and Border Protection, *Protecting the Nation from Foreign Terrorist Entry into the United States* (Feb. 2, 2017).

[40] U.S. Dep't of State et al., *Report to the Congress, Proposed Refugee Admissions for Fiscal Year 2016,* at 57 (2016); Stephanie Ott, *What Happens to Iraqis who Worked with the U.S. military*, Al Jazeera (Feb. 1, 2017); Urban Justice Center, International Refugee Assistance Project, *IRAP Stands With Iraqi Allies of the United States Affected by Executive Order* (Feb. 1, 2017).

The Order will disrupt key counterterrorism, foreign policy, and national security partnerships that are critical to our country's efforts to address the threat posed by terrorist groups such as ISIL. The Order has sparked intense international criticism and alienated U.S. allies. Partner countries in the Middle East, on whom we rely for vital counterterrorism cooperation, are expressing disapproval and even threatening reciprocity, jeopardizing years of diplomatic effort.[41]

The Order will also endanger U.S. intelligence sources in the field. For up-to-date information, our intelligence officers often 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 to protect.[42] Finally, by suspending visas, this Order halts the collection of important intelligence that occurs during visa screening processes, information that can be used to recruit agents and identify regional trends of instability.[43]

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[41] Rebecca Savransky, *Iraq Parliament Approves 'Reciprocity Measure' In Trump Immigration Ban's Wake*, The Hill (Jan. 30, 2017); Loveday Morris, *Iraqi Leader to U.S.: Americans Come to Iraq to Fight With ISIS, but I Haven't Banned You*, Wash. Post (January 31, 2017); Kevin Liptak, *Travel Ban Remains Sticking Point in Trump Calls with US Allies*, CNN (Feb. 9, 2017).

[42] Michael V. Hayden, *Former CIA Chief: Trump's Travel Ban Hurts American Spies – and America*, Wash. Post (Feb. 5, 2017).

[43] This process is particularly important in countries like Iran and Libya, where internal conflict or lack of diplomatic ties limit on-the-ground intelligence collection.

3. The Order will hinder domestic law enforcement efforts.

Domestic law enforcement relies heavily on partnerships with American Muslim communities to fight homegrown terrorism.[44] One report found that in the years since September 11, 2001, Muslim communities have helped U.S. security officials prevent nearly two out of every five Al-Qaeda plots threatening the United States.[45] By alienating Muslim-American communities in the United States, the Order 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.

The Order's disparate impact on Muslim travelers and immigrants feeds ISIL's propaganda narrative and sends the wrong message to the Muslim community at home and abroad: that the U.S. government is at war with them based on their religion.[46] Less than a day after President Trump signed the Order,

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[44] Kristina Cooke & Joseph Ax, *U.S. Officials Say American Muslims Do Report Extremist Threats*, Reuters (Jun. 16, 2016).

[45] Muslim Public Affairs Council, *Data on Post-9/11 Terrorism in the United States* (Jun. 2012), http://www.mpac.org/assets/docs/publications/MPAC-Post-911-Terrorism-Data.pdf.

[46] Muslim refugees from the seven listed countries made up 82.2 percent of all Muslim refugee arrivals to the United States from January 1, 2016 to February 11, 2017. Refugee Processing Center, Interactive Reporting, Admissions and Arrivals http://ireports.wrapsnet.org/InteractiveReporting/EnumType/Report?ItemPath=/rpt_WebArrivalsReports/MX%20%20Arrivals%20by%20Nationality%20and%20Religion.

jihadist groups began citing its contents in recruiting messages online.[47] The Order may even endanger Christian communities overseas, by handing ISIL a recruiting tool and propaganda victory that spreads their message that the United States is engaged in a religious war.

4. The Order will have a devastating humanitarian impact.

The Order will have an immediate and devastating humanitarian impact. First and foremost, the Order disrupts the travel of men, women and children who have been victimized by actual terrorists. Tens of thousands of other travelers today face deep uncertainty about whether they may travel to or from the United States for reasons including medical treatment, study or scholarly exchange, funerals or other pressing family reasons. While the Order allows the Secretaries of State and Homeland Security to admit travelers from targeted 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. Finally, closing our borders to refugees who otherwise would have had the opportunity to resettle in the United States will keep them in dangerous conditions and shift the burden to overstretched allies who are currently accepting far more than their fair share of refugees.

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[47] Joby Warrick, *Jihadist Groups Hail Trump's Travel Ban as a Victory*, Wash. Post (Jan. 29 2017).

5. The Order will cause economic damage to American citizens and residents.

Finally, the Order will affect many foreign travelers who annually inject hundreds of billions of dollars into the U.S. economy, supporting well over a million U.S. jobs.[48] Since the Order was issued, dozens of affected companies have noted the damaging impact it can be expected to have on strategic economic sectors including defense, technology, and medicine.[49] About a third of U.S. innovators were born outside the United States, and their scientific and technological innovations often contribute to making our nation and the world safe.[50] The harm caused by the ban to the economic dynamism of our country will carry long-term negative and serious consequences for our national security.

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[48] U.S. Dep't of Commerce, *Department of Commerce Releases October Travel and Tourism Expenditures* (Dec. 15, 2016), http://trade.gov/press/press-releases/2016/department-of-commerce-releases-october-travel-tourism-expenditures-121516.asp.

[49] *See, e.g.,* Br. for Technology Companies and Other Businesses as Amici Curiae in Support of Appellees, Washington v. Trump, No. 17-35105, __ F.3d__, 2017 WL 526497 (9th Cir. Feb. 9, 2017).

[50] Adams Nager, et al., *The Demographics of Innovation in the United States*, Information Technology & Innovation Foundation 29 (Feb. 2016), http://www2.itif.org/2016-demographics-of-innovation.pdf. Iran's universities, for example, have produced an "inordinate amount of intellectual talent in computer science and cybersecurity." These scientists are drawn to universities in the United States, where their research is then used by entities such as the Office of Naval Research and DARPA. Patrick O'Neill, *How Academics Are Helping Cybersecurity Students Overcome Trump's Immigration Order*,

III. THE ORDER WAS ILL-CONCEIVED, POORLY IMPLEMENTED AND ILL-EXPLAINED.

Respondents have presented no evidence that the Order was subject to the thorough interagency policy and legal processes designed to address current terrorist threats.

In every recent administration, presidents considering a change to immigration policy have followed an interagency review process that allows experts and security professionals to ensure that all relevant uncertainties are addressed by policy and legal experts, appropriate preparations are made for implementation, and any potential risks are effectively mitigated. Before recommendations are submitted to the President, the National Security Council oversees a legal and policy process that typically includes the following important components: a review by the career professionals in institutions of the U.S. government charged with implementing an order; a review by the career lawyers in those institutions to ensure legality and consistency in interpretation; and a senior policy review across all relevant agencies, including Deputies and Principals at the cabinet level.

Cyberscoop (Jan. 30, 2017), https://www.cyberscoop.com/trump-immigration-ban-cybersecurity-iran-protests/.

This practice of interagency deliberation has been followed even—and especially—in times of national emergency in order to set temporary exclusions or establish criteria for admission to the United States. In the immediate aftermath of the September 11, 2001 attacks, when the Bush Administration considered whether the President should invoke 8 U.S.C. § 1182(f) to bar certain immigrants or take other actions to secure the border, officials engaged in consultations across the national security agencies to arrive at a decision.[51] The reexamination of the vetting system in 2011[52] and the security reforms to the Visa Waiver Program in 2015-16[53] reflect similar interagency consultation.

The process that produced this Order departed from decades of standard practice across administrations of both parties.[54] Respondents offer no evidence that the present Order resulted from experienced intelligence and security professionals recommending changes in response to identified threats. We know

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[51] Edward Alden, *The Closing of the American Border* 104-06 (2008); Thomas R. Eldridge, et al., *9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States* 151-54 (2004); Memorandum from Stuart Levey, Assoc. Deputy Att'y Gen., to Dan Levin, Counsel to the Att'y Gen., & David Ayres, Dep't of Justice Chief of Staff (Oct. 3, 2001).

[52] Jon Finer, *supra* note 13.

[53] *See supra* notes 15-17 and surrounding text.

[54] This is no less true of executive orders issued at the start of a new presidency. *See, e.g.,* Henry B. Hogue, Cong. Research Serv., *Presidential Transition Act: Provisions and Funding* (2016); William Glaberson & Helene Cooper, *Obama's Plan to Close Prison at Guantánamo May Take Year*, N.Y. Times (Jan. 12, 2009).

of no process underway before January 20, 2017 to change current immigration vetting procedures. According to extensive reporting, since that date, Respondents followed no such process.[55] Nor, apparently, did the White House consult officials from any of the seven agencies tasked with enforcing immigration laws, much less the congressional committees and subcommittees that oversee them. Respondents' repeated need to clarify confusion that ensued in the wake of the Order only confirms that the Order received little, if any, advance scrutiny by the Departments of State, Justice, Homeland Security or the intelligence community.[56]

As telling, this Order was apparently issued without interagency legal process. In recent history, administrations of both political parties have followed a protocol of submitting proposed Orders to the Attorney General, the Justice Department's Office of Legal Counsel ("OLC") and all other agency legal offices

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[55] The Secretary of Homeland Security reportedly received his first full briefing as the President signed the Order. Michael D. Shear & Ron Nixon, *How Trump's Rush to Enact an Immigration Ban Unleashed Global Chaos*, N.Y. Times (Jan. 29, 2017). The Secretary of Defense was neither consulted during the drafting of the order nor given an opportunity to provide input. Evan Perez et al., *Inside the Confusion of the Trump Executive Order and Travel Ban*, CNN (Jan. 30, 2017). Most State Department officials reportedly first heard of the Order through the media. Jonathan Allen & Brendan O'Brien, *How Trump's Abrupt Immigration Ban Sowed Confusion at Airports, Agencies*, Reuters (Jan. 29, 2017).

[56] Customs and border officials reported that their superiors could not provide clear guidance about the new policy. Shear & Nixon, *supra* note 55; *see also* Allen & O'Brien, *supra* note 54 (quoting CBP chief of passenger operations at John F. Kennedy International Airport declaring, "[w]e are as much in the dark as everybody else.").

involved with enforcing the law.[57] Legal review by multiple agencies helps to identify potentially unforeseen legal implications of an order, determines the lawfulness of the proposed action, and analyzes whether the proposed language has established legal meaning that can be interpreted consistently with other laws and regulations governing the field. Here, the White House reportedly never asked the Department of Homeland Security for legal review in advance of the Order being promulgated, so "[t]he Department . . . was left making a legal analysis on the order after [President] Trump signed it."[58] Unsurprisingly, the resulting Order contains numerous ambiguities and inconsistencies that immediately caused confusion, forcing implementing agencies to improvise.[59]

On January 27, the Office of Legal Counsel issued a cursory memorandum that declared the Order "approved with respect to form and legality."[60] But the OLC memorandum conspicuously omits any legal analysis or discussion of either the Order's impact on permanent U.S. residents or the constitutional provisions plainly implicated, *i.e.*, the Due Process, Equal Protection, and Establishment and Free Exercise of Religion Clauses. Soon thereafter, the Acting Attorney General

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[57] *See, e.g.,* Exec. Order No. 11,030, 27 Fed. Reg. 5,847 (Jun. 19, 1962).

[58] Perez et al., *supra* note 54; Shear & Nixon, *supra* note 54.

[59] Allen & O'Brien, *supra* note 54.

[60] Memorandum from Curtis E. Gannon, Acting Assistant Att'y Gen. (Jan. 27, 2017).

concluded that the Department of Justice would not defend the Order because she was not "convinced that the Executive Order is lawful."[61]

The Department of Homeland Security initially construed the Executive Order not to apply to people with lawful permanent residence. Overnight, the White House overruled the Department and instructed the agency to allow lawful permanent residents entry only on a case-by-case basis. Five days later, the White House reversed itself and announced that the Order did not apply to either "green card holders"[62] or dual nationals.[63]

When courts in previous cases have deferred to the "considered judgment" of the President, they did so on the basis of administrative records showing that the President's decision rested on cleared views from expert agencies with broad experience on the matters presented to him. And as the Supreme Court has noted, "[d]epartures from the normal procedural sequence also might afford evidence that improper purposes are playing a role."[64]

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[61] Memorandum from Sally Yates, Acting Att'y Gen., to the Dep't of Justice (Jan. 30, 2017).

[62] Memorandum from Donald F. McGahn II, Counsel to the President, to the Acting Sec'y of State, the Acting Att'y Gen., and the Sec'y of Homeland Sec. (Feb. 1, 2017).

[63] Geneva Sands et al., *Officials Aim to Clarify Impact on Dual Nationals From Trump's Immigration Executive Order*, ABC News (Feb. 1, 2017).

[64] Vill. of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 267 (1977).

CONCLUSION

Ours is a nation of immigrants, committed to the faith that we are all equal under the law and that we 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, a system that applies no religious tests and that measures individuals by their merits, not by stereotypes of countries or groups.

Unjustified blanket bans of certain countries or classes of people are beneath the dignity of the nation and Constitution that we took oaths to protect. Although our nation was founded by immigrants fleeing religious persecution, the Order discriminates based on religion. Although our Constitution enshrines the principle that all are equal under the law, the Order discriminates on the basis of national origin. And although the United States accepted over four million refugees in the decades after World War II,[65] the Order willfully ignores the greatest refugee crisis since that time.

Allowing the Order to take effect would wreak havoc on our nation's security and deeply held American values and threaten innocent lives. Blocking the Order while the underlying legal issues are being adjudicated would not

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[65] Carl J. Bon Tempo, *Americans at the Gate: The United States and Refugees during the Cold War* 1 (2008).

jeopardize national security. It would simply preserve the *status quo ante,* still subjecting individuals to all the rigorous legal vetting processes that are currently in place.

For all of these reasons, the January 27, 2017 Executive Order does not further—but instead harms—sound U.S. national security and foreign policy.

Respectfully Submitted,

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[*] We are grateful to Phil Spector, Danieli Evans, Clare Ryan, and the student members of the Yale Law School Rule of Law Clinic—Benjamin Alter, Colleen Culbertson, Idriss Fofana, Alexandra Mahler-Haug, Abigail Olson, Aisha Saad, Mitzi Steiner, Aleksandr Sverdlik, Beatrice Walton, Emily Wanger, Zoe Weinberg, Tianyi Xin, and Nathaniel Zelinsky—for their contributions to this submission. Yale Law School's Rule of Law Clinic is organized separately from the school's Jerome N. Frank Legal Services Organization ("LSO"), one of the counsel for Petitioners. The views expressed by Yale Law School's legal clinics are not necessarily those of the Yale Law School.

APPENDIX: LIST OF *AMICI*

1. 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.

2. Jeremy Bash served as Chief of Staff at the U.S. Department of Defense from 2011 to 2013, and as Chief of Staff at the Central Intelligence Agency from 2009 to 2011.

3. Rand Beers served as Deputy Homeland Security Advisor to the President of the United States from 2014 to 2015.

4. Daniel Benjamin served as Ambassador-at-Large for Counterterrorism at the U.S. State Department from 2009 to 2012.

5. Antony Blinken served as Deputy Secretary of State from 2015 to January 20, 2017. He also served as Deputy National Security Advisor to the President of the United States from 2013 to 2015.

6. 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.

7. 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.

8. James Clapper served as U.S. Director of National Intelligence from 2010 to January 20, 2017.

9. 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.

10. Ryan Crocker served as U.S. Ambassador to Afghanistan from 2011 to 2012, U.S. Ambassador to Iraq from 2007 to 2009, U.S. Ambassador to Pakistan from 2004 to 2007, U.S. Ambassador to Syria from 1998 to 2001, U.S. Ambassador to Kuwait from 1994 to 1997, and U.S. Ambassador to Lebanon from 1990 to 1993.

11. 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.

12. 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. State Department from 2016 until January 20, 2017.

13. 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.

14. Michèle Flournoy served as Under Secretary of Defense for Policy from 2009 to 2013.

15. 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.

16. 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.

17. 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.

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

19. Marcel Lettre served as Under Secretary of Defense for Intelligence from 2015 to 2017.

20. 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.

21. 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.

22. Michael J. Morell served as Acting Director of the Central Intelligence Agency in 2011 and from 2012 to 2013; as Deputy Director of the Central Intelligence Agency from 2010 to 2013; and as a career official from 1980 onward. His duties included briefing Presidents George W. Bush and Barack Obama.

23. Janet A. Napolitano served as Secretary of Homeland Security from 2009 to 2013.

24. James C. O'Brien served as Special Presidential Envoy for Hostage Affairs from 2015 to January 20, 2017. He served in the State Department from 1989 to 2001, including as Principal Deputy Director of Policy Planning and as Special Presidential Envoy for the Balkans.

25. Matthew G. Olsen served as Director of the National Counterterrorism Center from 2011 to 2014.

26. 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.

27. 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.

28. 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.

29. Anne C. Richard served as Assistant Secretary of State for Population, Refugees and Migration from 2012 to January 20, 2017.

30. 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.

31. Wendy R. Sherman served as Under Secretary of State for Political Affairs from 2011 to 2015.

32. 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.

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

34. Jake Sullivan served as National Security Adviser to the Vice President from 2013 to 2014. From 2011 to 2013, he served as Director of the Policy Planning Staff at the U.S. State Department.

35. 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.

CERTIFICATE OF SERVICE

I, Jonathan Freiman, hereby certify that on February 16, 2017, the foregoing document was filed and served through the CM/ECF system. Parties may access the filings through the Court's CM/ECF System.

/s/ Jonathan Freiman
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Exhibit MM

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 17-35105

STATE OF WASHINGTON, et al. Plaintiffs-Appellees, vs. DONALD J. TRUMP, President of the United States, et al., Defendants-Appellants.	**JOINT DECLARATION OF 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 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

Madeleine Albright

MADELEINE K. ALBRIGHT

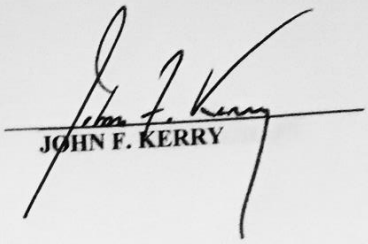
EXECUTED this 5th day of February, 2017

AVRIL D. HAINES

EXECUTED this 5th day of February, 2017

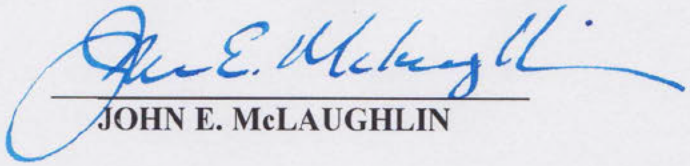
MICHAEL V. HAYDEN

EXECUTED this 5th day of February, 2017



JOHN F. KERRY

EXECUTED this 5th day of February, 2017



JOHN E. McLAUGHLIN

EXECUTED this 5th day of February, 2017

Lisa Monaco

LISA O. MONACO


EXECUTED this 5th day of February, 2017

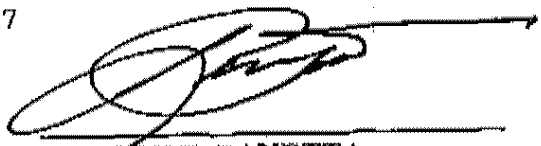
MICHAEL J. MORRELL

MORELL

EXECUTED this 5th day of February, 2017

/s/
JANET A. NAPOLITANO

EXECUTED this 5th day of February, 2017



LEON E. PANETTA

EXECUTED this 5th day of February, 2017

/s/
SUSAN E. RICE

Exhibit A

TRUMP'S EXECUTIVE ORDER MANDATES GOVERNMENT REPORTS ON HONOR KILLINGS COMMITTED BY MIGRANTS

Arif Ali/AFP/Getty Images

by KATIE MCHUGH 6 Mar 2017 4,465

President Donald Trump's executive order halting the importation of refugees from six terror-exporting countries also includes a section requiring the government to publicly release information on crimes committed by foreign nationals, including honor killings of women.

This lets the government "be more transparent with the American people and to implement more effectively policies and practices that serve the national interest," the order states. Department of Homeland Security Secretary John Kelly and U.S. Attorney General Jeff Sessions must work together to provide the public with a report on foreign nationals charged with and convicted of terrorism-related offenses, including those who associate with or provide support to terrorist organizations.

The order also instructs the government to release information on honor-killings. The government will now track cases involving foreign-born individuals who commit "gender-based violence against women," or honor killings. Honor killings are a brutal practice wherein Muslim males will murder or mutilate female family members accused of bringing shame and dishonor to their families and Islam. Like female genital mutilation, it is a practice that would not exist in the U.S. without mass immigration bringing its practitioners into U.S. communities.

"Cases of honor killings and/or violence in the U.S. are often unreported because of the shame it can cause to the victim and the victim's family. Also, because victims are often young women, they may feel that reporting the crime to authorities will draw too much attention to the family committing the crime," former U.S. government analyst Farhana Qazi explained to Fox News in November 2015.

The order requires the government to release its inaugural report by September 2017, close to the sixteenth anniversary of the 9/11 terror attacks committed by Islamic foreign nationals admitted to the U.S. on various visas. Reports shall be issued every six months from then on.

The transparency will likely increase the broad support Trump's immigration policies enjoy. Typically, the government conceals or refuses to collect immigration-related statistics that reveal troubling consequences of mass immigration policies. A Feb. 8 Morning Consult poll found 55 percent of voters supported Trump's executive order, including 82 percent of Republicans. Another McLaughlin & Associates poll release Feb. 8 found 57 percent support for a halt of refugee settlement to implement better screening procedures. A Rasmussen Reports poll released on Feb. 2 found 52 percent of voters favored a freeze on all refugee resettlement until the government could better screen out terrorists, including 57 percent of young voters.

A 2015 report detailing honor killings can be read here.

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Big Government, Immigration, Donald Trump, Executive Order, Honor Killing, Islam, Muslim immigration, refugee resettlement