

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 1:49 PM  
**To:** MCALEENAN, KEVIN K; HOFFMAN, TODD A; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** MCALEENAN, KEVIN K  
**Sent:** Saturday, January 28, 2017 1:48:12 PM  
**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(6), (b)(7)(C)

(b)(5)

KM

**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 1:42:55 PM  
**To:** MCALEENAN, KEVIN K; (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Deputy,

The second subject has been released. I believe we are providing assistance with his connecting flight. JFK is currently working on regaining custody.

Todd A. Hoffman  
 Executive Director, Admissibility and Passenger Programs  
 Office of Field Operations  
 U.S. Customs and Border Protection

**From:** MCALEENAN, KEVIN K  
**Sent:** Saturday, January 28, 2017 1:35 PM  
**To:** (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); (b)(6), (b)(7)(C); WAGNER, JOHN P; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>

**(b)(6), (b)(7)(C)**

HUTTON, JAMES R (b)(6), (b)(7)(C)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

EAC and Field Ops team,  
 Please confirm receipt and that we have not already released.  
 KM

**From:** (b)(6), (b)(7)(C)**Sent:** Saturday, January 28, 2017 1:26:11 PM**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) HUTTON, JAMES R

**Subject:** RE: FINAL SIGNED EO FOR ACTION**(b)(5)****(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)****From:** (b)(6), (b)(7)(C)**Sent:** Saturday, January 28, 2017 11:36 AM**To:** (b)(6), (b)(7)(C) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)

Owen, Todd C (AC OFO); (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)

TROY A (b)(6), (b)(7)(C) HOFFMAN, TODD A (b)(6), (b)(7)(C)

**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C) FLANAGAN, PATRICK S (b)(6), (b)(7)(C)**(b)(6), (b)(7)(C)**



HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 8:27:14 AM  
**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

---

**From:** MCALEENAN, KEVIN K  
**Sent:** Saturday, January 28, 2017 12:19 AM

To: (b)(6), (b)(7)(C) Owen, Todd C (AC OFO) (b)(6), (b)(7)(C)  
 WAGNER, JOHN P (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) HOFFMAN,  
 TODD A (b)(6), (b)(7)(C)  
 Cc: ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Thank you! Great work tonight (b)(6), (b)(7)(C) Will be a tough day for us in the field, but would not have worked at all without your help.

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:13:16 AM  
**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

---

**From:** MCALEENAN, KEVIN K  
**Sent:** Saturday, January 28, 2017 12:10 AM  
**To:** (b)(6), (b)(7)(C) Owen, Todd C (AC OFO) (b)(6), (b)(7)(C)  
 WAGNER, JOHN P (b)(6), (b)(7)(C) HOFFMAN,  
 TODD A (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:07 AM  
**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Owen, Todd C (AC OFO)  
 (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) HOFFMAN, TODD A (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Sir,



**(b)(5), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)**

**From:** MCALEENAN, KEVIN K

**Sent:** Friday, January 27, 2017 11:57 PM

**To:** **(b)(6), (b)(7)(C)** Owen, Todd C (AC OFO) **(b)(6), (b)(7)(C)**  
WAGNER, JOHN P **(b)(6), (b)(7)(C)** **(b)(6), (b)(7)(C)** HOFFMAN,  
TODD A **(b)(6), (b)(7)(C)**

**Cc:** ALLES, RANDOLPH D <**(b)(6), (b)(7)(C)**>; FLANAGAN, PATRICK S <**(b)(6), (b)(7)(C)**>

**Subject:** RE: FINAL SIGNED EO FOR ACTION

**(b)(6), (b)(7)(C)**

**(b)(5)**

(b)(5)

KM

**From:** (b)(6), (b)(7)(C)**Sent:** Friday, January 27, 2017 11:43 PM**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Owen, Todd C (AC OFO)

(b)(6), (b)(7)(C)

WAGNER, JOHN P

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

HOFFMAN, TODD A

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Cc:** ALLES, RANDOLPH D

(b)(6), (b)(7)(C)

FLANAGAN, PATRICK S

(b)(6), (b)(7)(C)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel

Office of Chief Counsel

U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** MCALEENAN, KEVIN K**Sent:** Friday, January 27, 2017 11:35 PM**To:** Owen, Todd C (AC OFO) (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)

MILLER, TROY A (b)(6), (b)(7)(C)

HOFFMAN, TODD A

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Cc:** ALLES, RANDOLPH D

(b)(6), (b)(7)(C)

FLANAGAN, PATRICK S

(b)(6), (b)(7)(C)

**Subject:** FW: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** Fulghum, Chip**Sent:** Friday, January 27, 2017 11:29 PM**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Maher, Joseph (b)(6)

Nielsen, Kirstjen (b)(6)

Hamilton, Gene

(b)(6)

**Cc:** Metzler, Alan (b)(6)

Higgins, Jennifer

(b)(6)

**Subject:** Re: FINAL SIGNED EO FOR ACTION

I've signed. I've had printer issues at home so doc isn't perfect but you are cleared to go.

Chip



**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 11:25 PM  
**To:** Maher, Joseph; Nielsen, Kirstjen; Hamilton, Gene  
**Cc:** Metzler, Alan; Higgins, Jennifer; Fulghum, Chip  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

Thank you,  
 KM

**From:** Maher, Joseph  
**Sent:** Friday, January 27, 2017 10:54 PM  
**To:** Nielsen, Kirstjen (b)(6) Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Please find attached a delegation (and related cover memo) for Chip's consideration and signature.

Joe

Joseph B. Maher  
 Acting General Counsel  
 U.S. Department of Homeland Security

(b)(6)

*This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.*

**From:** Nielsen, Kirstjen  
**Sent:** Friday, January 27, 2017 9:24 PM  
**To:** Maher, Joseph (b)(6) Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Thanks Joe

Spoke to Gene- will standby in case, when and until S1 engagement is needed.

Thanks

**From:** Maher, Joseph

**Sent:** Friday, January 27, 2017 9:18 PM

**To:** Nielsen, Kirstjen (b)(6) Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)

**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip

(b)(6)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** Nielsen, Kirstjen

**Sent:** Friday, January 27, 2017 9:15 PM

**To:** Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Maher, Joseph (b)(6)

**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip

(b)(6)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

Best,

K

**From:** Hamilton, Gene

**Sent:** Friday, January 27, 2017 8:52 PM

**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Maher, Joseph (b)(6)

**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip

(b)(6) Nielsen, Kirstjen (b)(6)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

Looping in Joe, also.

**From:** MCALEENAN, KEVIN K

**Sent:** Friday, January 27, 2017 8:37 PM

**To:** Hamilton, Gene (b)(6)

**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip

(b)(6) Nielsen, Kirstjen (b)(6)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)



(b)(5)

KM

**From:** Hamilton, Gene  
**Sent:** Friday, January 27, 2017 8:22:17 PM  
**To:** MCALEENAN, KEVIN K  
**Cc:** Metzler, Alan; Higgins, Jennifer; Fulghum, Chip  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 8:15 PM  
**To:** Hamilton, Gene; (b)(6)  
**Cc:** Metzler, Alan; (b)(6); Higgins, Jennifer; (b)(6); Fulghum, Chip  
**Subject:** FW: FINAL SIGNED EO FOR ACTION

Gene,

(b)(5)

KM

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 7:54:39 PM  
**To:** (b)(6), (b)(7)(C); WAGNER, JOHN P; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C);  
(b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 7:48:11 PM  
**To:** MCALEENAN, KEVIN K; WAGNER, JOHN P; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C),  
(b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

**(b)(5), (b)(7)(E)**



**(b)(5), (b)(7)(E)**

**(b)(5), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)**

**From:** COUREY, MARC BENNETT (OCC)

**Sent:** Friday, January 27, 2017 6:50 PM

**To:** MCALEENAN, KEVIN K (b)(6); WAGNER, JOHN P (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

**(b)(6), (b)(7)(C)**

**Subject:** RE: FINAL SIGNED EO FOR ACTION

**(b)(5)**

**(b)(6), (b)(7)(C)**

CBP Associate Chief Counsel (Enforcement and Operations)

**(b)(6), (b)(7)(C)**

\*\*\* Attorney Work Product / Attorney-Client Privileged \*\*\*

**From:** MCALEENAN, KEVIN K

**Sent:** Friday, January 27, 2017 6:41 PM

**To:** WAGNER, JOHN P (b)(6), (b)(7)(C)  
FLANAGAN, PATRICK S (b)(6), (b)(7)(C); (b)(6), (b)(7)(C)

**(b)(6), (b)(7)(C)**

**Subject:** FINAL SIGNED EO FOR ACTION

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 2:16 PM  
**To:** MCALEENAN, KEVIN K; HOFFMAN, TODD A; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

**From:** MCALEENAN, KEVIN K  
**Sent:** Saturday, January 28, 2017 1:48:12 PM  
**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(6), (b)(7)(C)

(b)(5)

KM

**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 1:42:55 PM  
**To:** MCALEENAN, KEVIN K; (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HUTTON, JAMES R  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Deputy,

The second subject has been released. I believe we are providing assistance with his connecting flight. (b)(7)(E)

(b)(7)(E)

Todd A. Hoffman  
 Executive Director, Admissibility and Passenger Programs  
 Office of Field Operations  
 U.S. Customs and Border Protection



**From:** MCALEENAN, KEVIN K

**Sent:** Saturday, January 28, 2017 1:35 PM

**To:** (b)(6), (b)(7)(C) Owen, Todd C (AC OFO) (b)(6), (b)(7)(C)  
 WAGNER, JOHN P (b)(7)(C) (b)(6), (b)(7)(C) HOFFMAN,  
 TODD A (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

HUTTON, JAMES R (b)(6), (b)(7)(C)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

EAC and Field Ops team,  
 Please confirm receipt and that we have not already released.  
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**From:** (b)(6), (b)(7)(C)

**Sent:** Saturday, January 28, 2017 1:26:11 PM

**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P (b)(6), (b)(7)(C) HOFFMAN, TODD A (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) HUTTON, JAMES R

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** (b)(6), (b)(7)(C)

**Sent:** Saturday, January 28, 2017 11:36 AM

**To:** (b)(6), (b)(7)(C) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)

Owen, Todd C (AC OFO); (b)(6), (b)(7)(C) WAGNER, JOHN P; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
 Cc: ALLES, RANDOLPH D; (b)(6), (b)(7)(C) FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>  
 (b)(6), (b)(7)(C)  
 HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 8:27:14 AM  
**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel

U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)****From:** MCALEENAN, KEVIN K**Sent:** Saturday, January 28, 2017 12:19 AM

**To:** (b)(6), (b)(7)(C); Owen, Todd C (AC OFO); (b)(6), (b)(7)(C);  
 WAGNER, JOHN P; (b)(6), (b)(7)(C); HOFFMAN,  
 TODD A; (b)(6), (b)(7)(C);  
**Cc:** ALLES, RANDOLPH D; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C);  
 (b)(6), (b)(7)(C);

**Subject:** RE: FINAL SIGNED EO FOR ACTION

Thank you! Great work tonight (b)(6), (b)(7)(C). Will be a tough day for us in the field, but would not have worked at all without your help.

**From:** (b)(6), (b)(7)(C)**Sent:** Saturday, January 28, 2017 12:13:16 AM

**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C);  
 (b)(6), (b)(7)(C);  
**Cc:** ALLES, RANDOLPH D; FLANAGAN, PATRICK S; (b)(6), (b)(7)(C);

**Subject:** RE: FINAL SIGNED EO FOR ACTION**(b)(5)****(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel

Office of Chief Counsel

U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)****From:** MCALEENAN, KEVIN K**Sent:** Saturday, January 28, 2017 12:10 AM

**To:** (b)(6), (b)(7)(C); Owen, Todd C (AC OFO); (b)(6), (b)(7)(C);  
 WAGNER, JOHN P; (b)(6), (b)(7)(C); HOFFMAN,  
 TODD A; (b)(6), (b)(7)(C);  
**Cc:** ALLES, RANDOLPH D; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C);  
 (b)(6), (b)(7)(C);

**Subject:** RE: FINAL SIGNED EO FOR ACTION**(b)(5)****From:** (b)(6), (b)(7)(C)**Sent:** Saturday, January 28, 2017 12:07 AM**To:** MCALEENAN, KEVIN K; (b)(6), (b)(7)(C); Owen, Todd C (AC OFO)

(b)(6), (b)(7)(C)

WAGNER, JOHN P

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

HOFFMAN, TODD A

(b)(6), (b)(7)(C)



(b)(6), (b)(7)(C)

Cc: ALLES, RANDOLPH D (b)(6), (b)(7)(C)

FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(5), (b)(7)(E)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

From: MCALEENAN, KEVIN K

Sent: Friday, January 27, 2017 11:57 PM

To: (b)(6), (b)(7)(C) Owen, Todd C (AC OFO) (b)(6), (b)(7)(C)

WAGNER, JOHN P (b)(6), (b)(7)(C) HOFFMAN,

TODD A (b)(6), (b)(7)(C)

Cc: ALLES, RANDOLPH D (b)(6), (b)(7)(C) FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(6), (b)(7)(C)

(b)(5)

Please confirm receipt and concurrence.  
KM

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 11:43 PM  
**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C); Owen, Todd C (AC OFO)  
 (b)(6), (b)(7)(C); WAGNER, JOHN P (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C); HOFFMAN, TODD A (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 11:35 PM  
**To:** Owen, Todd C (AC OFO) (b)(6), (b)(7)(C); WAGNER, JOHN P (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C); HOFFMAN, TODD A (b)(6), (b)(7)(C); KOLLER,  
 (b)(6), (b)(7)(C)  
**Cc:** ALLES, RANDOLPH D (b)(6), (b)(7)(C); FLANAGAN, PATRICK S (b)(6), (b)(7)(C)  
**Subject:** FW: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** Fulghum, Chip  
**Sent:** Friday, January 27, 2017 11:29 PM  
**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C); Maher, Joseph (b)(6)

Nielsen, Kirstjen (b)(6) Hamilton, Gene (b)(6)  
 Cc: Metzler, Alan (b)(6) Higgins, Jennifer (b)(6)  
**Subject:** Re: FINAL SIGNED EO FOR ACTION

I've signed. I've had printer issues at home so doc isn't perfect but you are cleared to go.

Chip

---

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 11:25 PM  
**To:** Maher, Joseph; Nielsen, Kirstjen; Hamilton, Gene  
**Cc:** Metzler, Alan; Higgins, Jennifer; Fulghum, Chip  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

Thank you,  
 KM

---

**From:** Maher, Joseph  
**Sent:** Friday, January 27, 2017 10:54 PM  
**To:** Nielsen, Kirstjen (b)(6) Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

Joe

Joseph B. Maher  
 Acting General Counsel  
 U.S. Department of Homeland Security

(b)(6)

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**From:** Nielsen, Kirstjen  
**Sent:** Friday, January 27, 2017 9:24 PM  
**To:** Maher, Joseph (b)(6); Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Thanks Joe  
 Spoke to Gene- will standby in case, when and until S1 engagement is needed.  
 Thanks

**From:** Maher, Joseph  
**Sent:** Friday, January 27, 2017 9:18 PM  
**To:** Nielsen, Kirstjen (b)(6) Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** Nielsen, Kirstjen  
**Sent:** Friday, January 27, 2017 9:15 PM  
**To:** Hamilton, Gene (b)(6) MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Maher, Joseph (b)(6)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

Best,  
 K

**From:** Hamilton, Gene  
**Sent:** Friday, January 27, 2017 8:52 PM  
**To:** MCALEENAN, KEVIN K (b)(6), (b)(7)(C) Maher, Joseph (b)(6)  
**Cc:** Metzler, Alan (b)(6) Higgins, Jennifer (b)(6) Fulghum, Chip (b)(6) Nielsen, Kirstjen (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

Looping in Joe, also.

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 8:37 PM  
**To:** Hamilton, Gene; (b)(6)  
**Cc:** Metzler, Alan; (b)(6); Higgins, Jennifer; (b)(6); Fulghum, Chip  
(b)(6); Nielsen, Kirstjen; (b)(6)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

KM

**From:** Hamilton, Gene  
**Sent:** Friday, January 27, 2017 8:22:17 PM  
**To:** MCALEENAN, KEVIN K  
**Cc:** Metzler, Alan; Higgins, Jennifer; Fulghum, Chip  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 8:15 PM  
**To:** Hamilton, Gene; (b)(6)  
**Cc:** Metzler, Alan; (b)(6); Higgins, Jennifer; (b)(6); Fulghum, Chip  
(b)(6)  
**Subject:** FW: FINAL SIGNED EO FOR ACTION

Gene,

(b)(5)

KM

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 7:54:39 PM  
**To:** (b)(6), (b)(7)(C); WAGNER, JOHN P; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(5)

From: (b)(6), (b)(7)(C)

Sent: Friday, January 27, 2017 7:48:11 PM

To: MCALEENAN, KEVIN K; WAGNER, JOHN P; MILLER, (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(5), (b)(7)(E)



**(b)(5), (b)(7)(E)**

**(b)(5), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)**

From: (b)(6), (b)(7)(C)

Sent: Friday, January 27, 2017 6:50 PM

To: MCALEENAN, KEVIN K (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>

**(b)(6), (b)(7)(C)**

Subject: RE: FINAL SIGNED EO FOR ACTION

**(b)(5)**

**(b)(6), (b)(7)(C)**

CBP Associate Chief Counsel (Enforcement and Operations)

**(b)(6), (b)(7)(C)**

\*\* Attorney Work Product / Attorney-Client Privileged \*\*

From: MCALEENAN, KEVIN K

Sent: Friday, January 27, 2017 6:41 PM

To: WAGNER, JOHN P (b)(6), (b)(7)(C)  
FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

**(b)(6), (b)(7)(C)**

Subject: FINAL SIGNED EO FOR ACTION





**From:** (b)(6)  
**Sent:** Sunday, January 29, 2017 12:32 PM  
**To:** MCALEENAN, KEVIN K; (b)(6)  
 (b)(6)  
**Cc:** Owen, Todd C (AC OFO); (b)(6) HOFFMAN, TODD A;  
 ALLES, RANDOLPH D  
**Subject:** RE: Boston Court Order  
**Attachments:** (b)(7)(E)

Sir,

(b)(5)

(b)(6)

Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6)

**From:** MCALEENAN, KEVIN K  
**Sent:** Sunday, January 29, 2017 10:22 AM  
**To:** (b)(6)

(b)(6)

**Cc:** Owen, Todd C (AC OFO); (b)(6)  
 (b)(6) HOFFMAN, TODD A (b)(6) ALLES,  
 RANDOLPH D (b)(6)  
**Subject:** Boston Court Order

**(b)(5)**

Thank you

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MAZDAK POURABDOLLAH  
TOOTKABONI and  
ARGHAVAN LOUHGHALAM,

Petitioners,  
v.

CIVIL ACTION NO. 17-cv-10154

DONALD TRUMP, President of  
The United States, et al.,

Respondents

**TEMPORARY RESTRAINING ORDER**

January 29, 2017

BURROUGHS, U.S.D.J.

On January 28, 2017 the Petitioners filed a Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief.

After consideration of the written submissions, arguments of counsel, and the hearing held on January 28-29, 2017, the Court hereby finds as follows:

1. The petitioners have met their burden of establishing a strong likelihood of success in establishing that the detention and/or removal of the petitioners and others similarly situated would violate their rights to Due Process and Equal Protection as guaranteed by the United States Constitution;

2. Absent a stay of removal, petitioners and others similarly situated, including lawful permanent residents, citizens, visa-holders, approved refugees, and other individuals from nations who are subject to the January 27, 2017 Executive Order, are likely to suffer irreparable harm.



3. The balance of harms favors the issuance of this temporary restraining order and its issuance is in the public interest.

NOW, THEREFORE, IT IS HEREBY ORDERED

I. that respondents, their officers, agents, servants, employees, attorneys, and all members and persons acting in concert or participation with them:

a) shall limit secondary screening to comply with the regulations and statutes in effect prior to the Executive Order, including 8 U.S.C. § 1101(a)(13)(C);

b) shall not, by any manner or means, detain or remove individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, lawful permanent residents, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia and Yemen who, absent the Executive Order, would be legally authorized to enter the United States;

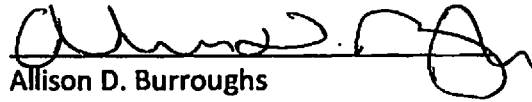
c) to assure compliance with this Order, the United States Marshal for the District of Massachusetts shall be served with this Order and is further directed to take those actions deemed necessary to enforce this Order; and

d) Customs and Border Protection shall notify airlines that have flights arriving at Logan Airport of this Order and the fact that individuals on these flights will not be detained or returned based solely on the basis of the Executive Order.

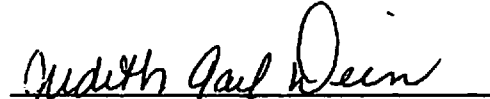
II. This Order shall remain in effect for a period of seven (7) days from the date of this Order.

The Court shall schedule a hearing prior to the expiration of this Order.

III. Petitioners shall file an Amended Complaint by January 30, 2017.



Allison D. Burroughs  
United States District Judge



Judith Gail Dein  
United States Magistrate Judge

January 29, 2017

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 11:31 PM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R; HOFFMAN, TODD A  
**Subject:** RE: refugee question  
**Attachments:** EO V1 cocx (002).CBP.docx

Edits attached.

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 11:07 PM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R; (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Subject:** RE: refugee question  
**Importance:** High

(b)(6), (b)(7)(C)

Revisions attached.

(b)(6), (b)(7)(C)  
 (A)Director  
 Enforcement Programs  
 Washington, DC, 20229

(b)(6), (b)(7)(C)

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 10:45 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: refugee question



the President's Executive Order entitled, "Protecting the Nation from Foreign Terrorist Entry Into the United States," (January 27, 2017).

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Friday, January 27, 2017 9:46 PM

To: (b)(6), (b)(7)(C)

Subject: FW: refugee question

(b)(5)

(b)(6), (b)(7)(C)

(A)Director  
Enforcement Programs  
Washington, DC, 20229

(b)(6), (b)(7)(C)

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It contains information that may be exempt from public release under the Freedom of Information Act (5USC552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need-to-know" without prior approval from CBPs Office of Field Operations.

From: (b)(6), (b)(7)(C)

Sent: Friday, January 27, 2017 9:42 PM

To: (b)(6), (b)(7)(C)

HUTTON, JAMES R

(b)(6), (b)(7)(C)

HOFFMAN, TODD A (b)(6), (b)(7)(C)

Subject: refugee question

(b)(5)

(b)(6), (b)(7)(C)

(A)Director  
Enforcement Programs

Washington, DC, 20229

**(b)(6), (b)(7)(C)**

WARNING: This document is LAW ENFORCEMENT SENSITIVE and is designated for OFFICIAL USE ONLY.

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**(b)(5), (b)(7)(E)**



**(b)(5), (b)(7)(E)**

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:42 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HOFFMAN, TODD A; HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** RE: last chance edits  
**Attachments:** EO V1 cocx (005).OCC.docx

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:41 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HOFFMAN, TODD A; (b)(6), (b)(7)(C); HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** RE: last chance edits

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:36 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HOFFMAN, TODD A; (b)(6), (b)(7)(C); HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** last chance edits

(b)(6), (b)(7)(C)

(A)Director

Enforcement Programs  
Washington, DC, 20229

**(b)(6), (b)(7)(C)**

WARNING: This document is LAW ENFORCEMENT SENSITIVE and is designated for OFFICIAL USE ONLY.

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**(b)(5), (b)(7)(E)**



**(b)(5), (b)(7)(E)**

**From:** (b)(6)  
**Sent:** Friday, January 27, 2017 9:49 PM  
**To:** (b)(6), (b)(7)(C) WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A;  
 HUTTON, JAMES R  
**Cc:** (b)(6), (b)(7)(C) Owen, Todd C (AC OFO)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 9:47 PM  
**To:** (b)(6), (b)(7)(C) WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A;  
 (b)(6), (b)(7)(C) HUTTON, JAMES R; (b)(6), (b)(7)(C) Owen, Todd C (AC OFO)  
**Cc:** (b)(6), (b)(7)(C) <TODD.OWEN@CBP.DHS.GOV>  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

We will not be offloading unless that direction comes from c1.

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 9:39 PM  
**To:** WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** FW: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Friday, January 27, 2017 9:27 PM

To: MCALEENAN, KEVIN K (b)(6), (b)(7)(C); WAGNER, JOHN P (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel

Office of Chief Counsel

U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

From: MCALEENAN, KEVIN K

Sent: Friday, January 27, 2017 8:45 PM

To: (b)(6), (b)(7)(C); WAGNER, JOHN P (b)(6)

(b)(6), (b)(7)(C) FLANAGAN, PATRICK S (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Subject: RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 8:19:22 PM  
**To:** MCALEENAN, KEVIN K; WAGNER, JOHN P; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)  
Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, January 27, 2017 7:55 PM  
**To:** (b)(6), (b)(7)(C); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 7:48:11 PM  
**To:** MCALEENAN, KEVIN K; WAGNER, JOHN P; (b)(6), (b)(7)(C); FLANAGAN, PATRICK S; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5), (b)(7)(E)



**(b)(5), (b)(7)(E)**

**(b)(5), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

**(b)(6), (b)(7)(C)**

**From:** **(b)(6), (b)(7)(C)**

**Sent:** Friday, January 27, 2017 6:50 PM

**To:** MCALEENAN, KEVIN K **(b)(6), (b)(7)(C)** WAGNER, JOHN P **(b)(6), (b)(7)(C)**

**(b)(6), (b)(7)(C)** FLANAGAN, PATRICK S <**(b)(6), (b)(7)(C)**

**(b)(6), (b)(7)(C)**

(b)(6), (b)(7)(C)

**Subject:** RE: FINAL SIGNED EO FOR ACTION

(b)(5)

(b)(6), (b)(7)(C)

CBP Associate Chief Counsel (Enforcement and Operations)

(b)(6), (b)(7)(C)

\*\* Attorney Work Product / Attorney-Client Privileged \*\*

---

**From:** MCALEENAN, KEVIN K

**Sent:** Friday, January 27, 2017 6:41 PM

**To:** WAGNER, JOHN P (b)(6), (b)(7)(C)

FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>

(b)(6), (b)(7)(C)

**Subject:** FINAL SIGNED EO FOR ACTION

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case No. CV 17-00786 AB (PLAx)

**ORDER GRANTING EMERGENCY  
MOTION FOR TEMPORARY  
RESTRAINING ORDER AND/OR  
PRELIMINARY INJUNCTION**

BADR DHAIFALLAH AHMED  
MOHAMMED;  
YOUSEF BADR DHAIFALLAH  
AHMED MOHAMED;  
MAHA ABDULHAMEED  
MOHAMMED ALMAWRI;  
MURAD KHALED ALI;  
WALEED MUSAED QASEM  
MOHAMMED;  
MAGED WALEED MUSAED  
QASEM;  
ANWAR SALEH NAGI;  
RIFAQ ANWAR SALEH NAGI  
ALEAZZALI;  
KHALED ANWAR NAGI  
ALEAZZALI;  
ASHAWQ MOHAMMED AYEDH  
AHMED;  
SABA ALI ALI SAAED;  
YOUSEF AHMED MOHAMED  
SAAD;  
NAWAR AHMED MOHAMED  
SAAD;  
IBRAHIM AHMED MOHAMED  
SAAD;  
MOHAMED AHMED MOHAMED  
SAAD;  
ABDULATEF ABDO MUTHANNA  
HAILAN;  
DIYAZAN ALI SAEED;  
SAHAR SALEM AHMED;  
NASLAH H A SAEED;  
ALI MOHSEN SAEED;  
SAIF DIYAZAN ALI MOHSEN;  
SARAH FADEL MUTHANA SAIF;



1 OMAR ALI MOHSEN MURSHED;  
2 BASSAM ALI MOHSEN MURSHED;  
3 NADHRA SALEH ALZEER;  
4 MUHRAH MOHSEN SALEH  
5 MOQBEL SALEH;  
6 QASEM ABDULRAHMAN SALEM  
7 AL-HASANI;  
8 MUNA O AL SAKKAF,

9  
10 Plaintiffs,

11 v.

12 UNITED STATES OF AMERICA;  
13 UNITED STATES DEPARTMENT  
14 OF HOMELAND SECURITY;  
15 UNITED STATES CITIZENSHIP  
16 AND IMMIGRATION SERVICES;  
17 UNITED STATES DEPARTMENT  
18 OF STATE;  
19 UNITED STATES CUSTOMS AND  
20 BORDER PATROL;  
21 DONALD J. TRUMP, in his official  
22 capacity as President of the United  
23 States of America;  
24 DANA J. BOENTE, in his official  
25 capacity as the Acting Attorney  
26 General of the United States;  
27 JOHN KELLY, Secretary of the  
28 Department of Homeland Security;  
LORI SCIALABBA, Acting Director  
of U.S. Citizenship and Immigration  
Services; KEVIN K. McALEENAN, in  
his official capacity as Acting  
Commissioner of U.S. Customs and  
Border Patrol,

Defendants.

Before the Court is Plaintiffs' Motion for Temporary Restraining Order And/Or Preliminary Injunctive Relief. (Dkt. No. 3.) Upon consideration of the Complaint (Dkt. No. 1), the Motion, and the supporting declarations (Dkt. Nos. 4, 5), for Good Cause Shown, the Court hereby **GRANTS** the Motion.

## DISCUSSION

A temporary restraining order (“TRO”) is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). The purpose of a TRO is to preserve the status quo before a preliminary injunction hearing may be held. *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Federal Rule of Civil Procedure 65 governs the issuance of TROs and preliminary injunctions, and courts apply the same standard to both. *Frontline Med. Assocs., Inc. v. Coventry Healthcare Workers Comp., Inc.*, 620 F. Supp. 2d 1109, 1110 (C.D. Cal. 2009).

A party seeking preliminary injunctive relief must satisfy one of two tests. Under one test, the party must establish that he is (1) likely to succeed on the merits of his claims, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Am. Trucking Ass’n, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009).

Under the alternative test, a party must show “‘serious questions going to the merits’ [,] a balance of hardships that tips sharply toward the plaintiff,” a likelihood of irreparable harm, and that the injunction is in the public interest. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011). A “serious question” is one on which the movant “has a fair chance of success on the merits.” *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1421 (9th Cir. 1984).

The Court finds that Plaintiffs have satisfied these standards and that a TRO should issue. Plaintiffs have satisfied the first test because they have shown that they are likely to succeed on the merits of claims that would entitle them to relief; Plaintiffs are likely to suffer irreparable harm in the absence of preliminary relief; the balance of equities favors Plaintiffs; and an injunction is in the public interest. Plaintiffs have also satisfied the “alternative” test: they have established at least a serious question going to

1 the merits of their claims; that the balance of hardships tips decisively in their favor; and,  
2 as noted as to the first test, a likelihood of irreparable harm and that an injunction is in  
3 the public interest.

4  
5 **IT IS HEREBY ORDERED THAT:**

- 6 1. Defendants and their officers, agents, employees, attorneys, and all persons acting in  
7 concert or participating with them, are **ENJOINED AND RESTRAINED** from  
8 enforcing Defendant President Donald J. Trump's January 27, 2017 Executive Order  
9 by removing, detaining, or blocking the entry of Plaintiffs, or any other person from  
10 Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen with a valid immigrant visa;  
11 2. Defendants, and Defendant United States Department of State in particular, are  
12 hereby **ENJOINED AND RESTRAINED** from cancelling validly obtained and  
13 issued immigrant visas of Plaintiffs;  
14 3. Defendants, and Defendant United States Department of State in particular, are  
15 hereby **ORDERED** to return to Plaintiffs their passports containing validly issued  
16 immigrant visas so that Plaintiffs may travel to the United States on said visas; and  
17 4. Defendants are hereby **ORDERED** to **IMMEDIATELY** inform all relevant airport,  
18 airline, and other authorities at Los Angeles International Airport and International  
19 Airport in Djibouti that Plaintiffs are permitted to travel to the United States on their  
20 valid immigrant visas.

21  
22 Unless otherwise agreed upon by the parties:

- 23 • Plaintiffs shall file any **supplemental brief** in support of their motion for  
24 preliminary injunction **by February 2, 2017**.  
25 • Defendants shall file their **opposition by February 5, 2017**.  
26 • Plaintiffs shall file their **reply by February 8, 2017**.  
27 • Defendants shall appear on **February 10, 2017 at 10:00 a.m.** to show cause why  
28



1 the preliminary injunctive relief sought in the Ex Parte Application for Temporary  
2 Restraining Order And/Or Preliminary Injunction should not be granted.

3 **IT IS SO ORDERED.**

4  
5 Dated: January 31, 2017



6 HONORABLE ANDRÉ BIROTTE JR.  
7 UNITED STATES DISTRICT COURT JUDGE  
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**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 5:00 PM  
**To:** MCALEENAN, KEVIN K  
**Cc:** (b)(6), (b)(7)(C)  
(OCC); Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN,  
TODD A; HUTTON, JAMES R  
**Subject:** Litigation Update - EO 13769  
**Attachments:** 1-main.pdf; 1-2.pdf; 1-1.pdf

Sir,

(b)(5)

Please let us know if you need to discuss.

(b)(6), (b)(7)(C)  
Deputy Associate Chief Counsel  
Enforcement and Operations



Office of the Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C) (desk)  
(cell)

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MATHEW W DOS SANTOS, OSB 155766  
 mdossantos@aclu-or.org  
 KELLY K SIMON, OSB 154213  
 ksimon@aclu-or.org  
 AMERICAN CIVIL LIBERTIES UNION  
 FOUNDATION OF OREGON  
 PO Box 40105  
 Portland OR 97240  
 503.227.6928 (tel)  
 Attorneys for Plaintiff

STEPHEN W MANNING, OSB 01337  
 smanning@ilgrp.com  
 JENNIFER M ROTMAN, OSB 04134  
 jrotman@ilgrp.com  
 JESSICA M BOELL, OSB 020220  
 jboell@ilgrp.com  
 IMMIGRANT LAW GROUP PC  
 PO Box 40105  
 Portland OR 97240  
 503.241.0035 (tel)  
 503.241.7733 (fax)  
 Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
 DISTRICT OF OREGON  
 [PORTLAND DIVISION]**

UNITE OREGON,

Plaintiff

v.

DONALD J. TRUMP, President of the  
 United States; U.S. DEPARTMENT OF  
 HOMELAND SECURITY (“DHS”);  
 U.S. CUSTOMS AND BORDER  
 PROTECTION (“CBP”); JOHN  
 KELLY, Secretary of DHS; KEVEN K.

Case No.

COMPLAINT FOR DECLATORY  
 AND INJUNCTIVE RELIEF

MCALLENAN, Acting Commissioner  
of CBP; JOHN D. BARNES, CBP Area  
Director, Port of Portland,

Defendants

---

### **Introduction**

1. This is a complaint for declaratory and injunctive relief to prevent Defendants from unconstitutionally banishing Plaintiffs – lawful immigrant, nonimmigrants, or refugees who seek to return to their homes or jobs or reunite with their families in Oregon – from the Portland International Airport under President Donald J. Trump’s January 27, 2017 Executive Order (“Executive Order”) and to provide Plaintiffs with access to legal counsel.

2. Under the authority of the Executive Order, as implemented at the Portland International Airport, the Defendants have unlawfully detained and will continue to unlawfully detain Oregonians, family members of Oregonians, individuals working in and supporting Oregon business, among others all of whom are lawful immigrants, nonimmigrants, or refugees because of their religion and national origin without due process of law. Under the Executive Order, during these unlawful detentions, immigrant and refugee travelers are subject to extended detention, and interrogation to determine whether they qualify for a waiver. This arbitrary and capricious adjudication at the hands of federal agents determines whether immigrants and refugees are subject to banishment from the United States without a

hearing. Moreover, the Defendants have unlawfully denied and will continue to unlawfully deny these Oregonians access to counsel. Therefore, on behalf of itself and others similarly situated who are detained or interrogated at the Portland International Airport, Unite Oregon seeks a declaration that the application of the Executive Order to them is unconstitutional and that the Executive Order as applied to them should be enjoined.

### **Subject Matter Jurisdiction**

3. The court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question). The statute provides that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” This action arises under the U.S. Constitution and the Immigration and Nationality Act which is a law of the United States.

4. The court has subject matter jurisdiction under 28 U.S.C. § 1346(a)(2) (United States as defendant). This is a civil action against the officers and agencies of the United States founded upon an Executive Order of the President.

5. Jurisdiction lies to grant declaratory relief pursuant to 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

### **Venue**

6. Pursuant to 28 U.S.C. § 1391(b)(2) and 1391(e)(1), venue is proper in the



District of Oregon because the Defendants are officers of the United States and a substantial part of the events or omissions giving rise to this claim occurred or will occur in Oregon.

### **Parties**

7. Plaintiff, Unite Oregon, is a membership-based nonprofit corporation organized under Oregon and based in Oregon. It is led by people of color, immigrants and refugees, rural communities, and people experiencing poverty who work across Oregon to build a unified intercultural movement for justice. Unite Oregon operates several programs designed around their core values of inclusivity, racial justice, social justice, empowerment, stewardship, respect, transparency, and equity to increase the public leadership, expand civic engagement, important public policy advocacy. Unite Oregon is suing on behalf of itself and in its associational capacity.

8. Defendant Donald J. Trump is the President of the United States and he is being sued in his official capacity.

9. Defendant John F. Kelly is the Secretary of Homeland Security and is the head of the U.S. Department of Homeland Security (DHS) and has ultimate responsibility for the administration and enforcement of the immigration laws. He is sued in his official capacity.

10. Defendant Kevin K. McAleenan is the Acting Commissioner of U.S.  
Page 4 - COMPLAINT



Customs and Border Protection and is responsible for the implementation of the Executive Order at the ports of entry of the United States. He is sued in his official capacity.

11. Defendant, John D. Barnes is CBP Area Director for the Port of Portland is responsible for the implementation of the Executive Order at the Portland International Airport. He is sued in his official capacity.

12. Defendant, U.S. Department of Homeland Security is a cabinet department of the United States federal government with the primary mission of securing the United States.

13. Defendant, U.S. Customs and Border Protection is an agency within DHS with the primary mission of detecting and preventing the unlawful entry of persons and goods into the United States.

### **Legal Framework**

#### **President Trump's Executive Order**

14. President Donald Trump notoriously campaigned on the promise to ban Muslims from entering the United States and burden the lives of those living in the United States.

15. Throughout his presidential campaign, candidate Trump repeatedly expressed views on Islam and Muslims that were rooted in Islamophobia and hateful

stereotypes of Muslims. These views included statements like, “Islam hates us” and accusing Muslim-Americans of protecting terrorists.

16. For example, on December 7, 2015, Donald Trump called “for a total and complete shutdown of Muslims entering the United States.” As of the date of this filing, the press release remains available on Trump's campaign website.

17. On June 14, 2016, Donald Trump promised to ban all Muslims from entering the United States until “we as a nation are in a position to properly and perfectly screen those people coming into our country.”

18. On July 24, 2016, Donald Trump explained that his June 14 comments were an expansion on his ban on Muslims.

19. On August 15, 2016, in a foreign policy speech, Donald Trump proposed creating an ideological screening test for immigration applicants, which would “screen out any who have hostile attitudes towards our country or its principles — or who believe that Sharia law should supplant American law.” During the speech, he referred to his proposal as “extreme, extreme vetting.”

20. On January 20, 2017, Donald Trump was inaugurated as the forty-fifth President of the United States.

21. One week later, on January 27, President Trump signed an executive order entitled, “Protecting the Nation from Foreign Terrorist Entry into the United States,”

which is attached hereto as Exhibit A and is hereinafter referred to as the “Executive Order.” President Trump executed on his hateful campaign rhetoric with the Executive Order.

22. In statements to the press in connection with his issuance of the Executive Order, President Trump prioritized admitting Christian refugees to the United States over Muslims.

23. This prioritization of Christians is written into the Executive Order in Section 5 (b), which states in part, that Department of Homeland Security (DHS) should “prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual’s country of nationality.”

24. There are no majority Christian countries in the Middle East.

25. Citing the threat of terrorism committed by foreign nationals, the Executive Order directs a variety of changes to the manner and extent to which non-citizens may seek and obtain admission to the United States, particularly (although not exclusively) as refugees. Among other things, the Executive Order imposes a 120-day moratorium on the refugee resettlement program as a whole; proclaims that “that the entry of nationals of Syria as refugees is detrimental to the interests of the United States,” and therefore “suspend[s]” indefinitely their entry to the country; similarly proclaims that “the entry of more than 50,000 refugees in fiscal year 2017 would be



detrimental to the interests” of the country.

26. Most relevant to the instant action is Section 3(c) of the Executive Order, in which President Trump proclaims “that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States,” and that he is therefore “suspend[ing] entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order,” with narrow exceptions not relevant here.

27. There are seven countries that fit the criteria in 8 U.S.C. § 1187(a)(12): Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. According to the terms of the Executive Order, therefore, the “entry into the United States” of non-citizens from those countries is “suspended” from 90 days from the date of the Executive Order.

28. Section 3(c) of the Executive Order forbids any entry of immigrants and nonimmigrants from countries referred to in section 217(a)(12) of the Immigration and Nationality Act, 8 U.S.C. § 1187(a)(12), i.e., Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen “for 90 days from the date of this order.”

29. Section 3(e) of the Executive Order calls for recommendations from the Secretary of State and Homeland Security for countries to be extended indefinitely.

30. Section 3(g) provides that only immigrants who are issued a “case-by-case” waiver by the Secretaries of State and Homeland Security may enter the country. All

Page 8 - COMPLAINT

other immigrants must be immediately removed.

31. Sections 5(a)—(b) of the Executive Order suspend the U.S. Refugee Admissions Program in its entirety for 120 days and Section 5(c) of the Executive Order proclaims that entry of Syrian refugees is "detrimental to the interests of the United States" and suspends their entry indefinitely."

32. Section 5(e) provides that only refugees who are issued a "case-by-case" waiver by the Secretaries of State and Homeland Security may enter the country. All other refugees will be immediately banished.

33. Soon after the Executive Order was issued, many immigrants and refugees across the country were subject to interrogation without counsel, detention, and, in at least one case, expedited removal pursuant to Section 3(c).

### **Implementation and Impact of the Executive Order in Oregon**

34. Portland International Airport ("PDX") is Oregon's largest airport and accounts for nearly all public, flight travel of the state.

35. The operation of PDX provides an enormous economic benefit to the state. According to the PDX Community Advisory Committee's April 11, 2013 Regional Economic Impact of Portland International Airport, PDX accounted for \$1.5 Billion in person income, \$5.57 Billion in business revenue, \$411 Million in local purchases, and \$168 Million in state and local taxes. According to the same report, air visitors



spent \$1.8 Billion in the local visitor industry.

36. On January 28, 2017, the Honorable Ann M. Donnelly of the U.S. District Court for the Eastern District of New York issued a nationwide stay of removal which provides that the federal government is “enjoined and restrained from, in any manner, removing individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States.” The court found that the “petitioners have a strong likelihood of success in establishing that the removal of the petitioner and other similarly situation violates their rights to Due Process and Equal Protection guaranteed by the United States Constitution.”

37. On January 28, 2017, the Honorable Leonie M. Brinkema of the U.S. District Court for the Eastern District of Virginia issued a Temporary Restraining Order ordering “respondents shall permit lawyers access to all legal permanent residents being detained at Dulles International Airport.”

38. Upon information and belief, all lawful immigrants and nonimmigrants or individuals from the seven target countries and all refugees have been detained or will be detained in PDX under the authority of the Executive Order.

39. Although an individual cannot presently be removed from the United States

under the Executive Order because of the temporary injunction, the injunction does not require that an individual be released from detention.

40. Instead, on information and belief, at PDX, individuals from the targeted countries, all lawful immigrants and nonimmigrants including lawful permanent residents, are subjected to an extended detention during which they are interrogated by CBP. The purpose of the interrogation is to make an adjudication under the Executive Order for the individual's release from detention (or, in the absence of the injunction, the individual's deportation).

41. Under the Executive Order, the CBP adjudicates critically important rights during the period it detains the individual including whether the individual will continue to be detained. The detained individuals must make important decisions about their legal rights including whether or not to withdraw their applications for admission and their legal obligations, such as answering or responding to interrogations under the Executive Order.

42. Being accompanied, represented, or advised by counsel in making these life altering decisions will limit the risk of erroneous deprivation of individual liberty interests and provide transparency and procedural protections in the face of an opaque Executive Order that does not provide for a meaningful standard for adjudication, does not limit the type of interrogation and does not limit the period of detention.

43. Because of the importance of access to counsel in light of the unprecedented Executive Order and its implementation at PDX, the Oregon Chapter of the American Immigration Lawyers Association and the American Civil Liberties Union of Oregon have organized pro bono attorneys at PDX to accompany, represent, and advise individuals detained and interrogated under the Executive Order.

44. On January 29, 2017, the ACLU released a statement asking Oregonians to call in if they or someone they know “has a family member who will be arriving in the next 72-hours from Iraq, Syria, Iran, Libya, Somalia, Sudan or Yemen at Portland International Airport (PDX), or who was detained already by Customs pursuant to President Trump’s Executive Order.” The program was created to provide free legal counsel to anyone detained, interrogated, searched, or subject to deportation because of the Executive Order and its application.

45. On information and belief, the Defendants have denied individuals detained under the Executive Order the ability to be accompanied, represented or advised by counsel. The Defendants have implemented a policy at PDX to prohibit access to counsel to individuals detained under the Executive Order and will continue to deny access to counsel for individuals detained under the Executive Order.

46. For example, on January 29, 2017, a lawful permanent resident detained under the Executive Order because he was Iranian was denied access to a pro bono



immigration attorney.

47. Lawful permanent residents enjoy the ability to travel to and from the United States without encumbrance subject to § 101(a)(13)(C) of the Immigration and Nationality Act. This is an important benefit of lawful permanent residence.

48. Under the immigration laws, Congress created a unified status of lawful permanent residence. *See* INA § 101(a)(20). A permanent resident is “accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.” *Id.* Under the immigration laws, there is no statutory subsets of limited rights or benefits to different classes of lawful permanent residents.

49. Section 3 of the Executive Order imposes a minimum 90-day ban on the ability to travel of lawful permanent residents based on national origin and religion. The 90-day period banning travel by individuals from targeted countries, including lawful permanent residents, may be extended under the standard established in Section 3. According to more than one thousand foreign service officers and civil servants of the U.S. State Department, “[t]his ban, which can only be lifted under conditions which will be difficult or impossible for countries to meet, will not achieve its stated goal of to protect the American people from terrorist attacks by foreign nationals admitted to the United States.” *See* Jeffery Gettleman, *State Dept. Dissent Cable on Trump’s Ban Draws 1,000 Signatures*, NY Times at A1 (Feb. 1,

2017) (citing and linking to a draft Dissent Channel message).

50. The Executive Order applies to lawful permanent residents of the targeted countries and requires them to undergo detention and interrogation and therefore encumbers their ability to travel.

### **Unite Oregon**

51. Unite Oregon is a nonprofit organization incorporated in Oregon whose mission is to work across Oregon to build a unified intercultural movement for justice that is led by people of color, immigrants and refugees, rural communities and people experiencing poverty.

52. Unite Oregon is a membership organization.

53. Unite Oregon's membership consists of numerous immigrants and refugees from Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen.

54. Unite Oregon's membership consists of numerous immigrants and refugees who are Muslim from each of the enumerated countries.

55. Unite Oregon's membership consists of lawful permanent residents, nonimmigrants, and refugees from each of the enumerated countries.

56. These Muslim immigrant and refugee members of Unite Oregon lawfully travel to and from the United States to visit family members, for legitimate social and business reasons, and have sought and will seek to have family members from



the enumerated countries reunite with them in Oregon.

57. These Muslim immigrant and refugee members of Unite Oregon have contributed substantially to the shared prosperity of Oregon, including, in particularly its rural communities.

58. Because of the Executive Order, members of Unite Oregon cannot travel unencumbered, cannot reunite with their families, cannot complete legitimate business and social obligations unencumbered.

59. Because of the Executive Order, members of Unite Oregon will be detained and denied access to counsel.

60. The Executive Order did not and does not provide for a meaningful hearing on the ability to travel for lawful permanent residents.

### **Causes of Action**

#### **Count 1**

##### **Access to Counsel**

##### **Fifth Amendment – Due Process**

61. All previous paragraphs are incorporated as though fully set forth herein.

62. Defendants' acts of preventing attorneys to access individuals detained in their custody under the Executive Order at PDX violates the Due Process Clause of the Fifth Amendment.

**Count 2**  
**Access to Counsel**  
**5 U.S.C. § 555(b)**

63. All previous paragraphs are incorporated as though fully set forth herein.

64. Defendants' acts of preventing attorneys to access individuals detained in their custody under the Executive Order at PDX violates 5 U.S.C. § 555(b).

**Count 3**  
**Access to Counsel**  
**Immigration and Nationality Act**

65. All previous paragraphs are incorporated as though fully set forth herein.

66. Defendants' acts of preventing attorneys to access individuals detained in their custody under the Executive Order at PDX violates 8 C.F.R. § 292.5(b) and INA § 103.

**Count 4**  
**Arbitrary Detention in Violation of Due Process**

67. All previous paragraphs are incorporated as though fully set forth herein.

68. Defendants have detained and will continue to detain individuals at PDX under the Executive Order or under color of the Executive Order in violation of the Due Process Clause of the Fifth Amendment.

**Count 5**  
**Equal Protection**  
**Fifth Amendment to the U.S. Constitution**

69. All previous paragraphs are incorporated as though fully set forth herein.

70. The Defendants have denied equal protection of the laws under the Executive Order.

71. The Executive Order targets individuals for discriminatory treatment based on their national origin and religion without lawful justification.

72. The Executive Order was motivated by animus and a desire to harm a particular group.

73. The discriminatory terms and application of the Executive Order are arbitrary and cannot be sufficiently justified by federal interests.

**Count 6**  
**Establishment Clause**  
**First Amendment to the U.S. Constitution**

74. All previous paragraphs are incorporated as though fully set forth herein.

75. The Defendants have violated the Establishment Clause of the First Amendment.

76. The Establishment Clause of the First Amendment prohibits the federal government from officially preferring one religion over another.

77. The Executive Order, together with statements made the Defendants concerning their intent and application, are intended to disfavor Islam and favor

Christianity.

**Count 7**  
**Procedural Due Process**  
**Fifth Amendment to the U.S. Constitution**

78. All previous paragraphs are incorporated as though fully set forth herein.

79. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving individuals of their liberty interests without due process of law.

80. Where Congress has granted statutory rights and authorized procedures applicable to noncitizens, minimum due process rights attach to those statutory rights.

81. In issuing and implementing the Executive Order, the Defendants have violated the Due Process Clause of the Fifth Amendment.

**Count 8**  
**Religious Freedom Restoration Act**

82. All previous paragraphs are incorporated as though fully set forth herein.

83. The Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1(a), prohibits the federal government from substantially burdening the exercise of religion, even if the burden results from a rule of general applicability.

84. The Executive Order as implemented in Oregon has resulted in substantial



burdens on the exercise of religion by noncitizen immigrants and refugees by, for example, preventing them from returning to their religious communities in Oregon and abroad. Such burdens on religion violate the Religious Freedom Restoration Act.

**Count 9**  
**Procedural Violation**  
**Administrative Procedures Act**

85. All previous paragraphs are incorporated as though fully set forth herein.

86. The Administrative Procedure Act, 5 U.S.C. § 553, requires that federal agencies conduct formal rule making before engaging in action that impacts substantive rights.

87. By implementing the Executive Order, federal agencies have changed the substantive criteria by which individuals from the enumerated countries may enter the United States.

88. Federal agencies did not follow the procedures required by the Administrative Procedures Act before taking action impacting these substantive rights.

**Count 10**  
**Substantive Violation**  
**Administrative Procedures Act**

89. All previous paragraphs are incorporated as though fully set forth herein.



90. The Administrative Procedures Act prohibits a federal agency from taking action that is arbitrary, capricious, an abuse of discretion, unconstitutional, or contrary to statute.

91. The Executive Order, as implemented, provides for an arbitrary, capricious, an abuse of discretion, an unconstitutional and contrary to statute decision-making and adjudications.

### **Request for Relief**

**WHEREFORE**, Plaintiff requests that the Court grant the following relief:

- A. Declare that the Executive Order is unlawful and contrary to the Constitution and laws of the United States;
- B. Issue an injunction ordering the Defendants to cease implementation of the Executive Order at the Portland International Airport;
- C. Issue an injunction ordering the Defendants not to detain an individual solely on the basis of the Executive Order;
- D. Issue an injunction ordering the Defendants to advise individuals of their right to counsel before commencing any interrogation under the Executive Order;
- E. Issue an injunction ordering the Defendants to advise individuals that, during

the period of time that the Executive Order is in force, pro bono counsel is available to them through the ACLU of Oregon and volunteers with the Oregon Chapter of AILA;

- F. Issue an injunction ordering that the Defendants shall permit lawyers access to all individuals detained at PDX;
- G. Issue an injunction ordering the Defendants shall permit individuals access to phones with which to contact their friends, families and the pro bono attorneys or their consulates;
- H. Award Plaintiff reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 2412; and
- I. Award all other relief to Plaintiff that it deems just, equitable, and proper.

Respectfully submitted on February 1, 2017.

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF OREGON

IMMIGRANT LAW GROUP PC

/s/ Mathew W Dos Santos

**MATHEW W DOS SANTOS**  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF OREGON  
PO Box 40105  
Portland OR 97240  
503.241.0035 (tel)  
503.241.7733 (fax)  
Attorneys for Plaintiff

*/s/ Stephen W Manning*

**STEPHEN W MANNING**  
IMMIGRANT LAW GROUP PC  
333 SW Fifth Avenue Suite 525  
Portland, OR 97204  
503.241.0035 (tel)  
503.241.7733 (fax)  
[smanning@ilgrp.com](mailto:smanning@ilgrp.com)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Unite Oregon

(b) County of Residence of First Listed Plaintiff Multnomah  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mathew W. dos Santos, ACLU of Oregon, P.O. Box 40585, Portland, OR 97240 (503) 227-6928

**DEFENDANTS**

Donald J. Trump; U.S. Department of Homeland Security; U.S. Customs and Border Protection; John Kelly, et. al.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 2201

Brief description of cause:  
Injunctive relief with respect to executive order

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 0.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/01/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Mathew W. dos Santos

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



# **Exhibit A**

The White House  
Office of the Press Secretary  
For Immediate Release  
January 27, 2017

# EXECUTIVE ORDER: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES

## EXECUTIVE ORDER

-----

### Protecting the Nation from Foreign Terrorist Entry into the United States

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, and section 301 of title 3, United States Code, and to protect the American people from terrorist attacks by foreign nationals admitted to the United States, it is hereby ordered as follows:

Section 1. Purpose. The visa-issuance process plays a crucial role in detecting individuals with terrorist ties and stopping them from entering the United States. Perhaps in no instance was that more apparent than the terrorist attacks of September 11, 2001, when State Department policy prevented consular officers from properly scrutinizing the visa applications of several of the 19 foreign nationals who went on to murder nearly 3,000 Americans. And while the visa-issuance process was reviewed and amended after the September 11 attacks to better detect would-be terrorists from receiving visas, these measures did not stop attacks by foreign nationals who were admitted to the United States.

Numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001, including foreign nationals who entered the United States after receiving visitor, student, or employment visas, or who entered through the United States refugee resettlement program. Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter the United States. The United States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.

In order to protect Americans, the United States must ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles. The United States cannot, and should not, admit those who do not support the Constitution, or those who would place violent ideologies over American law. In addition, the United States should not admit those who engage in acts of bigotry or hatred (including "honor" killings, other forms of violence against women, or the persecution of those who practice religions different from their own) or those who would oppress Americans of any race, gender, or sexual orientation.

Sec. 2. Policy. It is the policy of the United States to protect its citizens from foreign nationals who intend to commit terrorist attacks in the United States; and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

Sec. 3. Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern. (a) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall immediately conduct a review to determine the information needed from any country to adjudicate any visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat.

(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall submit to the President a report on the results of the review described in subsection (a) of this section, including the Secretary of Homeland Security's determination of the information needed for adjudications and a list of countries that do not provide adequate information, within 30 days of the date of this order. The Secretary of Homeland Security shall provide a copy of the report to the Secretary of State and the Director of National Intelligence.

(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).

(d) Immediately upon receipt of the report described in subsection (b) of this section regarding the information needed for adjudications, the Secretary of State shall request all foreign governments that



do not supply such information to start providing such information regarding their nationals within 60 days of notification.

(e) After the 60-day period described in subsection (d) of this section expires, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the President a list of countries recommended for inclusion on a Presidential proclamation that would prohibit the entry of foreign nationals (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas) from countries that do not provide the information requested pursuant to subsection (d) of this section until compliance occurs.

(f) At any point after submitting the list described in subsection (e) of this section, the Secretary of State or the Secretary of Homeland Security may submit to the President the names of any additional countries recommended for similar treatment.

(g) Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.

(h) The Secretaries of State and Homeland Security shall submit to the President a joint report on the progress in implementing this order within 30 days of the date of this order, a second report within 60 days of the date of this order, a third report within 90 days of the date of this order, and a fourth report within 120 days of the date of this order.

Sec. 4. Implementing Uniform Screening Standards for All Immigration Programs. (a) The Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall implement a program, as part of the adjudication process for immigration benefits, to identify individuals seeking to enter the United States on a fraudulent basis with the intent to cause harm, or who are at risk of causing harm subsequent to their admission. This program will include the development of a uniform screening standard and procedure, such as in-person interviews; a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that the applicant is who the applicant claims to be; a process to evaluate the applicant's likelihood of becoming a positively contributing member of society and the applicant's ability to make contributions to the national interest; and a mechanism to assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the United States.



(b) The Secretary of Homeland Security, in conjunction with the Secretary of State, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation, shall submit to the President an initial report on the progress of this directive within 60 days of the date of this order, a second report within 100 days of the date of this order, and a third report within 200 days of the date of this order.

Sec. 5. Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017. (a) The Secretary of State shall suspend the U.S. Refugee Admissions Program (USRAP) for 120 days. During the 120-day period, the Secretary of State, in conjunction with the Secretary of Homeland Security and in consultation with the Director of National Intelligence, shall review the USRAP application and adjudication process to determine what additional procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States, and shall implement such additional procedures. Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures. Upon the date that is 120 days after the date of this order, the Secretary of State shall resume USRAP admissions only for nationals of countries for which the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence have jointly determined that such additional procedures are adequate to ensure the security and welfare of the United States.

(b) Upon the resumption of USRAP admissions, the Secretary of State, in consultation with the Secretary of Homeland Security, is further directed to make changes, to the extent permitted by law, to prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality. Where necessary and appropriate, the Secretaries of State and Homeland Security shall recommend legislation to the President that would assist with such prioritization.

(c) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of nationals of Syria as refugees is detrimental to the interests of the United States and thus suspend any such entry until such time as I have determined that sufficient changes have been made to the USRAP to ensure that admission of Syrian refugees is consistent with the national interest.

(d) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States, and thus suspend any such entry until such time as I determine that additional admissions would be in the national interest.

(e) Notwithstanding the temporary suspension imposed pursuant to subsection (a) of this section, the Secretaries of State and Homeland Security may jointly determine to admit individuals to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the admission of such individuals as refugees is in the national interest -- including when the person is

a religious minority in his country of nationality facing religious persecution, when admitting the person would enable the United States to conform its conduct to a preexisting international agreement, or when the person is already in transit and denying admission would cause undue hardship -- and it would not pose a risk to the security or welfare of the United States.

(f) The Secretary of State shall submit to the President an initial report on the progress of the directive in subsection (b) of this section regarding prioritization of claims made by individuals on the basis of religious-based persecution within 100 days of the date of this order and shall submit a second report within 200 days of the date of this order.

(g) It is the policy of the executive branch that, to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees. To that end, the Secretary of Homeland Security shall examine existing law to determine the extent to which, consistent with applicable law, State and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions, and shall devise a proposal to lawfully promote such involvement.

Sec. 6. Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility. The Secretaries of State and Homeland Security shall, in consultation with the Attorney General, consider rescinding the exercises of authority in section 212 of the INA, 8 U.S.C. 1182, relating to the terrorism grounds of inadmissibility, as well as any related implementing memoranda.

Sec. 7. Expedited Completion of the Biometric Entry-Exit Tracking System. (a) The Secretary of Homeland Security shall expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

(b) The Secretary of Homeland Security shall submit to the President periodic reports on the progress of the directive contained in subsection (a) of this section. The initial report shall be submitted within 100 days of the date of this order, a second report shall be submitted within 200 days of the date of this order, and a third report shall be submitted within 365 days of the date of this order. Further, the Secretary shall submit a report every 180 days thereafter until the system is fully deployed and operational.

Sec. 8. Visa Interview Security. (a) The Secretary of State shall immediately suspend the Visa Interview Waiver Program and ensure compliance with section 222 of the INA, 8 U.S.C. 1222, which requires that all individuals seeking a nonimmigrant visa undergo an in-person interview, subject to specific statutory exceptions.



(b) To the extent permitted by law and subject to the availability of appropriations, the Secretary of State shall immediately expand the Consular Fellows Program, including by substantially increasing the number of Fellows, lengthening or making permanent the period of service, and making language training at the Foreign Service Institute available to Fellows for assignment to posts outside of their area of core linguistic ability, to ensure that non-immigrant visa-interview wait times are not unduly affected.

Sec. 9. Visa Validity Reciprocity. The Secretary of State shall review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal insofar as practicable with respect to validity period and fees, as required by sections 221(c) and 281 of the INA, 8 U.S.C. 1201(c) and 1351, and other treatment. If a country does not treat United States nationals seeking nonimmigrant visas in a reciprocal manner, the Secretary of State shall adjust the visa validity period, fee schedule, or other treatment to match the treatment of United States nationals by the foreign country, to the extent practicable.

Sec. 10. Transparency and Data Collection. (a) To be more transparent with the American people, and to more effectively implement policies and practices that serve the national interest, the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent with applicable law and national security, collect and make publicly available within 180 days, and every 180 days thereafter:

(i) information regarding the number of foreign nationals in the United States who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; or removed from the United States based on terrorism-related activity, affiliation, or material support to a terrorism-related organization, or any other national security reasons since the date of this order or the last reporting period, whichever is later;

(ii) information regarding the number of foreign nationals in the United States who have been radicalized after entry into the United States and engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States, since the date of this order or the last reporting period, whichever is later; and

(iii) information regarding the number and types of acts of gender-based violence against women, including honor killings, in the United States by foreign nationals, since the date of this order or the last reporting period, whichever is later; and

(iv) any other information relevant to public safety and security as determined by the Secretary of Homeland Security and the Attorney General, including information on the immigration status of foreign nationals charged with major offenses.

(b) The Secretary of State shall, within one year of the date of this order, provide a report on the estimated long-term costs of the USRAP at the Federal, State, and local levels.

Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP



**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, February 03, 2017 6:35 PM  
**To:** MCALEENAN, KEVIN K  
**Cc:** (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) FLANAGAN, PATRICK S; Owen, Todd C (AC OFO);  
WAGNER, JOHN P; HOFFMAN, TODD A; HUTTON, JAMES R  
**Subject:** Positive Result - DMass TRO not extended  
**Attachments:** IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order; 8 - ORDER Granting Stay of Removal.pdf

Sir,

Attached please find the order we received moments ago in the District of Massachusetts. (b)(5)

(b)(5)

We will continue to keep you updated on any other orders.

(b)(6), (b)(7)(C)  
Deputy Associate Chief Counsel  
Office of Chief Counsel  
U.S. Customs and Border Protection

(b)(6), (b)(7)(C) (office)  
(b)(6), (b)(7)(C) (cell)

**From:** MCALEENAN, KEVIN K  
**Sent:** Sunday, January 29, 2017 1:39 AM  
**To:** Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A; HUTTON, JAMES R; DIRECTORS FIELD OPS  
**Cc:** (b)(6), (b)(7)(C) ALLES, RANDOLPH D; FLANAGAN, PATRICK S  
**Subject:** IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order

ALCON:

Please take immediate action on the instruction below with regard to travelers impacted by the order. APP will follow with further guidance:

To further the implementation of the Executive Order, consistent with the principle in Section 5(e) recognizing due consideration for travelers who were in transit and for whom denying admission would cause undue hardship, ports of entry shall take the following actions for those limited number of travelers subject to the Executive Order currently in CBP custody. Ports of entry should assess those individuals by referring them for

(b)(7)(E) consideration for a waiver pursuant to Section 3(g) or 5(e) as appropriate. (b)(7)(E)

(b)(7)(E) In any event, no alien subject to the Executive Order may be subject to Expedited Removal or another immediate form of removal. For any alien currently in CBP custody who had previously been processed for Expedited Removal and not yet removed, please re-process according to this guidance. For any questions regarding this guidance please contact Admissibility and Passenger Programs, duty officer.



Kevin K. McAleenan  
 Acting Commissioner  
 U.S. Customs and Border Protection

(b)(6), (b)(7)(C)

*We are the guardians of our Nation's borders.  
 We are America's frontline.*

*Vigilance • Service • Integrity*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----	X	
	:	
<b>HAMEED KHALID DARWEESH and</b>	:	
<b>HAIDER SAMEER ABDULKHALEQ</b>	:	
<b>ALSHAWI, on behalf of themselves and others</b>	:	
<b><i>similarly situated,</i></b>	:	
Petitioners,	:	<b><u>DECISION AND ORDER</u></b>
	:	
- against -	:	17 Civ. 480 (AMD)
	:	
<b>DONALD TRUMP, <i>President of the United</i></b>	:	
<b><i>States</i>; U.S. DEPARTMENT OF</b>	:	
<b>HOMELAND SECURITY ("DHS"); U.S.</b>	:	
<b>CUSTOMS AND BORDER PROTECTION</b>	:	
<b>("CBP"); JOHN KELLY, <i>Secretary of DHS</i>;</b>	:	
<b>KEVIN K. MCALEENAN, <i>Acting</i></b>	:	
<b><i>Commissioner of CBP</i>; JAMES T.</b>	:	
<b>MADDEN, <i>New York Field Director, CBP,</i></b>	:	
	:	
<b>Respondents.</b>	:	

----- X  
ANN DONNELLY, District Judge.

On January 28, 2017, the petitioners filed an Emergency Motion for Stay of Removal on behalf of themselves and others similarly situated.

**IT APPEARING** to the Court from the Emergency Motion for Stay of Removal, the other submissions, the arguments of counsel, and the hearing held on the 28th of January, 2017,

1. The petitioners have a strong likelihood of success in establishing that the removal of the petitioner and others similarly situated violates their rights to Due Process and Equal Protection guaranteed by the United States Constitution;

2. There is imminent danger that, absent the stay of removal, there will be substantial and irreparable injury to refugees, visa-holders, and other individuals from nations subject to the January 27, 2017 Executive Order;
3. The issuance of the stay of removal will not injure the other parties interested in the proceeding;
4. It is appropriate and just that, pending completion of a hearing before the Court on the merits of the Petition, that the Respondents be enjoined and restrained from the commission of further acts and misconduct in violation of the Constitution as described in the Emergency Motion for Stay of Removal.

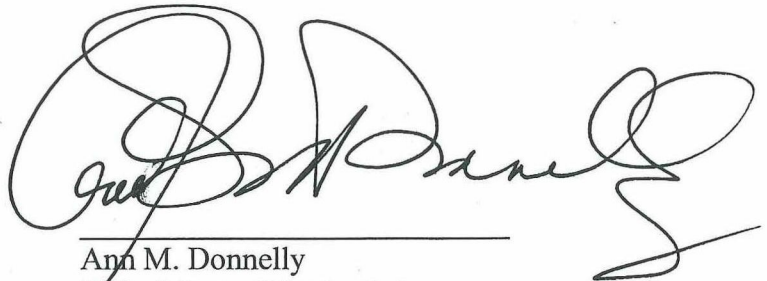
**WHEREFORE, IT IS HEREBY ORDERED** that the respondents, their officers, agents, servants, employees, attorneys, and all members and persons acting in concert or participation with them, from the date of this Order, are

**ENJOINED AND RESTRAINED** from, in any manner or by any means, removing individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States.

**IT IS FURTHER ORDERED** that to assure compliance with the Court's order, the Court directs service of this Order upon the United States Marshal for the Eastern District of New York, and further directs the United States Marshals Service to take those actions deemed necessary to enforce the provisions and prohibitions set forth in this Order.



**SO ORDERED.**



Ann M. Donnelly  
United States District Judge

Dated: Brooklyn, New York  
January 28, 2017

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, February 03, 2017 6:44 PM  
**To:** MCALEENAN, KEVIN K  
**Cc:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) FLANAGAN, PATRICK S; Owen, Todd C (AC OFO);  
 WAGNER, JOHN P; HOFFMAN, TODD A; HUTTON, JAMES R  
**Subject:** RE: Positive Result - DMass TRO not extended  
**Attachments:** 09517890525.pdf

Apologies. Attached is the D Mass Order.

(b)(5)

(b)(6), (b)(7)(C)  
 Deputy Associate Chief Counsel  
 Office of Chief Counsel  
 U.S. Customs and Border Protection  
 (b)(6), (b)(7)(C) (office)  
 (cell)

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, February 03, 2017 6:33 PM  
**To:** MCALEENAN, KEVIN K <(b)(6), (b)(7)(C)>  
**Cc:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) FLANAGAN, PATRICK S (b)(6), (b)(7)(C) Owen, Todd C  
 (AC OFO) (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C) HOFFMAN, TODD A  
 (b)(6), (b)(7)(C) HUTTON, JAMES R (b)(6), (b)(7)(C)  
**Subject:** Positive Result - DMass TRO not extended

Sir,

Attached please find the order we received moments ago in the District of Massachusetts. (b)(5)

(b)(5)

(b)(5)

We will continue to keep you updated on any other orders.

(b)(6), (b)(7)(C)

Deputy Associate Chief Counsel

Office of Chief Counsel

U.S. Customs and Border Protection

(b)(6), (b)(7)(C) (office)  
(b)(6), (b)(7)(C) (cell)

United States District Court  
District of Massachusetts

<p>Arghavan Louhghalam et al.</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Donald J. Trump, President of the United States, et al.</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Civil Action No.</p> <p>17-10154-NMG</p>
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MEMORANDUM & ORDER

GORTON, J.

This Court was initially asked 1) to issue a writ of habeas corpus on behalf of by Arghavan Louhghalam and Mazdak Pourabdollah Tootkaboni, lawful permanent residents who were detained at Boston Logan International Airport ("Logan") for several hours upon arrival from an academic conference outside the United States and 2) to declare unlawful Executive Order 13,769, promulgated by the President of the United States.

Late in the evening on January 28, 2017, United States District Judge Allison D. Burroughs and United States Magistrate Judge Judith G. Dein held a hearing on a motion of Louhghalam and Tootkaboni for a temporary restraining order. Following that hearing, Judge Burroughs and Magistrate Judge Dein entered a temporary restraining order ("TRO") that, inter alia, prohibits the detention and/or removal of individuals with



approved refugee applications who would be legally admitted to the United States in absence of the Executive Order. That TRO is set to expire on Sunday, February 5, 2017.

Following entry of the TRO a flurry of activity has resulted in the filing of an amended complaint wherein five other Iranian nationals and Oxfam America, Inc. are named as additional plaintiffs and the allowance of a motion by the Commonwealth of Massachusetts and the University of Massachusetts to intervene as plaintiffs. Now pending before this session is the informal motion of all of the plaintiffs to continue in force the subject TRO which defendant opposes. Oral argument on that motion was heard earlier today.

**I. Background**

**A. The Parties**

Habeas petitioners Tootkaboni and Louhghalam are Iranian nationals, Muslim and lawful permanent residents of the United States. Both are currently employed as Associate Professors at the University of Massachusetts-Dartmouth. They were each detained for nearly four hours at Logan Airport on January 28, 2017, without access to counsel, after returning from an academic conference outside the country.

The five other individual plaintiffs are Iranian nationals and Muslim. Three of them, Babak Yaghoubi Moghadam, his sister, Fatemeh Yaghoubi Moghadam, and Ali Sanie are also lawful

permanent residents. Plaintiffs Zahrasadat Mirrazi Renani and Leily Amirsardary are in the United States on valid F-1 student visas. Plaintiff Oxfam America Inc. is a subsidiary of a worldwide non-profit organization that promotes policy reform in the United States and abroad with respect to global poverty.

Defendants in this case are President of the United States, Donald J. Trump, United States Customs and Border Protection ("CBP"), Kevin K. McAleen, the Acting Commissioner of the CBP, William Mohalley, the Boston Field Director of the CPB, and the Department of Homeland Security and its Secretary, John Kelly. Each individual defendant is sued in his official capacity.

**B. The Executive Order**

On January 27, 2017, the President of the United States Donald J. Trump, issued Executive Order No. 13,769 entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("EO"). The EO directs changes to the policy and process of admitting non-citizens into the United States purportedly to protect national security and to provide a period of review for relevant agencies to evaluate current procedures and to propose and implement new procedures.

The changes in immigration procedure relevant to this action are as follows. The EO suspends for 90 days entry of immigrants and non-immigrants from seven countries: Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen. Exec. Order 13,769

§ 3(c). The EO also suspends, for 120 days, the United States Refugee Admission Program ("USRAP"). Id. § 5(b). The order directs, after the suspension on USRAP ends, that the Secretary of State prioritize applicants on the basis of religious-based persecution

provided that the religion of the individual is a minority religion in the individual's country of nationality.

Id.

On February 1, 2017, White House counsel issued a clarification to the Acting Secretary of State, the Attorney General and the Secretary of Homeland Security that Sections 3(c) and 3(e) do not apply to lawful permanent residents.

### **C. The Immigration and Nationality Act**

The Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., was originally enacted in 1952 and has been amended several times, including in 1996 by the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"). The INA governs immigration, naturalization, refugee assistance and removal procedures and defines the circumstances that govern the admission of aliens into the United States.

The relevant provision of the INA provides that:

Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the

entry of aliens any restrictions he may deem to be appropriate.

8 U.S.C. § 1182(f).

#### **D. Procedural History**

As described above, petitioners Tootkaboni and Louhghalam filed a writ of habeas corpus on January 28, 2017. In the middle of a weekend night, following a hearing, Judge Burroughs and Magistrate Judge Dein, the assigned emergency district and magistrate judges, respectively, entered a TRO preventing individuals subject to the EO from being detained or removed upon arrival at Logan. The TRO also directed petitioners to file an amended complaint and scheduled a hearing to occur prior to the expiration of that order. The matter was randomly assigned to this judicial officer who, accordingly, scheduled a hearing with respect to the continuance of the TRO.

## **II. Continuance of the TRO**

### **A. Legal Standard**

In order to obtain a preliminary injunction or temporary restraining order, the moving party must establish 1) a reasonable likelihood of success on the merits, 2) the potential for irreparable harm if the injunction is withheld, 3) a favorable balance of hardships and 4) the effect on the public interest. Jean v. Mass. State Police, 492 F.3d 24, 26-27 (1st Cir. 2007); Quincy Cablesys., Inc. v. Sully's Bar, Inc., 640 F.



Supp. 1159, 1160 (D. Mass. 1986). Of these factors, the likelihood of success on the merits "normally weighs heaviest on the decisional scales." Coquico, Inc. v. Rodriguez-Miranda, 562 F.3d 62, 66 (1st Cir. 2009).

The Court may accept as true "well-pleaded allegations [in the complaint] and uncontroverted affidavits." Rohm & Haas Elec. Materials, LLC v. Elec. Circuits, 759 F. Supp. 2d 110, 114, n.2 (D. Mass. 2010) (quoting Elrod v. Burns, 427 U.S. 347, 350, n.1 (1976)). The Court may also rely on otherwise inadmissible evidence, including hearsay. See Asseo v. Pan Am. Grain Co., Inc., 805 F.2d 23, 26 (1st Cir. 1986). Ultimately, the issuance of preliminary injunctive relief is "an extraordinary and drastic remedy that is never awarded as of right." Peoples Fed. Sav. Bank v. People's United Bank, 672 F.3d 1, 8-9 (1st Cir. 2012) (quoting Voice of the Arab World, Inc. v. MDTV Med. News Now, Inc., 645 F.3d 26, 32 (1st Cir. 2011)).

The Court may extend temporary injunctive relief upon a showing of good cause. Fed. R. Civ. P. 65(b)(2).

## **B. Application**

### **1. The claims for injunctive relief by the lawful permanent residents**

On February 1, 2017, the White House distributed a memorandum to the Acting Secretary of State, the Acting Attorney General and the Secretary of Homeland Security clarifying that

Sections 3(c) and 3(e) of the EO do not apply to lawful permanent residents.

That memorandum comports with the language of the Section 3(c) which temporarily suspends "entry" of aliens from the seven subject countries. Upon returning to the United States, lawful permanent residents do not, however, typically "enter" the country for purposes of the INA.

Although "entry" is no longer defined in the INA, it has been replaced with the term "admission," which is defined as

the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

8 U.S.C. § 1101(a)(13)(A) (emphasis added); see also Vartelas v. Holder, 556 U.S. 257, 263 (2012) (explaining that Congress made "admission" the "key word" and removed the definition of "entry" from the statute).

Under the INA, lawful permanent residents are regarded as seeking admission, i.e. entry, into the United States only if they fall within six categories, including inter alia, being absent from the United States for 180 days or more. See id.; 8 U.S.C. § 1101(a)(13)(c).

Therefore, the use of the term "entry" in Section 3(c) indicates that the suspension was not intended to be applied to lawful permanent residents.

In light of the government's clarification that the EO will not be applied to lawful permanent residents, the claims for injunctive relief by plaintiffs Louhghalam, Tootkaboni, Sanie, Fatemeh Moghadam and Babak Moghadam are moot. With respect to those individuals, there is "no ongoing conduct to enjoin". Town of Portsmouth v. Lewis, 813 F.3d 54, 58 (1st Cir. 2016). Thus, any declaration with respect to the lawfulness of the EO would be strictly advisory. See New Eng. Reg'l Council of Carpenters v. Kinton, 284 F.3d 9, 18 (1st Cir. 2002) (remarking that it would be "pointless" to declare the constitutionality of a policy that had been revised during litigation).

Although the claims by the lawful permanent resident plaintiffs for injunctive relief are moot, the claims for injunctive relief by plaintiffs Renani and Amirsardary, holders of F-1 visas, and Oxfam are not covered by that clarification and thus the Court will address the merits of their claims for injunctive relief.

**2. The claims for injunctive relief by the plaintiffs who hold F-1 Visas**

**a. Count I: Equal Protection claim**

The Fifth Amendment protects aliens within the United States from "invidious discrimination by the Federal Government." Plyler v. Doe, 457 U.S. 202, 210 (1982) (quoting Mathews v. Diaz, 426 U.S. 67, 77); see also Yick Wo v. Hopkins,

118 U.S. 356, 369, (1886) ("[Equal Protection is] universal in [its] application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality."). There is a distinction, however, between the constitutional rights enjoyed by aliens who have entered the United States and those who are outside of it. See Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

The decision to prevent aliens from entering the country is a "fundamental sovereign attribute" realized through the legislative and executive branches that is "largely immune from judicial control." Chi Thon Ngo v. I.N.S., 192 F.3d 390, 395 (3d Cir. 1999), amended (Dec. 30, 1999) (quoting Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206, 210 (1953)). Federal classifications based on alien status are evaluated using rational basis review. Mathews v. Diaz, 426 U.S. 67, 83 (1976) (considering whether a law that made distinctions based on alien status was "wholly irrational"); Ruiz-Diaz v. United States, 703 F.3d 483, 486-87 (9th Cir. 2012) (determining that a regulation that treated immigrant religious workers differently than other visa applicants would be evaluated using rational basis review); Narenji v. Civiletti, 617 F.2d 745, 748 (D.C. Cir. 1979) (upholding a regulation issued in response to the Iran hostage crisis that required non-immigrant alien Iranian students to



provide information to Immigration and Naturalization Services Offices).

Rational basis review examines whether the "classification at issue bears some fair relationship to a legitimate public purpose." Plyler, 457 U.S. at 216. It is "not a license for courts to judge the wisdom, fairness, or logic of legislative choices." Heller v. Doe by Doe, 509 U.S. 312, 319-20 (1993) (quoting FCC v. Beach Communications, Inc., 508 U.S. 307, 313 (1993)). Under rational basis review, a classification is permissible "if there is any reasonably conceivable state of facts that could provide a rational basis." Id. (quoting Beach Communications, 508 U.S. at 313).

Plaintiffs contend that the EO discriminates on the basis of religion and was designed to exclude Muslims from the United States. They further allege that it singles out citizens of seven different countries. At oral argument, plaintiffs relied on "astonishing evidence of intent" from President Trump which, in their view, demonstrates that EO was "substantially motivated by improper animus." See Hunter v. Underwood, 471 U.S. 222, 233 (1985) (holding that a provision in the Alabama Constitution violated equal protection even though it was facially neutral because it was motivated by animus). Defendants responded that the cases examining improper animus involve equal protection claims against states, which may be reviewed with strict

scrutiny, while the federal government classification of non-resident aliens in this case is subject to rational basis review.

Because the EO involves federal government categorizations with respect to non-resident aliens, rational basis review applies. According to the EO, its purpose is

to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists . . . .

Exec. Order 13,769 § 3(c). The EO specifically asserts that permitting aliens from the countries identified in section 217(a) of the INA, 8 U.S.C. § 1187(a)(12), to enter "would be detrimental to the United States." The order provides a

reasonably conceivable state of facts [which concerns national security and] that could provide a rational basis for the classification. Heller, 509 U.S. at 319-20.

Accordingly, this Court declines to encroach upon the "delicate policy judgment" inherent in immigration decisions. Plyler, 457 U.S. at 225.

**b. Count II: Establishment Clause claim**

With respect to Count II, plaintiffs allege that the Executive Order violates the Establishment Clause of the United States Constitution. See U.S. Const. amend. I ("Congress shall make no law respecting an establishment of religion . . . ."). Specifically, plaintiffs claim that the EO disfavors Islam and

favours Christianity. The Court concludes, however, that the remaining plaintiffs lack standing to raise an Establishment Clause challenge.

The purported harmful disparate treatment of those two faiths arises from Section 5(b) of the EO in which the Secretary of State is directed, upon reinstatement of USRAP, to

prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality (emphasis added).

To have standing, plaintiffs must allege an injury in fact that is "concrete and particularized". Reddy v. Foster, Docket No. 16-1432, 2017 WL 104825, at \*4 (1st Cir. Jan. 11, 2017) (quoting Susan B. Anthony List v. Driehaus, 134 S. Ct. 2334, 2341 (2014)).

Plaintiffs are not, however, refugees seeking admission to the United States and consequently, any future implementation of Section 5(b) would not personally affect them. Although plaintiffs vigorously disagree with such a policy, that sincere disagreement is insufficient injury to confer standing. See Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc., 454 U.S. 464, 485-86 (1982) ("They fail to identify any personal injury suffered by them as a consequence of the alleged constitutional error, other than the psychological consequence presumably produced by observation of

conduct with which one disagrees. That is not an injury sufficient to confer standing under Art. III . . . ." (emphasis removed)).

Moreover, the language in Section 5 of the EO is neutral with respect to religion. Plaintiffs submit in their amended complaint that Section 5 favors Muslims over Christians, in violation of the Establishment Clause. The provisions of Section 5, however, could be invoked to give preferred refugee status to a Muslim individual in a country that is predominately Christian. Nothing in Section 5 compels a finding that Christians are preferred to any other group.

**c. Count III: Due Process claim**

The power to admit or exclude aliens is a sovereign prerogative" and aliens seeking admission to the United States request a "privilege." Landon v. Plasencia, 459 U.S. 21, 32 (1982). It is "beyond peradventure" that "unadmitted and non-resident aliens" have no right to be admitted to the United States. Adams v. Baker, 909 F.2d 643, 647 (1st Cir. 1990).

There is no constitutionally protected interest in either obtaining or continuing to possess a visa. The due process guaranteed by the Fifth Amendment "attaches only when the federal government seeks to deny a liberty or property interest." Knoetze v. U.S., Dep't of State, 634 F.2d 207, 211 (5th Cir. 1981). A non-citizen has no "inherent property right



in an immigrant visa." Azizi v. Thornburgh, 908 F.2d 1130, 1134 (2d Cir. 1990); see also Legal Assistance for Vietnamese Asylum Seekers v. Dep't of State, Bureau of Consular Affairs, 104 F.3d 1349, 1354 (D.C. Cir. 1997) (holding that aliens "may not assert a Fifth Amendment right in challenging the procedures for granting immigrant visas"); Knoetze, 634 F.2d at 212 (concluding that "revocation of an entry visa issued to an alien already within our country has no effect upon the alien's liberty or property interests"); De Avilia v. Civiletti, 643 F.2d 471, 477 (7th Cir. 1981) (determining there is "no vested right in the issuance of a visa"). Thus, because an alien does not enjoy a property right in a visa, he has no due process right that protects the manner in which a visa is revoked.

Conversely, because the Due Process Clause safeguards all "persons" in the United States, once an alien is in this country, that alien is entitled to Fifth Amendment protection. Zadvydas, 533 U.S. at 693. It is "well established" that aliens have cognizable due process interests which must be protected in deportation hearings. Demore v. Kim, 538 U.S. 510, 523 (2003) (quoting Reno v. Flores, 507 U.S. 292, 306 (1993)). At a minimum, before deportation, aliens are entitled to "notice of the nature of the charges and a meaningful opportunity to be heard." Choeum v. I.N.S., 129 F.3d 29, 38 (1st Cir. 1997).

The plaintiffs who hold F-1 Visas, Ms. Renani and Ms. Amirsardary ("the F-1 plaintiffs"), contend that the EO violates their due process rights guaranteed by the Fifth Amendment because it prevents individuals from the targeted countries from coming into the United States without any procedural safeguards. Moreover, they submit that they fear leaving the country because of concerns about being unable to return. Defendants respond that such fears are premature because neither of the F-1 plaintiffs has specific travel plans within the next month.

The F-1 plaintiffs have not demonstrated that they are likely to succeed on the merits of their due process claim. It is not clear whether the F-1 visas of aliens in the United States at the time of the EO have been revoked, although defendants' counsel stated at the hearing that he thought they had been. Assuming their visas have been revoked, the F-1 plaintiffs have no property or liberty interest in those visas and thus no due process claim with respect to the supposed revocation. Knoetze, 634 F.2d at 212.

Although the F-1 plaintiffs certainly would be protected by the Due Process Clause in the Fifth Amendment if deportation proceedings were initiated against them, Demore, 538 U.S. at 523, there is no indication that such proceedings are forthcoming. Furthermore, while this Court is sympathetic to the difficult personal circumstances in which these plaintiffs

find themselves, if they choose to leave the country, as non-resident aliens, they have no right to re-enter. Landon, 459 U.S. at 32. In sum, because due process protections do not apply to visas and the F-1 plaintiffs are not currently subject to deportation proceedings, they have not demonstrated a likelihood of success on the merits of a due process claim at this time.

**d. Count IV: Administrative Procedure Act claim**

The Court concludes that plaintiffs have not shown a likelihood of success on the merits with respect to Count IV, in which plaintiffs allege that the EO violates the Administrative Procedure Act ("APA"), 5 U.S.C. § 706.

In Franklin v. Massachusetts, 505 U.S. 788, 800-01 (1992), the United States Supreme Court concluded that the Presidency is not an "agency" as defined in the APA, § 701(b)(1), and thus actions by the President are not subject to the APA. Courts have interpreted Franklin to prohibit review under the APA of actions by the President when he is exercising discretionary authority. See, e.g., Detroit Int'l Bridge Co. v. Gov't of Canada, 189 F. Supp. 3d 85, 104 (D.D.C. 2016).

Here, Congress has granted the President authority to suspend entry for any class of aliens if such entry would be "detrimental to the interests of the United States." 8 U.S.C.

1182(f). Pursuant to, and without exceeding, that grant of discretionary authority, the President issued EO 13,769 and suspended entry of aliens from the seven subject countries. The President's action is thus unreviewable under the APA. See Detroit Int'l Bridge, 189 F. Supp. 3d at 104-05 (concluding that the President's decision to allow a permit for an international bridge was not subject to the APA because he had the authority to do so under the International Bridge Act of 1972, 33 U.S.C. § 535 et seq.).

Because the likelihood of success element is "essential" to the issuance of an injunction, New Comm Wireless Servs., Inc. v. SprintCom, Inc., 287 F.3d 1, 13-14 (1st Cir. 2002), the Court will not continue to impose injunctive relief pursuant to Count IV.

**e. Count V: First Amendment claim**

Finally, in Count V, Oxfam claims that the EO has violated its First Amendment rights to freedom of speech, association and petition by barring entry of aliens, including visa holders, into the United States.

The United States Supreme Court, in Kleindienst v. Mandel, 408 U.S. 753, 764, 770 (1972), explained that a denial of a visa to an alien could, under some circumstances, violate a United States citizen's First Amendment right "to receive information". The Court dismissed plaintiffs' First Amendment claim, however,



because the Attorney General provided a "facially legitimate and bona fide reason" for denying the alien's visa request. In such case, the Court continued, lower courts should not

look behind the exercise of that discretion, nor test it by balancing its justification against the First Amendment interests of those who seek personal communication with the applicant.

Id. at 770.

The First Circuit Court of Appeals ("First Circuit") has considered the bounds of Kleindienst on two occasions: in Allende v. Shultz, 845 F.2d 1111 (1st Cir. 1988), and in Adams v. Baker, 909 F.2d 643 (1st Cir. 1990). That Court concluded in Allende that plaintiffs adequately raised a First Amendment claim. 845 F.2d at 1116. Conversely, in Adams, it held that plaintiffs' did not assert a valid First Amendment challenge. 909 F.2d at 649-50. In both cases, however, the First Circuit undertook an analysis to determine whether the conduct of the individual who had been denied a visa fit within the statutory authority relied upon for those denials.

Here, the President has exercised his broad authority under 8 U.S.C. § 1182(f) to suspend entry of certain aliens purportedly in order to ensure that resources are available to review screening procedures and that adequate standards are in place to protect against terrorist attacks. Exec. Order 13,769 § 3(c). Such a justification is "facially legitimate and bona

fide” and therefore Oxfam’s First Amendment rights are not implicated. See Kleindienst, 408 U.S. at 770 (concluding that the First Amendment rights of American scholars and students were not violated when a Belgian scholar whom they invited to speak was denied entry into the United States).

Although at oral argument plaintiffs directed this Court to American Academy of Religion v. Napolitano, 573 F.3d 115, 137 (2nd Cir. 2009), which held that a “well supported allegation of bad faith” could render a decision not bona fide, that is not the standard in the First Circuit. Therefore, in light of the “plenary congressional power to make policies and rules for exclusion of aliens,” Kleindienst, 408 U.S. at 769, which pursuant to 8 U.S.C. § 1182(f), has been delegated to the President, the Court concludes that the government’s reasons, as provided in the EO, are facially legitimate and bona fide.

Consequently, Oxfam has not shown a likelihood of success with respect to its claim in Count V. See Kleindienst, 408 U.S. at 770; Adams, 909 F.2d at 650.

**f. Other preliminary injunction factors**

Moving on to the other three factors considered for a temporary restraining order, Jean v. Mass. State Police, 492 F.3d 24, 26-27 (1st Cir. 2007), the potential for irreparable harm weighs in favor of plaintiffs. The harm of being forced to choose between visiting loved ones, participating in a

prestigious doctoral program or founding a business, on the one hand, and staying in this country out of fear of being denied re-entry is painful to contemplate. Oxfam faces some less life-size challenges but they are important nevertheless.

There are considerations on both sides with respect to a balancing of the hardships. On the one hand, implementing an effective immigration regime that ensures the safety of all Americans is undoubtedly difficult. On the other hand, the hardship to the professional and personal lives of the individual plaintiffs and to the operation of the Oxfam world-wide organization is palpable.

Finally, there are public interest considerations on both sides. The rich immigrant history of the United States has long been a source of strength and pride in this country. The individual plaintiffs in this case provide particularly compelling examples of the value that immigrants add to our society. Conversely, the public interest in safety and security in this ever-more dangerous world is strong as well.

When the four factors that the Court must consider before imposing injunctive relief are considered collectively, likelihood of success on the merits weighs most heavily in the decision. Coquico, Inc. v. Rodriguez-Miranda, 562 F.3d 62, 66 (1st Cir. 2009). Therefore, because plaintiffs have not demonstrated that they are likely to succeed on the merits of

any of their claims, an extension of the restraining order at the present time is not warranted.

**ORDER**

For the forgoing reasons, the Court declines to impose any injunctive relief and will not renew the temporary restraining order that was entered on January 29, 2017 (Docket No. 6).

**So ordered.**

/s/ Nathaniel M. Gorton  
Nathaniel M. Gorton  
United States District Judge

Dated February 3, 2017

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 7:53 AM  
**To:** HOFFMAN, TODD A; HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Cc:** IAP PM GML  
**Subject:** Significant Offload Potential Media/Political Interest - IAP AMS

Update:

**(b)(6), (b)(7)(C), (b)(7)(E)**

Please see below information provided to IAP AMS concerning an offload which occurred on Saturday, January 28, 2017. This offload has sparked media and legal interest in the Netherlands.

**Significant Media/Legal Interest IAP AMS**

- On January 27, 2017, at approximately 2330 EST, IAP-AMS received an offload request (b)(7)(E) for two Iranian nations subject to 212 (f) proclamation under the Executive Order.
- Subjects were in possession of first time entry IR5 Immigrant Visas (b)(6), (b)(7)(C)
- Subjects were scheduled to fly on board Royal Dutch Airlines (KLM) Flight #651 on January 28, 2017 at 0700 EST.
- An offload recommendation was provided to the airline to which they concurred.
- On January 30, 2017, a letter was submitted on behalf of the subjects by Akin Gump, Strauss Hauer & FELD LLP to Royal Dutch Airlines requesting the subjects be authorized to board for successful admission to the US, as properly documented Legal Permanent Residents.
- Currently, KLM has refused rebooking of the couple to the US. KLM has assisted in rebooking the couple to Iran.



**(b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(6), (b)(7)(C), (b)(7)(E)**

Additional Documents provided by KLM:

(1) Body of Email from Akin Gump, Strauss Hauer & FELD LLP to KLM

**(b)(6), (b)(7)(C)**

**(b)(6), (b)(7)(C)**

People who travel on immigrant visas and are admitted into the U.S. are considered admitted as Lawful Permanent Residents (LPRs) and usually receive their physical green card a month later.

This couple was scheduled to board a flight from Amsterdam on Saturday 28, 2017 at 1 PM (Amsterdam time) but we're barred from boarding on the premise that they would not be allowed to enter and pursuant to the president's Executive Order banning nationals from certain counties including Iran.

This happened before the Eastern District Court of New York issued a temporary order on 01/28/2017 at around 9 PM EST (3 AM in Amsterdam on 01/29/2017) staying the removal nationwide of anyone arriving at a port of entry and holding a valid immigrant and non-immigrant visa.

Additionally since then the Massachusetts District Court has ordered that Customs Border Patrol shall not detain and remove anyone with a valid Immigrant visa (which they have), the Virginia Eastern District Court has issued an order prohibiting the removal of all lawful permanent residents arriving at Dulles Airport, and the DHS Secretary Kelly has issued a statement explaining that absent any significant derogatory information that shows the person is an immediate threat, customs should allow entry of LPRs in the national interest. Mr. and Mrs. **(b)(6), (b)(7)(C)** clearly fit into this group of people that the orders are protecting from being removed and which DHS has said will be allowed to enter.

Despite providing these orders and notices to KLM personnel, and even a legal statement from Akin Gump and CAIR Coalition, the couple has been refused rebooking and boarding to any flights to Boston, NY, or Dulles, VA. Instead, it is our understanding KLM has rebooked them on a flight departing tomorrow at approximately 5 PM (Amsterdam time) to Iran.

We are asking that this couple be allowed to board because not only do the court orders show that they will not be removed but also because DHS has issued a statement providing guidance that LPRs should generally be admitted.

(2) Letter

**Akin Gump**  
STRAUSS HAUER & FELD LLP

## MEMORANDUM

January 30, 2017

Re: (b)(6), (b)(7)(C) United States Immigration Status

On behalf of (b)(6), (b)(7)(C) we submit this statement in conjunction with (b)(6), (b)(7)(C) an immigration specialist with the Capital Area Immigrants' Rights (CAIR) Coalition regarding the immigration status of (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) should be allowed to board a KLM flight from Amsterdam to Washington, DC, USA due to their immigrant visas issued by the United States Department of State. This immigrant visa is the functional equivalent of being a lawful permanent resident of the United States. Once (b)(6), (b)(7)(C) arrive in the United States, their visas will be processed and they will be granted legal permanent residence status. Secretary John Kelly, the Secretary of the United States Department of Homeland Security, stated in a press release on January 29, 2017, that "I hereby deem the entry of lawful permanent residents to be in the national interest. Accordingly, absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare, lawful permanent resident status will be a dispositive factor in our case-by-case determinations." See Press Release, Secretary John Kelly Department of Homeland Security, Statement by Secretary John Kelly on the Entry of Lawful Permanent Residents Into the United States (Jan. 29, 2017) (attached).

The United States Code defines "lawfully admitted for permanent residence" as "the status of having been lawfully *accorded* the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed." 8 U.S.C. § 1101(a)(20) (2012) (emphasis added). The use of the term "accorded" under the definition does not mean the individual must already be in the United States, but rather encompasses those that have been accorded the privilege, whether in the United States or abroad. United States Legislators, when drafting section 1101(a)(2), specifically used the term "accorded" when referring to lawful permanent residents, as opposed to "admitted", as used elsewhere in the act. This alone is instructive, for "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 432, 107 S.Ct. 1207 (1987) (quotation and alteration omitted); see also *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 452, 122 S.Ct. 941, 151 L.Ed.2d 908 (2002). (b)(6), (b)(7)(C) have been accorded this privilege after undergoing the lengthy United States Department of State visa application process.

Because (b)(6), (b)(7)(C) have an immigrant visa and have the status as the functional equivalent of a lawful permanent resident, Secretary Kelly's statement makes it clear that there is no risk, barring significant derogatory information indicating a serious threat to public safety and welfare, to their successful admission into the United States.

(b)(6), (b)(7)(C)

Branch Chief  
U.S. Customs and Border Protection  
Office of Field Operations  
Immigration Advisory Program/Joint Security Program

(b)(6), (b)(7)(C) Office  
Mobile

**(b)(6), (b)(7)(C)** (unclassified)



---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 10:53 AM  
**To:** HOFFMAN, TODD A; HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Cc:** IAP PM GML  
**Subject:** RE: Significant Offload Potential Media/Political Interest - IAP AMS  
**Importance:** High

Update:

**(b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

Please see below information provided to IAP AMS concerning an offload which occurred on Saturday, January 28, 2017. This offload has sparked media and legal interest in the Netherlands.

**Significant Media/Legal Interest IAP AMS**

- On January 27, 2017, at approximately 2330 EST, IAP-AMS received an offload request **(b)(7)(E)** for two Iranian nations subject to 212 (f) proclamation under the Executive Order.
- Subjects were in possession of first time entry IR5 Immigrant Visas **(b)(6), (b)(7)(C)**
- Subjects were scheduled to fly on board Royal Dutch Airlines (KLM) Flight #651 on January 28, 2017 at 0700 EST.
- An offload recommendation was provided to the airline to which they concurred.
- On January 30, 2017, a letter was submitted on behalf of the subjects by Akin Gump, Strauss Hauer & FELD LLP to Royal Dutch Airlines requesting the subjects be authorized to board for successful admission to the US, as properly documented Legal Permanent Residents.
- Currently, KLM has refused rebooking of the couple to the US. KLM has assisted in rebooking the couple to Iran.

**(b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(6), (b)(7)(C), (b)(7)(E)**

Additional Documents provided by KLM:

(1) Body of Email from Akin Gump, Strauss Hauer & FELD LLP to KLM

**(b)(6), (b)(7)(C)**

**(b)(6), (b)(7)(C)** People who travel on immigrant visas and are admitted into the U.S. are considered admitted as Lawful Permanent Residents (LPRs) and usually receive their physical green card a month later.

This couple was scheduled to board a flight from Amsterdam on Saturday 28, 2017 at 1 PM (Amsterdam time) but we're barred from boarding on the premise that they would not be allowed to enter and pursuant to the president's Executive Order banning nationals from certain counties including Iran.

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We are asking that this couple be allowed to board because not only do the court orders show that they will not be removed but also because DHS has issued a statement providing guidance that LPRs should generally be admitted.

(2) Letter

**Akin Gump**  
STRAUSS HAUER & FELD LLP

## MEMORANDUM

January 30, 2017

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On behalf of (b)(6), (b)(7)(C) we submit this statement in conjunction with (b)(6), (b)(7)(C) an immigration specialist with the Capital Area Immigrants' Rights (CAIR) Coalition, regarding the immigration status of (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) should be allowed to board a KLM flight from Amsterdam to Washington, DC, USA due to their immigrant visas issued by the United States Department of State. This immigrant visa is the functional equivalent of being a lawful permanent resident of the United States. Once (b)(5), (b)(6), (b)(7)(C) arrive in the United States, their visas will be processed and they will be granted legal permanent residence status. Secretary John Kelly, the Secretary of the United States Department of Homeland Security, stated in a press release on January 29, 2017, that "I hereby deem the entry of lawful permanent residents to be in the national interest. Accordingly, absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare, lawful permanent resident status will be a dispositive factor in our case-by-case determinations." See Press Release, Secretary John Kelly Department of Homeland Security, Statement by Secretary John Kelly on the Entry of Lawful Permanent Residents Into the United States (Jan. 29, 2017) (attached).

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(b)(6), (b)(7)(C)

Branch Chief  
U.S. Customs and Border Protection  
Office of Field Operations  
Immigration Advisory Program/Joint Security Program

(b)(6), (b)(7)(C) Office  
Mobile



**(b)(6), (b)(7)(C)** (unclassified)

**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 7:56 PM  
**To:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C) HOFFMAN, TODD A;  
 (b)(6), (b)(7)(C) MURDOCK, JUDSON W  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Looping in (b)(7)(E)

J. Ryan Hutton  
 Deputy Executive Director  
 Admissibility and Passenger Programs  
 (b)(6), (b)(7)(C)  
 Washington, DC

(b)(6), (b)(7)(C)



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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 7:54 PM  
**To:** HUTTON, JAMES R (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) HOFFMAN, TODD A (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) MURDOCK, JUDSON W (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

(b)(5)

(b)(6), (b)(7)(C)  
 CBP Associate Chief Counsel (Enforcement and Operations)  
 T (b)(6), (b)(7)(C) / C. (b)(6), (b)(7)(C)

\*\* Attorney Work Product / Attorney-Client Privileged \*\*

From: (b)(6), (b)(7)(C)

Sent: Saturday, January 28, 2017 7:08 PM

To: HUTTON, JAMES R <(b)(6), (b)(7)(C)>

Cc: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

; HOFFMAN, TODD A <

(b)(6), (b)(7)(C)>

(b)(6), (b)(7)(C)

>; MURDOCK, JUDSON W <

(b)(6), (b)(7)(C)>

Subject: RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

(b)(5)

(b)(6), (b)(7)(C)

CBP Associate Chief Counsel (Enforcement and Operations)

T. (b)(6), (b)(7)(C) C. (b)(6), (b)(7)(C)

\*\* Attorney Work Product / Attorney-Client Privileged \*\*

**From:** HUTTON, JAMES R

**Sent:** Saturday, January 28, 2017 6:49 PM

**To:** (b)(6), (b)(7)(C)

**Cc:** (b)(6), (b)(7)(C); HOFFMAN, TODD A (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C); MURDOCK, JUDSON W (b)(6), (b)(7)(C)

**Subject:** FW: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States

**Importance:** High

(b)(5)

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs

(b)(6), (b)(7)(C)  
Washington, DC



(b)(6), (b)(7)(C)



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**From:** HUTTON, JAMES R

**Sent:** Saturday, January 28, 2017 1:29 PM

**To:** (b)(6), (b)(7)(C)

**Subject:** FW: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States

**Importance:** High




(b)(6), (b)(7)(C)

Your thoughts on the below

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs

(b)(6), (b)(7)(C)

Washington, DC

   (b)(6), (b)(7)(C)



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**From:** HUTTON, JAMES R

**Sent:** Saturday, January 28, 2017 1:27 PM

**To:** HOFFMAN, TODD A (b)(6), (b)(7)(C)

**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States

**Importance:** High

Boss

Proposed message to Field on how to process waivers at POE's for the other categories.

(b)(5), (b)(7)(E)



**(b)(5), (b)(7)(E)**

1997  
Female

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs  
RRB (b)(6), (b)(7)(C)  
Washington, DC

(b)(6), (b)(7)(C)



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**From:** HOFFMAN, TODD A

**Sent:** Saturday, January 28, 2017 1:07 AM

**To:** DIRECTORS FIELD OPS (b)(6), (b)(7)(C); EXECUTIVE DIRECTORS HQ  
(b)(6), (b)(7)(C) BORDER SECURITY ASST DIRECTORS

**Cc:** Owen, Todd C (AC OFO) (b)(6), (b)(7)(C); WAGNER, JOHN P (b)(6), (b)(7)(C)  
HUTTON, JAMES R (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) FORET, VERNON T (b)(6), (b)(7)(C)

**Subject:** Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"  
**Importance:** High

Directors,

I apologize for the delay. Please be advised that you have unilateral authority to approve exemptions to the Executive Order for LPRs, no State Department approval required. The exemption process for other categories of aliens as outlined in the policy guidance currently requires the approval of the acting Commissioner. Further guidance for these exemptions is forthcoming.

Memorandum For: Directors, Field Operations

From: Todd A. Hoffman  
Executive Director

Admissibility and Passenger Programs  
Office of Field Operations

Subject: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Effective immediately, and pursuant to Executive Order entitled, "*Protecting the Nation from Foreign Terrorist Entry into the United States*" (January 27, 2017), all entry into the United States for aliens who are nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen is hereby suspended in accordance with Section 212(f) of the INA. This includes all non-immigrant classifications, with the exception of those foreign nationals traveling on diplomatic visas, NATO visas, C2 visas for travel to the United Nations, G1, G2, G-3, and G-4 visas. This also includes all immigrant classes of admission, returning resident aliens refugees and asylees.

The Department of State has provided CBP with a letter provisionally revoking all immigrant and non-immigrant visas for nationals of Iran, Iran, Libya, Somalia, Sudan, and Yemen. Revocations may not yet be annotated in the system.

Wherever possible, (b)(7)(E) will coordinate the denial of boarding through (b)(7)(E) (b)(7)(E) locations, and (b)(7)(E)

Should aliens, subject to the Executive Order, arrive at the port of entry, CBP officers are instructed to take the following actions:

*Applicants bearing Non-Immigrant Visas and First Time Arriving Immigrants:*

- (1) All case processing will be recorded in (b)(7)(E) system, according to current policy/procedure.
- (2) Subjects will be allowed to withdraw their application for admission on Form I-275, **without a sworn statement**. All other procedures pertaining to the processing of Form I-275 withdrawal cases apply.
- (3) Should the alien decline to withdraw their application for admission, the alien will be placed in Expedited Removal in accordance with standard operating procedures.
- (4) Aliens claiming fear of return will be referred to an asylum officer, and processed for Expedited Removal/Credible Fear (ERF). Aliens processed under ERF procedures will be referred to ERO for detention. Field Offices should clearly indicate to both CIS and ERO that aliens are subject to Executive Order during the referral process.

*Returning Residents,*

- (1) Lawful Permanent Residents should be referred for (b)(7)(E) and held at the port of entry until an exemption to the Executive Order is granted. The authority to grant an exemption has been delegated to the Commissioner of CBP, and further delegated to Directors of Field Operations and SES Port Directors. Once an exemption has been granted results of (b)(7)(E) should be notated in (b)(7)(E) with the following language: *Individual is subject to Presidential Executive Order and barred from entry pursuant to 212(f) of the INA but has been granted an exemption per (insert DFO/SES PD).*

*Refugees, Asylees, Unaccompanied Children, and subjects returning to the US with Advanced Parole:*

- (1) Aliens from the above group who are prevented from entry solely as a result of the Executive Order, should be referred for (b)(7)(E) and held at the port of entry until such time as an exemption to the Executive Order can be obtained. This exemption falls to the Secretary of State and Secretary of Homeland Security. Further guidance will be forthcoming on processing these exemptions.

Individuals who fall within any of the above may not be paroled, which includes port parole and deferred inspection. To the extent that there is an emergent medical issue related to an alien who falls within the Executive Order, CBP officers must accompany the alien for any medical care.

*Returning aliens ineligible who withdraw their application for admission:*

- (1) Aliens arriving via air or sea: Commercial carriers are required to remove foreign aliens found ineligible for entry under this order pursuant to 241(c)(1) of the INA.
- (2) Aliens arriving via land will be returned per current established procedures with the contiguous country.

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (A) Director, Enforcement Programs Division, at (b)(6), (b)(7)(C)

Todd A. Hoffman  
Executive Director, Admissibility and Passenger Programs  
Office of Field Operations  
U.S. Customs and Border Protection

**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 9:34 PM  
**To:** HOFFMAN, TODD A; DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS  
**Cc:** Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C)  
**Subject:** (b)(6), (b)(7)(C)  
**Attachments:** UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States  
 RE: EO 212(f) Exemption Request for (b)(6), (b)(7)(C) RE: Waiver Request for 212(1) in re (b)(6), (b)(7)(C); EO 212(f) Waiver for (b)(6), (b)(7)(C)  
**Importance:** High

DFO's

As a follow up from guidance sent last night. In addition to waivers for LPRs, the Secretary of Homeland Security has delegated waiver authority to the Commissioner of CBP for **only** the following categories of individuals subject to the EO:

- Returning Refugees (to include any 1<sup>st</sup> time refugees encountered);
- Returning Asylees;
- Individuals in possession of a valid I-512 issued by CIS;
- UAC

The request for said waiver will need to follow the below format sent initially to the below distro

- (b)(6), (b)(7)(C)
- EAC Owen
- DEAC Wagner
- XD Murdock
- XD Hoffman
- (a) DXD (b)(6), (b)(7)(C)
- DXD Hutton
- OFO Field Liaison

I have also attached some samples that were submitted for approval today.

**Sample**

**Subject Line: EO 212(f) Exemption for LAST NAME, (f/n) First name**

(b)(5), (b)(7)(E)



**(b)(5), (b)(7)(E)**

**(b)(6), (b)(7)(C)**

(b)(6), (b)(7)(C)

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs

(b)(6), (b)(7)(C)

Washington, DC



(b)(6), (b)(7)(C)



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**From:** HOFFMAN, TODD A**Sent:** Saturday, January 28, 2017 1:07 AM**To:** DIRECTORS FIELD OPS (b)(7)(E); EXECUTIVE DIRECTORS HQ

(b)(7)(E) BORDER SECURITY ASST DIRECTORS

(b)(7)(E)

**Cc:** Owen, Todd C (AC OFO) (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)

HUTTON, JAMES R (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Subject:** Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States**Importance:** High

Directors,

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From: Todd A. Hoffman  
Executive Director

Admissibility and Passenger Programs  
Office of Field Operations

Subject: Guidance on Executive Order “Protecting the Nation from Foreign Terrorist Entry into the United States”

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- (2) Subjects will be allowed to withdraw their application for admission on Form I-275, **without a sworn statement**. All other procedures pertaining to the processing of Form I-275 withdrawal cases apply.
- (3) Should the alien decline to withdraw their application for admission, the alien will be placed in Expedited Removal in accordance with standard operating procedures.
- (4) Aliens claiming fear of return will be referred to an asylum officer, and processed for Expedited Removal/Credible Fear (ERF). Aliens processed under ERF procedures will be referred to ERO for detention. Field Offices should clearly indicate to both CIS and ERO that aliens are subject to Executive Order during the referral process.

*Returning Residents,*

- (1) Lawful Permanent Residents should be referred for (b)(7)(E) and held at the port of entry until an exemption to the Executive Order is granted. The authority to grant an exemption has been delegated to the Commissioner of CBP, and further delegated to Directors of Field Operations and SES Port Directors. Once an exemption has been granted results of (b)(7)(E) should be notated in (b)(7)(E) with the following language: *Individual is subject to Presidential Executive Order and barred from entry pursuant to 212(f) of the INA but has been granted an exemption per (insert DFO/SES PD).*

*Refugees, Asylees, Unaccompanied Children, and subjects returning to the US with Advanced Parole:*

- (1) Aliens from the above group who are prevented from entry solely as a result of the Executive Order, should be referred for (b)(7)(E) and held at the port of entry until such time as an exemption to the Executive Order can be obtained. This exemption falls to the Secretary of State and Secretary of Homeland Security. Further guidance will be forthcoming on processing these exemptions.

Individuals who fall within any of the above may not be paroled, which includes port parole and deferred inspection. To the extent that there is an emergent medical issue related to an alien who falls within the Executive Order, CBP officers must accompany the alien for any medical care.

*Returning aliens ineligible who withdraw their application for admission:*

- (1) Aliens arriving via air or sea: Commercial carriers are required to remove foreign aliens found ineligible for entry under this order pursuant to 241(c)(1) of the INA.
- (2) Aliens arriving via land will be returned per current established procedures with the contiguous country.

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (A) Director, Enforcement Programs Division, at (b)(6), (b)(7)(C)

Todd A. Hoffman  
Executive Director, Admissibility and Passenger Programs  
Office of Field Operations  
U.S. Customs and Border Protection

**From:** Owen, Todd C (AC OFO)  
**Sent:** Saturday, January 28, 2017 5:23 PM  
**To:** HUTTON, JAMES R  
**Cc:** DURST, CASEY OWEN; (b)(6), (b)(7)(C) HOFFMAN, TODD A; MURDOCK, JUDSON W; (b)(6), (b)(7)(C)  
**Subject:** RE: EO 212(f) Exemption Request for (b)(6), (b)(7)(C)

Approved per C1, 1722 hours.

*Todd C. Owen  
 Executive Assistant Commissioner  
 Office of Field Operations  
 U.S. Customs & Border Protection*

**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 5:03 PM  
**To:** Owen, Todd C (AC OFO); (b)(6), (b)(7)(C)  
**Cc:** DURST, CASEY OWEN; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C) HOFFMAN, TODD A; (b)(6), (b)(7)(C) MURDOCK, JUDSON W  
**Subject:** EO 212(f) Exemption Request for (b)(6), (b)(7)(C)  
**Importance:** High

## **Exemption to Executive Order Request**

**January 28, 2017**

**Title:** Exemption to Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States" Request

**Summary:** CBP, OFO, Baltimore Field Office recommends that you (b)(5), (b)(6), (b)(7)(C), (b)(7)(E)

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**



**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs

(b)(6), (b)(7)(C)

Washington, DC



(b)(6), (b)(7)(C)



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**From:** Owen, Todd C (AC OFO)  
**Sent:** Saturday, January 28, 2017 1:13 PM  
**To:** HUTTON, JAMES R  
**Cc:** HOFFMAN, TODD A; PEREZ, ROBERT E; (b)(6), (b)(7)(C)  
MURDOCK, JUDSON W  
**Subject:** RE: Waiver Request for 212(1) in re (b)(6), (b)(7)(C)

Waiver granted by C1, 1312 hours.

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection

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**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 5:56:22 PM  
**To:** Owen, Todd C (AC OFO)  
**Cc:** HOFFMAN, TODD A; PEREZ, ROBERT E; (b)(6), (b)(7)(C) MURDOCK, JUDSON W  
**Subject:** Waiver Request for 212(1) in re (b)(6), (b)(7)(C)

OFO recommends that you (b)(5), (b)(6), (b)(7)(C), (b)(7)(E)

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs

**(b)(6), (b)(7)(C)**  
Washington, DC

**(b)(6), (b)(7)(C)**

[\[cid:image001.png@01D00E30.B35BEEB0\]](#)

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**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 7:37 PM  
**To:** Owen, Todd C (AC OFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Cc:** HOFFMAN, TODD A; MURDOCK, JUDSON W; (b)(6), (b)(7)(C) PEREZ, ROBERT E;  
(b)(6), (b)(7)(C)  
**Subject:** EO 212(f) Waiver for (b)(6), (b)(7)(C)  
**Importance:** High

OCC

Please see below a waiver request involving a (b)(6), (b)(7)(C) who is travelling with his LPR parents. **JFK PD has already approved a waiver for his LPR parents.**

OFO recommends that you (b)(5), (b)(6), (b)(7)(C), (b)(7)(E)

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

**(b)(5), (b)(6), (b)(7)(C), (b)(7)(E)**

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs



(b)(6), (b)(7)(C)

Washington, DC



(b)(6), (b)(7)(C)



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**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 1:44 PM  
**To:** (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

No on the cruise

J. Ryan Hutton  
 Deputy Executive Director  
 Admissibility and Passenger Programs  
 (b)(6), (b)(7)(C)  
 Washington, DC

(b)(6), (b)(7)(C)



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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 1:35 PM  
**To:** HUTTON, JAMES R; (b)(6), (b)(7)(C); HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

They were on the call, just for your FYI. Did we think about guidance for Cruise? If someone was on a cruise, can they come back in?

(b)(6), (b)(7)(C)

Director  
 Travel and Tourism Initiatives  
 Electronic Visa Update System (EVUS)  
 Electronic System for Travel Authorization (ESTA)  
 Admissibility and Passenger Programs  
 Office of Field Operations

(b)(6), (b)(7)(C)

Cell: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**From:** HUTTON, JAMES R

**Sent:** Saturday, January 28, 2017 9:34 AM

**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

We should probably include CLIA as well.

J. Ryan Hutton

Deputy Executive Director

Admissibility and Passenger Programs

(b)(6), (b)(7)(C)

Washington, DC



(b)(6), (b)(7)(C)



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**From:** HOFFMAN, TODD A

**Sent:** Saturday, January 28, 2017 9:27 AM

**To:** (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

**Cc:** HUTTON, JAMES R; (b)(6), (b)(7)(C)

**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Who can you get for later today? IATA, AAAE, etc

**From:** (b)(6), (b)(7)(C)

**Sent:** Saturday, January 28, 2017 4:20:48 AM

**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C)

**Cc:** HUTTON, JAMES R

**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Did you tell all the other airlines yet? And what about other stakeholders.

(b)(6), (b)(7)(C)

Director, ESTA, EVUS

Office of Field Operations, APP  
 US Customs and Border Protection  
 Office (b)(6), (b)(7)(C)  
 Cell (b)(6), (b)(7)(C)  
 Sent from mobile device

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**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 1:59:26 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Here is the guidance. Please ensure (b)(7)(E) are on board.

(b)(6), (b)(7)(C) we had a call with A4A members at 2200 hours. We addressed their questions but (b)(6), (b)(7)(C) may have more tomorrow.

---

**From:** HOFFMAN, TODD A  
**Sent:** Friday, January 27, 2017 10:06:41 PM  
**To:** DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS  
**Cc:** Owen, Todd C (AC OFO); WAGNER, JOHN P; HUTTON, JAMES R; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Directors,

I apologize for the delay. Please be advised that you have unilateral authority to approve exemptions to the Executive Order for LPRs, no State Department approval required. The exemption process for other categories of aliens as outlined in the policy guidance currently requires the approval of the acting Commissioner. Further guidance for these exemptions is forthcoming.

Memorandum For: Directors, Field Operations

From: Todd A. Hoffman  
 Executive Director  
 Admissibility and Passenger Programs  
 Office of Field Operations

Subject: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Effective immediately, and pursuant to Executive Order entitled, "*Protecting the Nation from Foreign Terrorist Entry into the United States*" (January 27, 2017), all entry into the United States for aliens who are nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen is hereby suspended in accordance with Section 212(f) of the INA. This includes all non-immigrant classifications, with the exception of those foreign nationals traveling on diplomatic visas, NATO visas, C2 visas for travel to the United Nations, G1, G2, G-3, and G-4 visas. This also includes all immigrant classes of admission, returning resident aliens refugees and asylees.

The Department of State has provided CBP with a letter provisionally revoking all immigrant and non-immigrant visas for nationals of Iran, Iran, Libya, Somalia, Sudan, and Yemen. Revocations may not yet be annotated in the system.

Wherever possible, (b)(7)(E) will coordinate the denial of boarding through (b)(7)(E) (b)(7)(E) locations, and (b)(7)(E)

Should aliens, subject to the Executive Order, arrive at the port of entry, CBP officers are instructed to take the following actions:

*Applicants bearing Non-Immigrant Visas and First Time Arriving Immigrants:*

- (1) All case processing will be recorded in (b)(7)(E) system, according to current policy/procedure.
- (2) Subjects will be allowed to withdraw their application for admission on Form I-275, **without a sworn statement**. All other procedures pertaining to the processing of Form I-275 withdrawal cases apply.
- (3) Should the alien decline to withdraw their application for admission, the alien will be placed in Expedited Removal in accordance with standard operating procedures.
- (4) Aliens claiming fear of return will be referred to an asylum officer, and processed for Expedited Removal/Credible Fear (ERF). Aliens processed under ERF procedures will be referred to ERO for detention. Field Offices should clearly indicate to both CIS and ERO that aliens are subject to Executive Order during the referral process.

*Returning Residents,*

- (1) Lawful Permanent Residents should be referred for (b)(7)(E) and held at the port of entry until an exemption to the Executive Order is granted. The authority to grant an exemption has been delegated to the Commissioner of CBP, and further delegated to Directors of Field Operations and SES Port Directors. Once an exemption has been granted results of (b)(7)(E) should be notated in (b)(7)(E) with the following language: *Individual is subject to Presidential Executive Order and barred from entry pursuant to 212(f) of the INA but has been granted an exemption per (insert DFO/SES PD).*

*Refugees, Asylees, Unaccompanied Children, and subjects returning to the US with Advanced Parole:*

- (1) Aliens from the above group who are prevented from entry solely as a result of the Executive Order, should be referred for (b)(7)(E) and held at the port of entry until such time as an exemption to the Executive Order can be obtained. This exemption falls to the Secretary of State and Secretary of Homeland Security. Further guidance will be forthcoming on processing these exemptions.

Individuals who fall within any of the above may not be paroled, which includes port parole and deferred inspection. To the extent that there is an emergent medical issue related to an alien who falls within the Executive Order, CBP officers must accompany the alien for any medical care.

*Returning aliens ineligible who withdraw their application for admission:*

- (1) Aliens arriving via air or sea: Commercial carriers are required to remove foreign aliens found ineligible for entry under this order pursuant to 241(c)(1) of the INA.
- (2) Aliens arriving via land will be returned per current established procedures with the contiguous country.

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (A) Director, Enforcement Programs Division, at (b)(6), (b)(7)(C)



Todd A. Hoffman  
Executive Director, Admissibility and Passenger Programs  
Office of Field Operations  
U.S. Customs and Border Protection

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**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 9:57 AM  
**To:** HOFFMAN, TODD A  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

No worries at all!!

J. Ryan Hutton  
 Deputy Executive Director  
 Admissibility and Passenger Programs

(b)(6), (b)(7)(C)  
 Washington, DC



(b)(6), (b)(7)(C)



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**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 9:52 AM  
**To:** HUTTON, JAMES R (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Sorry and thank you!

---

**From:** HUTTON, JAMES R  
**Sent:** Saturday, January 28, 2017 6:50:06 AM  
**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

T4  
 I will be there shortly

Good copy on (b)(6), (b)(7)(C)

J. Ryan Hutton  
 Deputy Executive Director  
 Admissibility and Passenger Programs  
 (b)(6), (b)(7)(C)  
 Washington, DC

(b)(6), (b)(7)(C)



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**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 9:48 AM  
**To:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R; (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Please set two calls for carriers/airports at 1230 and us travel, etc. at 1:00.

Ryan, I'm going to the office. Can you meet me there? We need (b)(6), (b)(7)(C) on call for coding. May want (b)(6), (b)(7)(C) if around.

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 6:38:03 AM  
**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Yes I can get ACI, probably AAAE, and working to get the IATA guy now. Probably should also include US Travel or do a separate call.

(b)(6), (b)(7)(C)  
 Director, ESTA, EVUS  
 Office of Field Operations, APP  
 US Customs and Border Protection  
 Office (b)(6), (b)(7)(C)  
 Cell (b)(6), (b)(7)(C)  
 Sent from mobile device

**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 9:26:43 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Who can you get for later today? IATA, AAAE, etc

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 4:20:48 AM  
**To:** HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
**Cc:** HUTTON, JAMES R  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Did you tell all the other airlines yet? And what about other stakeholders.

(b)(6), (b)(7)(C)  
 Director, ESTA, EVUS  
 Office of Field Operations, APP  
 US Customs and Border Protection  
 Office (b)(6), (b)(7)(C)  
 Cell (b)(6), (b)(7)(C)  
 Sent from mobile device

---

**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 1:59:26 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Here is the guidance. Please ensure (b)(7)(E) are on board.

(b)(6), (b)(7)(C) we had a call with A4A members at 2200 hours. We addressed their questions but (b)(6), (b)(7)(C) may have more tomorrow.

---

**From:** HOFFMAN, TODD A  
**Sent:** Friday, January 27, 2017 10:06:41 PM  
**To:** DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS  
**Cc:** Owen, Todd C (AC OFO); WAGNER, JOHN P; HUTTON, JAMES R; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Directors,

I apologize for the delay. Please be advised that you have unilateral authority to approve exemptions to the Executive Order for LPRs, no State Department approval required. The exemption process for other categories of aliens as outlined in the policy guidance currently requires the approval of the acting Commissioner. Further guidance for these exemptions is forthcoming.

Memorandum For: Directors, Field Operations

From: Todd A. Hoffman  
Executive Director  
Admissibility and Passenger Programs  
Office of Field Operations

Subject: Guidance on Executive Order “Protecting the Nation from Foreign Terrorist Entry into the United States”

Effective immediately, and pursuant to Executive Order entitled, “*Protecting the Nation from Foreign Terrorist Entry into the United States*” (January 27, 2017), all entry into the United States for aliens who are nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen is hereby suspended in accordance with Section 212(f) of the INA. This includes all non-immigrant classifications, with the exception of those foreign nationals traveling on diplomatic visas, NATO visas, C2 visas for travel to the United Nations, G1, G2, G-3, and G-4 visas. This also includes all immigrant classes of admission, returning resident aliens refugees and asylees.

The Department to State has provided CBP with a letter provisionally revoking all immigrant and non-immigrant visas for nationals of Iran, Iran, Libya, Somalia, Sudan, and Yemen. Revocations may not yet be annotated in the system.

Wherever possible, (b)(7)(E) will coordinate the denial of boarding through (b)(7)(E) (b)(7)(E) locations, and (b)(7)(E)

Should aliens, subject to the Executive Order, arrive at the port of entry, CBP officers are instructed to take the following actions:

*Applicants bearing Non-Immigrant Visas and First Time Arriving Immigrants:*

- (1) All case processing will be recorded in (b)(7)(E) system, according to current policy/procedure.
- (2) Subjects will be allowed to withdraw their application for admission on Form I-275, ***without a sworn statement***. All other procedures pertaining to the processing of Form I-275 withdrawal cases apply.
- (3) Should the alien decline to withdraw their application for admission, the alien will be placed in Expedited Removal in accordance with standard operating procedures.
- (4) Aliens claiming fear of return will be referred to an asylum officer, and processed for Expedited Removal/Credible Fear (ERF). Aliens processed under ERF procedures will be referred to ERO for detention. Field Offices should clearly indicate to both CIS and ERO that aliens are subject to Executive Order during the referral process.

*Returning Residents,*

- (1) Lawful Permanent Residents should be referred for (b)(7)(E) and held at the port of entry until an exemption to the Executive Order is granted. The authority to grant an exemption has been delegated to the Commissioner of CBP, and further delegated to Directors of Field Operations and SES Port Directors. Once an exemption has been granted results of (b)(7)(E) should be notated in (b)(7)(E) with the following language: *Individual is subject to Presidential Executive Order and barred from entry pursuant to 212(f) of the INA but has been granted an exemption per (insert DFO/SES PD).*

*Refugees, Asylees, Unaccompanied Children, and subjects returning to the US with Advanced Parole:*

- (1) Aliens from the above group who are prevented from entry solely as a result of the Executive Order, should be referred for (b)(7)(E) and held at the port of entry until such time as an exemption to the Executive Order can be obtained. This exemption falls to the Secretary of State and



Secretary of Homeland Security. Further guidance will be forthcoming on processing these exemptions.

Individuals who fall within any of the above may not be paroled, which includes port parole and deferred inspection. To the extent that there is an emergent medical issue related to an alien who falls within the Executive Order, CBP officers must accompany the alien for any medical care.

*Returning aliens ineligible who withdraw their application for admission:*

- (1) Aliens arriving via air or sea: Commercial carriers are required to remove foreign aliens found ineligible for entry under this order pursuant to 241(c)(1) of the INA.
- (2) Aliens arriving via land will be returned per current established procedures with the contiguous country.

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (A) Director, Enforcement Programs Division, at: (b)(6), (b)(7)(C)

Todd A. Hoffman  
Executive Director, Admissibility and Passenger Programs  
Office of Field Operations  
U.S. Customs and Border Protection

**From:** HUTTON, JAMES R  
**Sent:** Sunday, January 29, 2017 9:34 AM  
**To:** OFO-FIELD LIAISON  
**Cc:** CAMPBELL, CARL S; HOFFMAN, TODD A  
**Subject:** FW: Washington, DC: Executive Order Report - Protecting the Nation from Foreign Terrorist Entry Into the U.S.

OPs  
 See below  
 Need to track down ASAP

J. Ryan Hutton  
 Deputy Executive Director  
 Admissibility and Passenger Programs

(b)(6), (b)(7)(C)  
 Washington, DC

(b)(6), (b)(7)(C)



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**From:** MCALEENAN, KEVIN K  
**Sent:** Sunday, January 29, 2017 9:28 AM  
**To:** HOFFMAN, TODD A <(b)(6), (b)(7)(C)>; ALLES, RANDOLPH D <(b)(6), (b)(7)(C)>; FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>  
**Cc:** Owen, Todd C (AC OFO) <(b)(6), (b)(7)(C)>; WAGNER, JOHN P <(b)(6), (b)(7)(C)>; HUTTON, JAMES R <(b)(6), (b)(7)(C)>  
**Subject:** RE: Washington, DC: Executive Order Report - Protecting the Nation from Foreign Terrorist Entry Into the U.S.

Please advise re the circumstances of the two LPRs not granted waivers.

**From:** HOFFMAN, TODD A

**Sent:** Sunday, January 29, 2017 9:09:24 AM

**To:** MCALEENAN, KEVIN K; ALLES, RANDOLPH D; FLANAGAN, PATRICK S

**Cc:** Owen, Todd C (AC OFO); WAGNER, JOHN P; HUTTON, JAMES R

**Subject:** FW: Washington, DC: Executive Order Report - Protecting the Nation from Foreign Terrorist Entry Into the U.S.

Morning report.

Todd A. Hoffman

Executive Director, Admissibility and Passenger Programs

Office of Field Operations

U.S. Customs and Border Protection

**U.S. Customs and Border Protection  
Office of Field Operations  
Bullets for the Executive Assistant Commissioner  
January 29, 2017**

**Washington, DC: Executive Order Report - Protecting the Nation from Foreign Terrorist Entry into the U.S.**

Cumulative								
Country	Number of Non-Immigrant Visa Encounters	Number of Immigrant Visa Encounters	Number of LPR Encounters	Number of Refugees Encounters	Number of Withdraws Granted	Number of Expedited Removals	Number of Expedited Removals with Fear Claim	Number of LPRs not granted waivers
Iran	60	49	233	1	55	0	(b)(6), (b)(7)(C)	2
Iraq	55	63	101	0	58	0		0
Libya	0	0	3	0	0	0		0
Somalia	0	6	3	0	2	0		0
Sudan	14	17	12	0	24	0		0
Syria	28	19	34	0	31	2		0
Yemen	12	18	8	0	13	0		0
<b>TOTALS</b>	169	172	394	1	183	2		2

2100 - 0500 January 29, 2017								
Country	Number of Non-Immigrant Encounters	Number of Immigrant Encounters	Number of LPR Encounters	Number of Refugees Encounters	Number of Withdraws Granted	Number of Expedited Removals	Number of Expedited Removals with Fear Claim	Number of LPRs not granted waivers
Iran	9	7	76	1	7	0	(b)(6), (b)(7)(C)	0
Iraq	6	21	68	0	5	0		0
Libya	0	0	1	0	0	0		0
Somalia	0	0	1	0	0	0		0

Sudan	2	0	3	0	0	0	(b)(6), (b)(7)(C)	0
Syria	4	3	12	0	1	0		0
Yemen	3	1	5	0	0	0		0
<b>TOTALS</b>	24	32	166	1	13	0		0

**(b)(7)(E)**

Submitted by: (b)(6), (b)(7)(C) / Field Liaison Division

Date / Time: January 29, 2017 / 0845 hours

**From:** HUTTON, JAMES R  
**Sent:** Monday, January 30, 2017 7:01 AM  
**To:** HOFFMAN, TODD A  
**Subject:** FW: EO 212(f) Exemption for (b)(6), (b)(7)(C)

**From:** Owen, Todd C (AC OFO)  
**Sent:** Monday, January 30, 2017 5:24:59 AM  
**To:** (b)(6), (b)(7)(C); HUTTON, JAMES R  
**Cc:** MILLER, TROY A; HOFFMAN, TODD A  
**Subject:** RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Thx (b)(6), (b)(7)(C) Understand and not trying to be critical. I could not be more pleased with how every unit handled this past weekend.

(b)(5)

Thx.

Todd C. Owen  
 Executive Assistant Commissioner  
 Office of Field Operations  
 U.S. Customs & Border Protection

**From:** (b)(6), (b)(7)(C)  
**Sent:** Monday, January 30, 2017 3:25:21 AM  
**To:** HUTTON, JAMES R; Owen, Todd C (AC OFO)  
**Cc:** MILLER, TROY A  
**Subject:** RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

(b)(5), (b)(7)(E)

Don

**From:** HUTTON, JAMES R  
**Sent:** Monday, January 30, 2017 12:06:36 AM  
**To:** Owen, Todd C (AC OFO)  
**Cc:** MILLER, TROY A; (b)(6), (b)(7)(C)  
**Subject:** RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

EAC  
 Not sure but will check and let you know.



From: Owen, Todd C (AC OFO)  
 Sent: Sunday, January 29, 2017 8:31:49 PM  
 To: HUTTON, JAMES R  
 Subject: RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Ryan, do we know it is that we didnt catch this pre-departure?

Todd C. Owen  
 Executive Assistant Commissioner  
 Office of Field Operations  
 U.S. Customs & Border Protection

From: HUTTON, JAMES R  
 Sent: Monday, January 30, 2017 1:09:47 AM  
 To: ENFORCEMENT PROGRAMS DIVISION  
 Cc: (b)(6), (b)(7)(C); Owen, Todd C (AC OFO);  
 WAGNER, JOHN P; MURDOCK, JUDSON W; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) FLANAGAN, PATRICK S  
 Subject: RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

ALCON  
 If delegation authority is not forthcoming this evening.

C2 has requested that we batch these requests for 9pm - Midnight - 3am - 6am. For urgent and emergent waivers please contact (b)(6), (b)(7)(C) @ (b)(6), (b)(7)(C)

CAT  
 If no waivers, please send C1 message stating same at times indicated above.

From: (b)(6), (b)(7)(C)  
 Sent: Sunday, January 29, 2017 7:59:52 PM  
 To: OFO-FIELD LIAISON; ENFORCEMENT PROGRAMS DIVISION; HUTTON, JAMES R  
 Cc: (b)(6), (b)(7)(C); Owen, Todd C (AC OFO);  
 WAGNER, JOHN P; MURDOCK, JUDSON W; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) DURST, CASEY OWEN  
 Subject: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Good evening,

Please see the following for waiver consideration.

Regards,

(b)(6), (b)(7)(C)  
 Assistant Director Border Security  
 U.S. Customs and Border Protection  
 Baltimore Field Office

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)  
 Sent: Sunday, January 29, 2017 7:53 PM  
 To: BFO REPORTING (b)(7)(E)  
 Cc: (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) CBP IAD Management  
 (b)(7)(E)

Subject: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Exemption to Executive Order Request

January 29, 2017

Title: Exemption to Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States" Request

Summary: CBP, OFO, Baltimore Field Office recommends that you (b)(5), (b)(6), (b)(7)(C)

**(b)(5), (b)(6), (b)(7)(C)**

**(b)(6), (b)(7)(C), (b)(7)(E)**

SUBJECT OF INTEREST

Name: (b)(6), (b)(7)(C)

Gender: Female

DOB: (b)(6), (b)(7)(C)

COC: Iran

COR: (b)(6), (b)(7)(C)

POB: (b)(6), (b)(7)(C)

PPN: (b)(6), (b)(7)(C)

NIV: (b)(6), (b)(7)(C)

## LINKED SUBJECT OF INTEREST

Name: (b)(6), (b)(7)(C)

Gender: Male

DOB: (b)(6), (b)(7)(C)

COC: Iran

COR: (b)(6), (b)(7)(C)

POB: (b)(6), (b)(7)(C)

Address: (b)(6), (b)(7)(C)

PPN: (b)(6), (b)(7)(C)

A#: (b)(6), (b)(7)(C)

## LINKED SUBJECT OF INTEREST

Name: (b)(6), (b)(7)(C)

Gender: Female

DOB: (b)(6), (b)(7)(C)

COC: Iran

COR: (b)(6), (b)(7)(C)

POB: (b)(6), (b)(7)(C)

Address: (b)(6), (b)(7)(C)

PPN: (b)(6), (b)(7)(C)

A#: (b)(6)

## LINKED SUBJECT OF INTEREST

Name: (b)(6), (b)(7)(C)

Gender: Female

DOB: (b)(6), (b)(7)(C)

COC: Iran

COR: (b)(6), (b)(7)(C)

POB: (b)(6), (b)(7)(C)

Address: (b)(6), (b)(7)(C)

PPN: (b)(6), (b)(7)(C)

A#: (b)(6), (b)(7)(C)

## LINKED SUBJECT OF INTEREST

Name: (b)(6), (b)(7)(C)

Gender: Female

DOB: (b)(6), (b)(7)(C)

COC: Iran

COR: (b)(6), (b)(7)(C)

POB: (b)(6), (b)(7)(C)

Address: (b)(6), (b)(7)(C)

PPN: (b)(6), (b)(7)(C)

A#: (b)(6), (b)(7)(C)

Timeline:

1836: Turkish Airlines block time

1921: Subject referred from primary

1925: Arrived in Secondary

Contacts:

(b)(7)(E) contacted at 1424 hours.

Area Port contacted at 1530 hours.

Field Office contacted at 1945 hours.

Submitted by: (b)(6), (b)(7)(C) Chief, Washington Dulles Airport

Date / Time: January 29, 2017; 1945

Thank you,

(b)(6), (b)(7)(C)

Assistant Port Director  
U.S. Customs and Border Protection (CBP)  
Port of Washington, D.C. (Dulles)

(b)(6), (b)(7)(C)

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**From:** HUTTON, JAMES R  
**Sent:** Monday, January 30, 2017 12:49 PM  
**To:** HOFFMAN, TODD A  
**Subject:** FW: heads up on a front office tasker  
**Attachments:** 01202017 - S1 tasking.docx

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs  
(b)(6), (b)(7)(C)  
Washington, DC

(b)(6), (b)(7)(C)



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---

**From:** HUTTON, JAMES R  
**Sent:** Monday, January 30, 2017 12:17 PM  
**To:** (b)(6)  
**Subject:** RE: heads up on a front office tasker

J. Ryan Hutton  
Deputy Executive Director  
Admissibility and Passenger Programs  
(b)(6), (b)(7)(C)  
Washington, DC

(b)(6), (b)(7)(C)



(b)(6), (b)(7)(C)



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**From:** HUTTON, JAMES R

**Sent:** Monday, January 30, 2017 12:16 PM

**To:** (b)(6)

**Subject:** FW: heads up on a front office tasker

(b)(6)

Can you give me a call when you get a chance.

J. Ryan Hutton

Deputy Executive Director

Admissibility and Passenger Programs

(b)(6), (b)(7)(C)

Washington, DC

(b)(6), (b)(7)(C)



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**From:** (b)(6)

**Sent:** Monday, January 30, 2017 11:59 AM

**To:** HOFFMAN, TODD A (b)(6), (b)(7)(C)  
**Cc:** (b)(6)  
**Subject:** RE: heads up on a front office tasker

Todd,

Could you send what you have so far. We are running out of time here and the front office has not allowed an extension.

Thanks

(b)(6)

---

**From:** (b)(6)  
**Sent:** Monday, January 30, 2017 11:00 AM  
**To:** HOFFMAN, TODD A (b)(6), (b)(7)(C)  
**Cc:** (b)(6)  
**Subject:** FW: heads up on a front office tasker

Todd,

I will give you a call to discuss as well. But here is some background that I provided to (b)(6), (b)(7)(C) as to the Front Office questions.

Thanks

(b)(6)

---

**From:** (b)(6)  
**Sent:** Monday, January 30, 2017 9:21 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** (b)(6)  
**Subject:** heads up on a front office tasker

(b)(6), (b)(7)(C)

I can only imagine your weekend!

We have a hot tasker from the DHS front office that will require coordination with CBP and OGC. I wanted to give you a heads up as our policy chief of staff is calling over to Patrick Flannigan to request some assistance and knowing this might fall on you.

The Secretary is looking to make some legislative calls today and wants to be better informed on the policy concerns and the operator impacts. The paper is due to the front office by noon.

What we have been told is required in the paper is the following:

Volume context – sort of what you had read to me on Friday

How secondary screening works for any of the persons affected by the EO – Do you have a paper on the secondary inspection process?

How Dual Nationals are handled

How SIV's are handled

Students and workers

“Multi entry visa holders” This is the term they used but we believe this to be b1/b2 LPR’s and how they are processed what is being done in secondary it was reported additional checks were being done

This is also an opportunity that if there are additional policy questions you need answered please raise them as well.

Thanks

(b)(6)

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**Office of Field Operations**  
**Admissibility and Passenger Programs**  
**January 30, 2017**

**Action Required:** Informational

**Issue:** Operational impact and policy concerns following Executive Order “Protecting the Nation from Foreign Terrorist Entry In to the United States”

**Summary:**

The President’s Executive Order, “Protecting the Nation from Foreign Terrorist Entry In to the United States,” was signed on January 27, 2017. This order suspends the entry of any class of aliens the President deems detrimental to the interests of the United States, stated as Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen, with limited exceptions, pursuant to section 212(f) of the Immigration and Nationality Act.

**Background:**

U.S. Customs and Border Protections’ Office of Field Operations is responsible for the inspection of all persons and goods who seek to enter the United States. All travelers attempting to enter the United States are subject to inspection and search by CBP Officers to determine identity, alienage, and admissibility of the traveler and any accompanying goods. When all necessary information is not readily available, CBP officers may ask additional questions, review additional documents, and search a traveler, vehicle, baggage, electronic devices, or examine any other goods that a traveler seeks to bring into the United States in a process called secondary inspection. (b)(7)(E)

(b)(7)(E)  
 (b)(7)(E) Since implementation of this order, approximately 1253 individuals entering the United States at our Port of Entry have been effected, with an additional 682 individuals (b)(7)(E) to deny boarding of U.S. bound aircraft by commercial carriers.

**Current Status:**

- The entry of all citizens or nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen as immigrant or non-immigrant aliens has been suspended.
- U.S. law does not recognize dual nationality. All travelers are being processed by the documentary requirements of the country of citizenship they utilize to apply for entry.
- Non-Immigrant aliens with diplomatic, NATO, or Non-Governmental Organization visas are exempt from this order (e.g. A, NATO, C2, and G1-G4).
- A multiple entry visa is a descriptor of some non-immigrant visas that permit the lawful holder to apply for entry to the United States at a Port of Entry. It does not confer an immigration benefit or guarantee admission to the United States. Individuals with multiple entry visas under any classification may have their visa revoked or be found inadmissible to the United States at any time.
- Initial entry immigrants, to include those Special Interest Visa (SIV) holders, are being evaluated on a case by case basis for exceptions by Department of Homeland Security and Department of State. This exception is granted to those individuals whose admission to the United States is in the national interest and if they do not pose a national security threat.

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- Non-Immigrant aliens, such as students and temporary workers, can also be evaluated on a case by case basis for exceptions by Department of Homeland Security and Department of State. This exception is granted to those individuals whose admission to the United States is in the national interest and if they do not pose a national security threat.

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