

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)
 UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States
Attachments: 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) (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 1st time refugees encountered);
- Returning Asylees;
- Individuals in possession of a valid I-512 issued by (b)(7)(E)
- 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) DXL (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

Waiver Narrative

(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: 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,

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 Immigration Advisory Program/Joint Security Program (IAP/JSP) locations, and Regional Carrier Liaison Groups (RCLG).

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

(b)(7)(E)

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 CSIS 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 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)

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: Friday, February 03, 2017 10:29 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: FW: RE: Litigation Hold/Preservation Notice; Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States; January 27, 2017
Attachments: Litigation Hold EO Protecting the Nation from Foreign Terrorist Entry into the US Jan 27 2017.pdf

Please see attached litigation hold/preservation notice.

From: (b)(6), (b)(7)(C)
Sent: Thursday, February 2, 2017 3:50 PM
To: HUMPHREY, BRIAN J (DFO) <(b)(6), (b)(7)(C)>
Cc: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
Subject: FW: RE: Litigation Hold/Preservation Notice; Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States; January 27, 2017

Good afternoon DFO Humphrey,

(b)(5)

(b)(6), (b)(7)(C)
 Assistant Chief Counsel, San Francisco
 Desk: (b)(6), (b)(7)(C)
 Mobile: (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, February 02, 2017 2:12 PM
To: FLANAGAN, PATRICK S <(b)(6), (b)(7)(C)>
 CBP Chicago <(b)(6), (b)(7)(C)>; OCC CBP Houston <(b)(6), (b)(7)(C)> OCC CBP HQ
 <(b)(6), (b)(7)(C)>; OCC CBPTTL <(b)(6), (b)(7)(C)> OCC CBP LA <(b)(6), (b)(7)(C)> OCC
 CBP Managers <(b)(6), (b)(7)(C)> OCC CBP Miami <(b)(6), (b)(7)(C)> OCC CBP NFC
 <(b)(6), (b)(7)(C)> OCC CBP NY <(b)(7)(E)> OCC CBP TUCSON
 <(b)(6), (b)(7)(C)> <(b)(6), (b)(7)(C)>
 <(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)

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

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

SITUATION ROOM

(b)(7)(E)

CBP CHIEF OF STAFFS

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

Cc:

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

CBP-OCC-PARALEGALS-MAILBOX

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

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

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

Subject: RE: Litigation Hold/Preservation Notice; Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States; January 27, 2017

Good afternoon,

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

Thank you for your assistance in this matter.

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

Paralegal Specialist

Office of the Chief Counsel

U.S. Customs and Border Protection

(b)(6), (b)(7)(C) (Desk)
(b)(6), (b)(7)(C) (Fax)

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

 Please consider the environment before printing this email or attachments

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 2:35 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: RE: FINAL SIGNED EO FOR ACTION

It appears there were no encounters on Friday.

(b)(6), (b)(7)(C)
 Asst. Area Port Director
 Area Port of Portland OR
 US Customs & Border Protection
 Department of Homeland Security

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

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

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-----Original Message-----

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 9:13 PM
To:
Cc: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
Subject: RE: FINAL SIGNED EO FOR ACTION

Thanks

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 9:00:17 PM

To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: RE: FINAL SIGNED EO FOR ACTION

First thing tomorrow.

Chief (b)(6), (b)(7)(C)
Assistant Area Port Director
Area Port of Portland

Sent via Android device

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 8:51:17 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: RE: FINAL SIGNED EO FOR ACTION

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

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 7:41:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: RE: FINAL SIGNED EO FOR ACTION

Agreed. We may have additional information tonight. The supervisor's will have to brief tomorrow, Sunday, and Monday morning.

We should be able to report to SF after the Amsterdam flight each day, as I don't think we get any of the desired travelers on Alaska or Volaris.

Did you send your acknowledgement to the DFO?

Chief (b)(6), (b)(7)(C)
Assistant Area Port Director
Area Port of Portland

Sent via Android device

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 7:36:38 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION

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

See instructions below from DFO Humphrey. Very specific instructions for us for individuals arriving from Syria, Iraq, Iran, Libya, Sudan, Yemen, and Somalia. Until our officers are used to the procedures I'd like all incidents to be communicated to you and I before being sent home or released.

From: HUMPHREY, BRIAN J (DFO)
Sent: Friday, January 27, 2017 7:14:34 PM

To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)

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

Subject: FW: FINAL SIGNED EO FOR ACTION

The attached executive order is effective immediately. Because of the urgency and sensitivity, I ask that each Area PD acknowledge receipt. Thank you.

Detailed guidance is expected within the hour, including reporting requirements. In the interim, this is my summary of tonight's conference call with HQ.

Affected countries: Iran, Iraq, Syria, Libya, Sudan, Somalia, Yemen

Effective immediately, all immigrant (including refugees) and non-immigrant visas of citizens from these countries are revoked. These passengers are to be offered withdrawal of application for admission. If they do not agree to withdrawal, they will be expeditiously removed. If they claim credible fear, they will be processed accordingly. A/G/NATO visa holders are exempt and allowed entry.

LPRs presenting passports from these countries are included in the executive order. However, the Secretary has delegated waiver authority to DFOs to admit LPRs after undergoing a (b)(7)(E) secondary where we don't have (b)(7)(E) with proper notation of the DFO waiver in the remarks section. No LPR is to be removed.

Unaccompanied Alien Children, previously admitted refugees, previously admitted asylees, and persons with approved advanced paroles are included in the executive order. These individuals currently require a Secretary approved waiver. HQ guidance will cover the waiver procedures. HQ is requesting DFO delegated authority for these groups as well, but it is not yet approved. Such individuals will also be referred for secondary exam (b)(7)(E) where teams exist), with notation of the approved waiver in the remarks. Until such time that waiver authority is delegated (if at all), we will need to hold the passengers pending Secretary approval of the waiver. These individuals will not be expeditiously removed.

At this time, these procedures are to be followed for the next 90 days. Further guidance will follow at that time.

The State Department has already cancelled all the immigrant and non-immigrant visas, and (b)(7)(E)
(b)(7)(E)

Reporting: Eventually an automated report is expected from (b)(7)(E) but in the meantime, we will owe HQ a report each morning by 0500 hours Eastern Time. We will need the information in the SFFO by midnight Pacific Time in order to compile a consolidated FO response. Please copy (b)(6), (b)(7)(C) and I. A spreadsheet of the report fields is expected with the guidance due out soon from HQ.

Any questions, please feel free to call me.

Brian J. Humphrey
Director, Field Operations
San Francisco and Portland Field Offices

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

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 6:07 PM
To: DIRECTORS FIELD OPS (b)(7)(E)
Subject: FW: FINAL SIGNED EO FOR ACTION

Thank you,

(b)(6), (b)(7)(C)
Acting Deputy Executive Director
Operations
US Customs and Border Protection
Office (b)(6), (b)(7)(C)
Cell (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 6:41 PM
To: HOFFMAN, TODD A (b)(6), (b)(7)(C) HUTTON,
JAMES R (b)(6), (b)(7)(C)

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

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

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

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

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

Subject: FW: FINAL SIGNED EO FOR ACTION

From: MCALEENAN, KEVIN K
Sent: Friday, January 27, 2017 6:41 PM
To: 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: FINAL SIGNED EO FOR ACTION

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 11:21 PM
To: (b)(6), (b)(7)(C)
Subject: RE: Federal Court Stay - Hold all departures. Need confirmation

Correct.
Chief: (b)(6), (b)(7)(C)
Assistant Area Port Director
Area Port of Portland

(b)(7)(E)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 8:20:20 PM
To: (b)(6), (b)(7)(C)
Subject: RE: Federal Court Stay - Hold all departures. Need confirmation

EO Reporting to continue (next by 2300), correct?

(b)(6), (b)(7)(C)
Supervisory CBP Officer
Area Port of Portland, OR

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

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 8:07 PM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: Federal Court Stay - Hold all departures. Need confirmation

Important read all

From: HUMPHREY, BRIAN J (DFO)
Sent: Saturday, January 28, 2017 7:44:22 PM

To: (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)

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

Cc: (b)(6), (b)(7)(C)
Subject: FW: Federal Court Stay - Hold all departures. Need confirmation

To all Ports: We are to suspend departures of individuals targeted by the Executive Order who were subject to ER or withdrawal of application. All other actions of targeted arriving aliens remain in place, including continued detention of those previously set for departure via removal or withdrawal.

Area PDs please acknowledge

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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

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

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

From: Owen, Todd C (AC OFO)
Sent: Saturday, January 28, 2017 10:34:00 PM
To: DIRECTORS FIELD OPS
Subject: Federal Court Stay - Hold all departures. Need confirmation

DFOs,

Based on this evening's federal court stay, we are to suspend all departures of those found inadmissible under the Executive Order, including those who wished to voluntarily depart. We should freeze all departures but continue to detain the individuals in the airports while we await further legal guidance. All pre-departure actions will remain underway.

Need confirmation from each DFO.

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

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 12:20 PM
To: (b)(6), (b)(7)(C)
Subject: RE: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

Done!

(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Asst. Area Port Director
Area Port of Portland OR
US Customs & Border Protection
Department of Homeland Security

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

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

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From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 9:13 AM
To: (b)(6), (b)(7)(C)
Subject: FW: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

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

Please notify staff asap.
Thanks

(b)(6), (b)(7)(C)
Area Port Director
Area Port of Portland, OR
U.S. Customs and Border Protection

O: (b)(6), (b)(7)(C) C: (b)(6), (b)(7)(C)
F: (b)(6), (b)(7)(C) E: (b)(6), (b)(7)(C)

From: HUMPHREY, BRIAN J (DFO)

Sent: Wednesday, February 01, 2017 9:08 AM

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

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

(b)(6), (b)(7)(C) HUMPHREY, BRIAN J (DFO) (b)(6), (b)(7)(C)

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

Subject: FW: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

Area Port Directors: Please acknowledge receipt and immediately implement **updated guidance that the Executive Order does NOT apply to lawful permanent residents.** Please process LPRs from the seven countries as you'd process any other LPR. Do not refer to secondary or conduct a (b)(7)(E) interview unless you have other independent reasons that would have subjected the passenger to further inspection prior to the EO

Brian J. Humphrey
Director, Field Operations
San Francisco and Portland Field Offices

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

From: HOFFMAN, TODD A

Sent: Wednesday, February 01, 2017 8:58 AM

To: DIRECTORS FIELD OPS (b)(7)(E) EXECUTIVE DIRECTORS HQ

(b)(7)(E)

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

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

Subject: FW: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

Directors,

Per the below, LPRs are no longer subject to the Executive Order. To ensure compliance, please IMMEDIATELY distribute throughout your area of responsibility.

Todd A. Hoffman
Executive Director, Admissibility and Passenger Programs

Office of Field Operations
U.S. Customs and Border Protection

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

Sent: Wednesday, February 01, 2017 11:53 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) HOFFMAN, TODD A

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

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

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

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

Subject: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

**ATTORNEY CLIENT PRIVILEGED
ATTORNEY WORK PRODUCT**

All,

(b)(5)

(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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Nathan Woodliff-Stanley, Executive Director
Mark Silverstein, Legal Director

February 2, 2017

U.S. Customs & Border Protection
33 New Montgomery, Suite 1600
San Francisco, CA 94105

U.S. Customs & Border Protection
8337 NE Alderwood Road
Portland, OR 97220

FOIA Officer
U.S. Customs & Border Protection
1300 Pennsylvania Avenue, NW Room 3.3D
Washington, D.C. 20229
Phone: (202) 344-1610

**Re: Request Under Freedom of Information Act
(Expedited Processing & Fee Waiver/Limitation Requested)**

To Whom It May Concern:

The American Civil Liberties Union of Colorado, Alaska, Idaho, Oregon, and Wyoming and the American Civil Liberties Union Foundation of Colorado, Alaska, Idaho and Oregon (together, “ACLU”)¹ submit this Freedom of Information Act (“FOIA”) request (“Request”) for records about the implementation of President Trump’s January 27, 2017 Executive Order (“Executive Order”) by U.S. Customs and Border Protection (“CBP”). Titled “Protecting the Nation From Foreign Terrorist Entry Into the United States,” the Executive Order halts refugee admissions and bars entrants from seven predominantly Muslim countries from entering the United States.² By this letter, which constitutes a request pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, and the relevant implementing regulations, *see* 6 C.F.R. § 5 *et seq.*, the ACLU seeks

¹ The American Civil Liberties Union of Colorado, Alaska, Idaho, and Oregon are non-profit, 501(c)(4) membership organizations that educate the public about the civil liberties implications of pending and proposed state and federal legislation, provide analysis of pending and proposed legislation, directly lobby legislators, and mobilize their members to lobby their legislators. The American Civil Liberties Union Foundation of Colorado, Alaska, Idaho, and Oregon are separate 501(c)(3) organizations that provide legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educate the public about the civil rights and civil liberties implications of pending and proposed state and federal legislation, provide analyses of pending and proposed legislation, directly lobby legislators, and mobilize their members to lobby their legislators.

² Exec. Order No. 13769, 82 Fed. Reg. 8977 (Feb. 1, 2017).

information regarding CBP's **local implementation** of the Executive Order at international airports within the purview of Portland ("Field Office").

I. Background

On January 27, 2017, President Donald J. Trump issued an executive order that indefinitely blocks refugees from Syria from entering the United States, bars all refugees for 120 days, and prohibits individuals from seven predominantly Muslim countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—from entering the United States for 90 days.³ By the following day, January 28, 2017, CBP officials across the country had detained an estimated 100 to 200 individuals at airports throughout the United States.⁴ Two unions representing more than 21,000 federal immigration officers praised the Executive Order,⁵ issuing a joint press release that "applaud[ed] the three executive orders [President Trump] has issued to date."⁶ Daniel M. Renaud, Associate Director of Field Operations for U.S. Citizenship and Immigration Services, instructed Department of Homeland Security ("DHS") employees that they could no longer adjudicate any immigration claims from the seven countries targeted by the Executive Order.⁷

Beginning Saturday morning, protests erupted nationwide and attorneys rushed to airports to assist detained individuals and their families.⁸ Over the next twenty-four hours, five federal courts ordered officials to temporarily stop enforcement of the Executive Order.⁹ First, Judge Donnelly of the Eastern District of New York issued a nationwide order in *Darweesh v. Trump*, filed by the ACLU's Immigrants' Rights Project (among others), that prohibited the government from removing any detained travelers from the seven banned countries who had

³ See, e.g., Michael D. Shear and Helene Cooper, *Trump Bars Refugees and Citizens of 7 Muslim Countries*, N.Y. TIMES, Jan. 27, 2017, available at <https://www.nytimes.com/2017/01/27/us/politics/trump-syrian-refugees.html>.

⁴ See, e.g., Michael D. Shear et al., *Judge Blocks Trump Order on Refugees Amid Chaos and Outcry Worldwide*, N.Y. TIMES, Jan. 28, 2017, available at <https://www.nytimes.com/2017/01/28/us/refugees-detained-at-us-airports-prompting-legal-challenges-to-trumps-immigration-order.html>.

⁵ Robert Mackey, *America's Deportation Agents Love Trump's Ban and Rely on Breitbart for Their News*, THE INTERCEPT, Jan. 30, 2017, available at <https://theintercept.com/2017/01/30/americas-deportation-agents-love-trumps-ban-rely-breitbart-news/>.

⁶ *Joint Press Release Between Border Patrol and ICE Councils*, NAT'L ICE COUNCIL, available at <http://iceunion.org/news/joint-press-release-between-border-patrol-and-ice-councils>.

⁷ Alice Sperti and Ryan Devereaux, *Turmoil at DHS and State Department—“There Are People Literally Crying in the Office Here,”* THE INTERCEPT, Jan. 30, 2017, available at <https://theintercept.com/2017/01/30/asylum-officials-and-state-department-in-turmoil-there-are-people-literally-crying-in-the-office-here/>.

⁸ See, e.g., Peter Baker, *Travelers Stranded and Protests Swell Over Trump Order*, N.Y. TIMES, Jan. 29, 2017, available at <https://www.nytimes.com/2017/01/29/us/politics/white-house-official-in-reversal-says-green-card-holders-wont-be-barred.html>; Issie Lapowsky and Andy Greenberg, *Trump's Ban Leaves Refugees in Civil Liberties Limbo*, WIRED, Jan. 28, 2017, available at <https://www.wired.com/2017/01/trumps-refugee-ban-direct-assault-civil-liberties/>; Zolan Kanno-Youngs and Ben Kesling, *Thousands Flood Cities' Streets to Protest Donald Trump's Immigration Ban*, WALL ST. J., Jan. 30, 2017, available at <https://www.wsj.com/articles/protests-continue-against-trumps-executive-order-banning-some-from-u-s-1485735672>.

⁹ See, e.g., Steve Vladeck, *The Airport Cases: What Happened, and What's Next?*, JUST SECURITY, Jan. 30, 2017, available at <https://www.justsecurity.org/36960/stock-weekends-district-court-orders-immigration-eo/>.

been legally authorized to enter the United States.¹⁰ And a few hours later, in *Tootkaboni v. Trump*, filed by the ACLU of Massachusetts (among others), Judge Burroughs and Magistrate Judge Dein of the District of Massachusetts issued a nationwide order that not only prohibited the removal of such individuals, but also temporarily banned the government from detaining people affected by the Executive Order.¹¹

At the same time, President Trump remained publicly committed to his opposing position. In the early hours of Sunday, January 29, 2017, after the five court orders had been issued, President Trump tweeted, “Our country needs strong borders and extreme vetting, NOW.”¹² He also issued a statement on Facebook later that day, indicating that entry from the seven predominantly Muslim countries would remain blocked for the next ninety days.¹³

In the face of nationwide confusion about the scope and validity of the Executive Order, guidance from other relevant actors offered little clarity. For example, on Saturday, DHS confirmed that the ban “will bar green card holders.”¹⁴ But on Sunday, DHS Secretary John Kelly deemed “the entry of lawful permanent residents to be in the national interest”¹⁵ and, that evening, the Trump administration clarified that the Executive Order does not apply to green card holders.¹⁶ The same day, DHS stated, perhaps contradictorily and without any elaboration, “We are and will remain in compliance with judicial orders. We are and will continue to enforce

¹⁰ Decision and Order, *Darweesh v. Trump*, No. 17 Civ. 480 (AMD) (E.D.N.Y. Jan. 28, 2017), available at <https://www.aclu.org/legal-document/darweesh-v-trump-decision-and-order>.

¹¹ Temporary Restraining Order, *Tootkaboni v. Trump*, No. 17-cv-10154 (D. Mass. Jan. 29, 2017), available at <https://aclum.org/wp-content/uploads/2017/01/6-TRO-Jan-29-2017.pdf>. Another federal court issued an order requiring that attorneys be allowed access to all lawful permanent residents detained at Dulles International Airport and barring the government from deporting any such individuals. See Temporary Restraining Order, *Aziz v. Trump*, No. 1:17-cv-116 (E.D. Va. Jan. 28, 2017), available at <https://www.justice4all.org/wp-content/uploads/2017/01/TRO-order-signed.pdf>. In *Doe v. Trump*, filed in part by the ACLU of Washington, the court banned the removal of two individuals. See Order Granting Emergency Motion for Stay of Removal, *Doe v. Trump*, No. C17-126 (W.D. Wash. Jan. 28, 2017), available at <https://www.justsecurity.org/wp-content/uploads/2017/01/Seattle-Order.pdf>. Finally, in *Vayeghan v. Trump*, filed in part by the ACLU of Southern California, the court ordered the government to permit an Iranian individual who had already been removed to Dubai to return to the United States and to admit him pursuant to his approved visa. Order, *Vayeghan v. Trump*, No. CV 17-0702 (C.D. Cal. Jan. 28, 2017), available at https://www.aclusocal.org/sites/default/files/vayeghan_-_order_re_tro.pdf.

¹² Donald J. Trump, TWITTER (Jan. 29, 2017 5:08 A.M.), <https://twitter.com/realDonaldTrump/status/825692045532618753>.

¹³ Donald J. Trump, *Statement Regarding Recent Executive Order Concerning Extreme Vetting*, Jan. 29, 2017, available at <https://www.facebook.com/DonaldTrump/posts/10158567643610725> (“We will again be issuing visas to all countries once we are sure we have reviewed and implemented the most secure policies over the next 90 days.”).

¹⁴ Max Greenwood, *Immigration Ban Includes Green Card Holders: DHS*, THE HILL, Jan. 28, 2017, available at <http://thehill.com/policy/national-security/316670-trump-refugee-ban-bars-green-card-holders-report>.

¹⁵ *Statement By Secretary John Kelly On The Entry Of Lawful Permanent Residents Into The United States*, DEP’T OF HOMELAND SECURITY (Jan. 29, 2017), available at <https://www.dhs.gov/news/2017/01/29/statement-secretary-john-kelly-entry-lawful-permanent-residents-united-states>.

¹⁶ Robert Mackey, *As Protests Escalate, Trump Retreats From Barring Green Card Holders*, THE INTERCEPT, Jan. 29, 2017, available at <https://theintercept.com/2017/01/29/trumps-executive-order-no-longer-bars-green-card-holders/>.

President Trump’s executive order humanely and with professionalism.”¹⁷ On Monday, then–Acting Attorney General Sally Yates announced that the Department of Justice would not present arguments in defense of the Executive Order unless and until she became convinced that it was lawful.¹⁸ Shortly thereafter, Ms. Yates was relieved of her position by President Trump.¹⁹ The same evening, President Trump also replaced the acting director of U.S. Immigration and Customs Enforcement (“ICE”).²⁰

In spite of court orders to the contrary, some CBP officials appear to be continuing to detain individuals—though the approach appears to differ by location.²¹ Accordingly, the ACLU seeks to supplement the public record to clarify CBP’s understanding and implementation of the Executive Order at Denver International Airport, Ted Stevens International Airport, Boise International Airport, Portland International Airport, Casper/Natrona County International Airport (“Local International Airports”) and Anchorage, Denver, Boise, Portland, Casper (“Port of Entry Offices”). Through this request, the ACLU aims to facilitate the public’s indispensable role in checking the power of our public officials and to learn about the facts on the ground in Colorado, Alaska, Idaho, Oregon, and Wyoming and the Local International Airports.

¹⁷ *DHS Statement On Compliance With Court Orders And The President’s Executive Order*, DEP’T OF HOMELAND SECURITY (Jan. 29, 2017), available at <https://www.dhs.gov/news/2017/01/29/dhs-statement-compliance-court-orders-and-presidents-executive-order>.

¹⁸ Jonathan H. Adler, *Acting Attorney General Orders Justice Department Attorneys Not to Defend Immigration Executive Order*, WASH. POST, Jan. 30, 2017, available at <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/01/30/acting-attorney-general-orders-justice-department-attorneys-not-to-defend-immigration-executive-order/>.

¹⁹ *Read the Full White House Statement on Sally Yates*, BOSTON GLOBE, Jan. 30, 2017, available at <https://www.bostonglobe.com/news/politics/2017/01/30/read-full-white-house-statement-sally-yates/HkFRReFYJidU9deDeIPK6SM/story.html>.

²⁰ *Statement from Secretary Kelly on the President’s Appointment of Thomas D. Homan as Acting ICE Director*, DEP’T OF HOMELAND SECURITY (Jan. 30, 2017), available at <https://www.dhs.gov/news/2017/01/30/statement-secretary-kelly-presidents-appointment-thomas-d-homan-acting-ice-director>.

²¹ See, e.g., Julia Wick, *Lawyers Say At Least 17 People Are Still Detained at LAX, Protests Continue*, LAIST, Jan. 29, 2017, available at http://laist.com/2017/01/29/people_are_still_detained_at_lax.php; Daniel Marans, *Customs and Border Officials Defy Court Order on Lawful Residents*, HUFFINGTON POST, Jan. 29, 2017, available at http://www.huffingtonpost.com/entry/dulles-airport-feds-violated-court-order_us_588d7274e4b08a14f7e67bcf; Tom Cleary, *Is Border Patrol Defying Federal Judge’s Stay on Immigration Executive Order?*, HEAVY, Jan. 29, 2017, available at <http://heavy.com/news/2017/01/border-patrol-homeland-security-defying-ignoring-following-judge-ruling-stay-immigration-executive-order-dulles-dfw-muslim-ban/>; Tess Owen, *Waiting for Answers: We Still Don’t Know How Many People are Being Detained at US Airports*, VICE NEWS, Jan. 30, 2017, available at <https://news.vice.com/story/we-still-dont-know-how-many-people-are-being-detained-at-us-airports>.

II. Requested Records

For the purposes of this Request, “Records” are collectively defined to include, but are not limited to: text communications between phones or other electronic devices (including, but not limited to, communications sent via SMS or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gchat, or Twitter direct message); e-mails; images, video, and audio recorded on cell phones; voicemail messages; social-media posts; instructions; directives; guidance documents; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; reports; legal and policy memoranda; contracts or agreements; minutes or notes of meetings and phone calls; and memoranda of understanding. The ACLU seeks release of the following:

1. Records created on or after January 27, 2017 concerning CBP’s interpretation, enforcement, and implementation of the following at Local International Airports:
 - a. President Trump’s Executive Order, signed on January 27, 2017 and titled “Protecting the Nation From Foreign Terrorist Entry Into the United States”;
 - b. Any guidance “provided to DHS field personnel shortly” after President Trump signed the Executive Order, as referenced in CBP’s online FAQ;²²
 - c. Associate Director of Field Operations for U.S. Citizenship and Immigration Services Daniel M. Renaud’s email, sent at 11:12 A.M. on January 27, 2017, instructing DHS employees that they could not adjudicate any immigration claims from the seven targeted countries;²³
 - d. Judge Donnelly’s Decision and Order granting an Emergency Motion for Stay of Removal, issued in the Eastern District of New York on January 27, 2017, including records related to CBP’s efforts to comply with the court’s oral order requiring prompt production of a list of all class members detained by CBP;²⁴
 - e. Judge Brinkema’s Temporary Restraining Order, issued in the Eastern District of Virginia on January 28, 2017;²⁵

²² *Protecting the Nation from Foreign Terrorist Entry into the United States*, U.S. CUSTOMS AND BORDER PROTECTION (Jan. 31, 2017), available at <https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states> (“The Executive Order and the instructions therein were effective at the time of the order’s signing. *Guidance was provided to DHS field personnel shortly thereafter.*”) (emphasis added).

²³ See Alice Speri and Ryan Devereaux, *Turmoil at DHS and State Department—“There Are People Literally Crying in the Office Here,”* THE INTERCEPT, Jan. 30, 2017, available at <https://theintercept.com/2017/01/30/asylum-officials-and-state-department-in-turmoil-there-are-people-literally-crying-in-the-office-here/>.

²⁴ Decision and Order, *Darweesh v. Trump*, No. 17 Civ. 480 (AMD) (E.D.N.Y. Jan. 28, 2017), available at <https://www.aclu.org/legal-document/darweesh-v-trump-decision-and-order>.

²⁵ Temporary Restraining Order, *Aziz v. Trump*, No. 1:17-cv-116 (E.D. Va. Jan. 28, 2017), available at <https://www.justice4all.org/wp-content/uploads/2017/01/TRO-order-signed.pdf>.

- f. Judge Zilly's Order Granting Emergency Motion for Stay of Removal, issued in the Western District of Washington on January 28, 2017;²⁶
 - g. Judge Burroughs' Temporary Restraining Order, issued in the District of Massachusetts on January 29, 2017;²⁷
 - h. Judge Gee's Order granting an Amended *Ex Parte* Application for Temporary Restraining Order, issued in the Central District of California on January 29, 2017;²⁸
 - i. Assurances from the U.S. Attorney's Office for the Eastern District of Pennsylvania that all individuals detained at Philadelphia International Airport under the Executive Order would be admitted to the United States and released from custody on Sunday, January 29, 2017;
 - j. DHS's "Response to Recent Litigation" statement, issued on January 29, 2017;²⁹
 - k. DHS Secretary John Kelly's "Statement on the Entry of Lawful Permanent Residents Into the United States," issued on January 29, 2017;³⁰
 - l. DHS's "Statement on Compliance with Court Orders and the President's Executive Order," issued on January 29, 2017;³¹ and
 - m. Any other judicial order or executive directive issued regarding the Executive Order on or after January 27, 2017.
2. Records concerning the number of individuals who were detained or subjected to secondary screening, extending questioning, an enforcement examination, or consideration for a waiver at Local International Airports pursuant to the Executive Order, including:

²⁶ Order Granting Emergency Motion for Stay of Removal, *Doe v. Trump*, No. C17-126 (W.D. Wash. Jan. 28, 2017), available at <https://www.justsecurity.org/wpcontent/uploads/2017/01/Seattle-Order.pdf>.

²⁷ Temporary Restraining Order, *Tootkaboni v. Trump*, No. 17-cv-10154 (D. Mass. Jan. 29, 2017), available at <https://aclum.org/wp-content/uploads/2017/01/6-TRO-Jan-29-2017.pdf>.

²⁸ Order, *Vayeghan v. Trump*, No. CV 17-0702 (C.D. Cal. Jan. 28, 2017), available at https://www.aclusocal.org/sites/default/files/vayeghan_-_order_re_tro.pdf.

²⁹ *Department of Homeland Security Response to Recent Litigation*, DEP'T OF HOMELAND SECURITY (Jan. 29, 2017), available at <https://www.dhs.gov/news/2017/01/29/department-homeland-security-response-recent-litigation>.

³⁰ *Statement from Secretary Kelly on the President's Appointment of Thomas D. Homan as Acting ICE Director*, DEP'T OF HOMELAND SECURITY (Jan. 30, 2017), available at <https://www.dhs.gov/news/2017/01/30/statement-secretary-kelly-presidents-appointment-thomas-d-homan-acting-ice-director>.

³¹ *DHS Statement On Compliance With Court Orders And The President's Executive Order*, DEP'T OF HOMELAND SECURITY (Jan. 29, 2017), available at <https://www.dhs.gov/news/2017/01/29/dhs-statement-compliance-court-orders-and-presidents-executive-order>.

- a. The total number of individuals who remain detained or subject to secondary screening, extending questioning, an enforcement examination, or consideration for a waiver at Local International Airports both as of the date of this request and as of the date on which this request is processed; and
 - b. The total number of individuals who have been detained or subjected to secondary screening, extending questioning, an enforcement examination, or consideration for a waiver for any length of time at Local International Airports since January 27, 2017, including the number of individuals who have been
 - i. released,
 - ii. transferred into immigration detention, or
 - iii. removed from the United States;
3. Records concerning the number of individuals who have been removed from Local International Airports from January 27, 2017 to date pursuant to the Executive Order;
 4. Records concerning the number of individuals who arrived at Local International Airports from January 27, 2017 to date with valid visas or green cards who subsequently agreed voluntarily to return; and
 5. Records containing the “guidance” that was “provided to DHS field personnel shortly” after President Trump signed the Executive Order.³²

To reiterate: The ACLU seeks information regarding CBP’s interpretation and enforcement of the Executive Order at the Local International Airports, not information held in the records of CBP Headquarters. Specifically, the ACLU seeks records held by CBP employees and offices at the Local International Airports, and the corresponding Port of Entry Offices and Regional Field Operations Office. CBP has an obligation to search all such field offices that are reasonably expected to produce any relevant information. *See, e.g., Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990); *Marks v. U.S. Dep’t of Justice*, 578 F.2d 261, 263 (9th Cir. 1978) (agency not required to search all of its field offices because request did not ask for a search beyond the agency’s central files); *see also Am. Immigration Council v. U.S. Dep’t of Homeland Sec.*, 950 F. Supp. 2d 221, 230 (D.D.C. 2013).

We request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of our Request be conducted. Given the expedited timeline on which the relevant events and interpretations occurred, this includes the personal email accounts and work phones of all employees and former employees who may have sent or received emails or text messages regarding the subject matter of this

³² *Protecting the Nation from Foreign Terrorist Entry into the United States*, U.S. CUSTOMS AND BORDER PROTECTION (Jan. 31, 2017), available at <https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states> (“The Executive Order and the instructions therein were effective at the time of the order’s signing. *Guidance was provided to DHS field personnel shortly thereafter.*”) (emphasis added).

Request, as well as all institutional, shared, group, duty, task force, and all other joint and/or multi-user email accounts and work phones which may have been utilized by each such employee or former employee. Additionally, for each relevant email account identified, all storage areas must be searched, including the inbox “folder” (and all subfolders therein), sent folder, deleted folder, and all relevant archive files.

If any records responsive or potentially responsive to the Request have been destroyed, our Request includes, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

As required by the relevant case law, the agency should follow any leads it discovers during the conduct of its searches and should perform additional searches when said leads indicate that records may be located in another system. Failure to follow clear leads is a violation of FOIA.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the ACLU requests that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, the ACLU requests that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).³³ There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

A. *The ACLU is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

The ACLU is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II).³⁴ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the ACLU’s work and are among its primary activities. *See ACLU v. U.S. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).³⁵

³³ *See also* 6 C.F.R. § 5.5(e)(1).

³⁴ *See also* 6 C.F.R. § 5.5(e)(1)(ii).

³⁵ Courts have found that the ACLU as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU are “primarily engaged in disseminating information.” *See, e.g.,*

The ACLU regularly publishes STAND, a print magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 620,000 people. The ACLU of Colorado publishes two newsletters annually that reach over 20,000 Coloradans. The ACLU of Alaska has approximately 5,000 members who subscribe to emails and newsletters. The ACLU also publishes regular updates and alerts via email to approximately 2.1 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to 1.5 million social media followers (members and non-members). The ACLU of Alaska publishes updates to their 500 Twitter followers and over 1000 people who follow their Facebook page. The ACLU of Colorado publishes updated to their 4150 Twitter followers and 13,000 people who follow their Facebook page. The magazine as well as the email and social-media alerts often include descriptions and analysis of information obtained through FOIA requests.

The ACLU also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,³⁶ and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.³⁷

Leadership Conference on Civil Rights v. Gonzales, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. U.S. Dep't of Defense*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

³⁶ See, e.g., Press Release, *ACLU of Colorado, ACLU Seeks Info into Denver Police Use of Social Media Surveillance* (Oct. 6, 2016), <http://aclu-co.org/aclu-seeks-info-denver-police-use-social-media-surveillance/>; Press Release, *ACLU of Colorado, ACLU Files Suit for Records Illegally Denied by Immigration and Customs Enforcement (ICE)* (Aug. 24, 2016), <http://aclu-co.org/aclu-files-suit-records-illegally-denied-immigration-customs-enforcement-ice/>; Press Release, *American Civil Liberties Union, U.S. Releases Drone Strike 'Playbook' in Response to ACLU Lawsuit* (Aug. 6, 2016), <https://www.aclu.org/news/us-releases-drone-strike-playbook-response-aclu-lawsuit>; Press Release, *American Civil Liberties Union, Secret Documents Describe Graphic Abuse and Admit Mistakes* (June 14, 2016), <https://www.aclu.org/news/cia-releases-dozens-torture-documents-response-aclu-lawsuit>; Press Release, *American Civil Liberties Union, U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit* (June 23, 2014), <https://www.aclu.org/national-security/us-releases-targeted-killing-memo-response-long-running-aclu-lawsuit>; Press Release, *American Civil Liberties Union, Justice Department White Paper Details Rationale for Targeted Killing of Americans* (Feb. 4, 2013), <https://www.aclu.org/national-security/justice-department-white-paper-details-rationale-targeted-killing-americans>; Press Release, *American Civil Liberties Union, Documents Show FBI Monitored Bay Area Occupy Movement* (Sept. 14, 2012), <https://www.aclu.org/news/documents-show-fbi-monitored-bay-area-occupy-movement-insidebayareacom>.

³⁷ See, e.g., Chris Walker, *Denver Police Use Social Media to Follow Activists, Bring Back Fears of Spy Files*, Westword, January 17, 2017, <http://www.westword.com/news/denver-police-use-social-media-to-follow-activists-bring-back-fears-of-spy-files-8696953> (quoting ACLU of Colorado Legal Director, Mark Silverstein); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post, Aug. 6, 2016, https://www.washingtonpost.com/world/national-security/newly-declassified-document-sheds-light-on-how-president-approves-drone-strikes/2016/08/06/f424fe50-5be0-11e6-831d-0324760ca856_story.html (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About 'Torture' in Its Former Detention Program*, ABC, June 15, 2016, <http://abcnews.go.com/US/newly-released-cia-documents-reveal-torture-detention-program/story?id=39873389> (quoting ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian, Mar. 17, 2016, <https://www.theguardian.com/world/2016/mar/17/us-marshals-stingray-surveillance-airborne> (quoting ACLU attorney Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR, Dec. 9, 2015, <http://www.npr.org/2015/12/09/459026249/cia-torture-report-may-remain-secret> (quoting ACLU project director Hina Shamsi).

Similarly, the ACLU publishes reports about government conduct and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. ACLU national projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.³⁸ The ACLU also regularly publishes books, “know your rights” materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.³⁹

The ACLU publishes a widely-read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily. *See* <https://www.aclu.org/blog>; <http://aclu-co.org/>. The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features. *See* <https://www.aclu.org/multimedia>. The ACLU also publishes, analyzes, and disseminates information through their heavily visited websites, <https://www.aclu.org/>; <http://aclu-co.org/>; <http://aclu-wy.org/>; <https://www.acluidaho.org/>; <http://aclu-or.org/>; <http://aclu-ak.org/>. The websites address civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contain many thousands of documents relating to the issues on which the ACLU is focused. The ACLU’s websites also serve as a clearinghouse for news about ACLU cases, as well as analysis about case developments, and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant Congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multi-media features.

The ACLU website includes many features on information obtained through the FOIA.⁴⁰

³⁸ *See, e.g.,* ACLU, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site* (Nov. 22, 2016, 3:15 PM), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; ACLU, *Details Abound in Drone ‘Playbook’ – Except for the Ones That Really Matter Most* (Aug. 8, 2016, 5:30 PM), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; ACLU, *ACLU- Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida* (Feb. 22, 2015, 5:30 PM), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; ACLU, *New NSA Documents Shine More Light into Black Box of Executive Order 12333* (Oct. 30, 2014, 3:29 PM), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>; ACLU, *ACLU Eye on the FBI: Documents Reveal Lack of Privacy Safeguards and Guidance in Government’s “Suspicious Activity Report” Systems* (Oct. 29, 2013), https://www.aclu.org/sites/default/files/assets/eye_on_fbi_-_sars.pdf.

³⁹ *See, e.g.,* <http://static.aclu-co.org/wp-content/uploads/2014/07/Non-Citizens.pdf>; https://www.acluak.org/sites/default/files/field_documents/know_your_rights_-_anti-muslim_discrimination.pdf; <http://static.aclu-co.org/wp-content/uploads/2014/07/Rights-at-Airports.pdf>.

⁴⁰ *See, e.g.,* <https://www.aclu.org/blog/free-future/fbi-releases-details-zero-day-exploit-decisionmaking-process>; <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; <https://www.aclu.org/national-security/anwar-al-awlaki-foia-request>; <https://www.aclu.org/cases/aclu-v-department-defense>; <https://www.aclu.org/mappingthefbi>; <https://www.aclu.org/cases/bagram-foia>;

For example, the ACLU's "Predator Drones FOIA" webpage, <https://www.aclu.org/national-security/predator-drones-foia>, contains commentary about the ACLU's FOIA request, press releases, analysis of the FOIA documents, numerous blog posts on the issue, documents related to litigation over the FOIA request, frequently asked questions about targeted killing, and links to the documents themselves. Similarly, the ACLU maintains an online "Torture Database," a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct sophisticated searches of FOIA documents relating to government policies on rendition, detention, and interrogation.⁴¹

The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA. For example, through compilation and analysis of information gathered from various sources—including information obtained from the government through FOIA requests—the ACLU created an original chart that provides the public and news media with a comprehensive summary index of Bush-era Office of Legal Counsel memos relating to interrogation, detention, rendition, and surveillance.⁴² Similarly, the ACLU produced a summary of documents released in response to a FOIA request related to the FISA Amendments Act⁴³; a chart of original statistics about the Defense Department's use of National Security Letters based on its own analysis of records obtained through FOIA requests⁴⁴; and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.⁴⁵

The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II).⁴⁶ Specifically, as discussed in Part I, *supra*, the requested records seek to inform the public about the CBP's current, local enforcement of a new Executive Order amid five court orders, varying directives, and other quickly developing events.

Given the foregoing, the ACLU has satisfied the requirements for expedited processing

<https://www.aclu.org/national-security/csrt-foia>; <http://www.aclu.org/safefree/nsaspying/30022res20060207.html>; <https://www.aclu.org/patriot-foia>; <https://www.aclu.org/nsi-documents-released-dod?redirect=cpreirect/32088>.

⁴¹ <https://www.thetorturedatabase.org>. *See also* <https://www.aclu.org/foia-collection/targeted-killing-foia-database>.

⁴² https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf.

⁴³ <https://www.aclu.org/files/pdfs/natsec/faafoia20101129/20101129Summary.pdf>.

⁴⁴ https://www.aclu.org/sites/default/files/field_document/nsi_stats.pdf.

⁴⁵ <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>.

⁴⁶ *See also* 6 C.F.R. § 5.5(e)(1)(ii).

of this Request.

IV. Application for Waiver or Limitation of Fees

The ACLU requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).⁴⁷ The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the ACLU.

As discussed above, news accounts underscore the substantial public interest in the records sought through this Request. Given the ongoing and widespread media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance. Especially because little specific information has been made public about how local CBP Field Offices plan to enforce the Executive Order while also complying with the federal court orders, the records sought are certain to contribute significantly to the public’s understanding of these issues.

The ACLU is not filing this Request to further its commercial interest. As described above, any information disclosed by the ACLU as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

B. The ACLU is a representative of the news media and the records are not sought for commercial use.

The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The ACLU meets the statutory and regulatory definitions of a “representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III);⁴⁸ *see also Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action*

⁴⁷ *See also* 6 C.F.R. § 5.11(k).

⁴⁸ *See also* 6 C.F.R. § 5.11(b)(6).

Network v. U.S. Dep't of Defense, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. U.S. Dep't of Justice*, No. C09-0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The ACLU is therefore a “representative of the news media” for the same reasons it is “primarily engaged in the dissemination of information.”

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU's to be “representatives of the news media” as well. *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat'l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. U.S. Dep't of Justice*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).⁴⁹

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”⁵⁰ As was true in those instances, the ACLU meets the requirements for a fee waiver here.

⁴⁹ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information / public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat'l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53-54.

⁵⁰ In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the DOJ for documents related to Countering Violent Extremism Programs. In July 2013, the Department of Defense granted the ACLU of Colorado a fee-waiver with respect to contracts between the Department and a local newspaper. In April 2013, the National Security Division of the DOJ granted a fee-waiver request with respect to a request for documents relating to the FISA Amendments Act. Also in April 2013, the DOJ granted a fee-waiver request regarding a FOIA request for documents related to “national security letters” issued under the Electronic Communications Privacy Act. In August 2013, the FBI granted a fee-waiver request related to the same FOIA request issued to the DOJ. In June 2011, the DOJ National Security Division granted a fee waiver to the ACLU with respect to a request for documents relating to the interpretation and implementation of a section of the PATRIOT Act. In March 2009, the State Department granted a fee waiver to the ACLU with regard to a FOIA request for documents relating to the detention, interrogation, treatment, or prosecution of suspected terrorists. Likewise, in December 2008, the Department of Justice granted the ACLU a fee waiver with respect to the same request. In November 2006, the Department of Health and Human Services granted a fee waiver to the ACLU with regard to a FOIA request. In May 2005, the U.S. Department of Commerce granted a fee waiver to the ACLU with respect to its request for information regarding the radio-frequency identification chips in United States passports. In March 2005, the Department of State granted a fee waiver to the ACLU for a request regarding the use of immigration laws to exclude prominent non-citizen scholars and intellectuals from the country because of their political views, statements, or associations. In addition, the Department of Defense did not charge the ACLU fees associated with FOIA requests submitted by the ACLU in April 2007, June 2006, February 2006, and October 2003. The DOJ did not charge the ACLU fees associated with FOIA requests submitted by the ACLU in November 2007, December 2005, and December 2004. Finally, three separate agencies—the Federal Bureau of Investigation, the Office of

* * *

Pursuant to applicable statutes and regulations, the ACLU expects a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii); 6 C.F.R. § 5.5(e)(4).

If the Request is denied in whole or in part, the ACLU asks that you justify all deletions by reference to specific FOIA exemptions. The ACLU expects the release of all segregable portions of otherwise exempt material. The ACLU reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish the applicable records to:

ACLU Border Litigation Project

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

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi).

Sincerely,

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

Legal Director, ACLU of Colorado

cc. **(b)(6), (b)(7)(C)** Legal and Policy Director
 American Civil Liberties Union of Alaska
(b)(6), (b)(7)(C) Legal Director
 American Civil Liberties Union of Idaho Foundation
(b)(6), (b)(7)(C) Staff Attorney
 American Civil Liberties Union of Oregon
(b)(6), (b)(7)(C) Legal Director
 American Civil Liberties Union of South Dakota, North Dakota, and Wyoming

Intelligence Policy and Review, and the DOJ Office of Information and Privacy—did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002.

From: (b)(6), (b)(7)(C) (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 4:11 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: Fwd: Update on CBP possible protests...

More social media on possible protest.

Sent from my iPhone

Begin forwarded message:

From: (b)(6), (b)(7)(C)
Date: January 28, 2017 at 1:04:28 PM PST
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: Re: Update on CBP possible protests...

Will do. Media Relations has been involved the entire time but we will ensure (b)(6), (b)(7)(C) is included on all subsequent communications.

(b)(6), (b)(7)(C)
Portland International Airport
Senior Manager, Customer Relations
Desk
Cell: (b)(6), (b)(7)(C)
Fax:
(b)(6), (b)(7)(C)

On Jan 28, 2017, at 1:01 PM, (b)(6), (b)(7)(C) wrote:

(b)(6), (b)(7)(C) please defer all inquiries/info on this issue to media relations and (b)(6), (b)(7)(C)

On Jan 28, 2017, at 12:47 PM, (b)(6), (b)(7)(C) wrote:
(b)(6), (b)(7)(C)

Heads up, gentlemen.

(b)(6), (b)(7)(C)
Portland International Airport
Senior Manager, Customer Relations
Desk
Cell: (b)(6), (b)(7)(C)
Fax:
(b)(6), (b)(7)(C)

Begin forwarded message:

From: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
 Date: January 28, 2017 at 12:42:02 PM PST
 To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
 Cc: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
 Subject: Update on CBP possible protests...

We've notified the comm center of the following... it hasn't gotten much traction yet, but just in case.

(b)(6), (b)(7)(C) 5m5 minutes ago
 More
 PROTEST. Portland Airport. 3 PM. Meet at the MAX platform. #pdxprotest
 2 replies 1 retweet 1 like
[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\)/status/825441585617702912](https://twitter.com/(b)(6), (b)(7)(C)/status/825441585617702912)

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

From: (b)(6), (b)(7)(C)
 Sent: Saturday, January 28, 2017 12:23 PM
 To: (b)(6), (b)(7)(C)
 Cc:
 Subject: RE: Detainment / CPB

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

Thanks for the update!

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

From: (b)(6), (b)(7)(C)
 Sent: Saturday, January 28, 2017 12:19 PM
 To: (b)(6), (b)(7)(C)
 Cc:
 Subject: Detainment / CPB

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

I thought I'd send a midday update as to where we are regarding the Customs and Border / detention issues today...

We've had at least four calls from people asking if anyone is being detained and/or how to find out which visas or green cards are affected. We are continuing to direct folks to contact CPB with their questions.

I spoke to Landside operations to give them the heads up that the public is talking about protests, just in case it is announced someone is being detained here at PDX. None of the protest talk I've seen online is getting much traction but if someone **is** detained, I could see that changing quickly.

We've had the following tweets, plus a few more along the same lines –

Any protests going on at PDX airport?

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\)/status/825421861760618497](https://twitter.com/(b)(6), (b)(7)(C)/status/825421861760618497)

--

Any protests going on at PDX airport?

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\)/status/825421861760618497](https://twitter.com/(b)(6), (b)(7)(C)/status/825421861760618497)

--

portlanders: airport protest today? #pdx
#NoWallNoBan #NeverAgainisNow
#portlandprotest

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\) status/825433060589989888](https://twitter.com/(b)(6), (b)(7)(C)/status/825433060589989888)

--

@flypdx if you guys start doing this, we will be there, and we outnumber you. Racism will not be tolerated regardless of any law passed.

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\) status/825434419234119680](https://twitter.com/(b)(6), (b)(7)(C)/status/825434419234119680)

(b)(6), (b)(7)(C) Can you go to @flypdx and talk to @CustomsBorder about what is going on HERE in Oregon? @KATUNews

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\) status/825423058202611713](https://twitter.com/(b)(6), (b)(7)(C)/status/825423058202611713)

--

@flypdx Are you detaining people per DJT's order?

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\) status/825415896134938624](https://twitter.com/(b)(6), (b)(7)(C)/status/825415896134938624)

(b)(6), (b)(7)(C) CPB will have the answer to that, as they oversee international entries here at PDX.
@CustomsBorder or 1-877-227-5511

Original Tweet:

<https://twitter.com/flypdx/status/825416756474765313>

@flypdx @CustomsBorder But, go look, tell us the truth. We cannot trust the Federal Government.

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\)/status/825416973915873280](https://twitter.com/(b)(6), (b)(7)(C)/status/825416973915873280)

--

Join me in boycotting non-essential air travel. Tell airlines #IWillNotFly until the #MuslimBan is lifted @flypdx #pdxairport <https://t.co/F6Srs457NJ>

Original Tweet:

[https://twitter.com/\(b\)\(6\), \(b\)\(7\)\(C\)/status/825401113281130496](https://twitter.com/(b)(6), (b)(7)(C)/status/825401113281130496)

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

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 4:08 PM
To:

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

Cc:
Subject: RE: Action: EO Protest Calls Protocol

We're getting about a call per minute. Around 400 so far.

(b)(6), (b)(7)(C) Area Port Director
Customs and Border Protection, Honolulu, Hawaii
(b)(6), (b)(7)(C) (office); (b)(6), (b)(7)(C) (cell); (b)(6), (b)(7)(C) (fax)
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 10:48 AM
To: (b)(6), (b)(7)(C)

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

Cc: (b)(6), (b)(7)(C)
Subject: RE: Action: EO Protest Calls Protocol

There is no public telephone number. They can be referred to cbpmidiarelations@cbp.dhs.gov or to CBP.GOV where updated information is posted, and they can ask questions via CBP Info Center.

(b)(6), (b)(7)(C)
Program Manager; Public Affairs Liaison
Customs and Border Protection
San Francisco Field Office
Tel: (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 12:45 PM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

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

Subject: RE: Action: EO Protest Calls Protocol

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

Do you have a public telephone number for Public Affairs?

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

Asst. Area Port Director
Area Port of Portland OR
US Customs & Border Protection
Department of Homeland Security

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

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

 Please consider the environment before printing this email.

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

Sent: Wednesday, February 01, 2017 12:39 PM

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

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

Subject: FW: Action: EO Protest Calls Protocol
Importance: High

ALCON,

Please see latest guidance.

(b)(6), (b)(7)(C)
Program Manager, Public Affairs Liaison
Customs and Border Protection
San Francisco Field Office
Tel: (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 12:12 PM
To: DIRECTORS FIELD OPS (b)(7)(E) BORDER SECURITY ASST DIRECTORS
(b)(7)(E) MISSION SUPPORT ASST DIRECTORS
TRADE OPERATIONS ASST DIRECTORS
Cc: ENFORCEMENT PROGRAMS DIVISION (b)(7)(E)
Subject: Action: EO Protest Calls Protocol
Importance: High

DFOs,

Please be aware that various locations around the country have begun receiving a high volume of calls from various individuals and others claiming to be attorneys regarding the recent Executive Order (EO). The callers appear to be reading from a script and they begin by identifying themselves, state they are calling regarding the EO and proceed to ask if we are following the law, the EO and ask how many people we are currently detaining. This is most likely a form of telephonic protest to the EO.

Please advise all your personnel not to engage the callers nor respond to any questions. Ensure all requests for information are referred to the Office of Public Affairs.

Thank you,

(b)(6), (b)(7)(C)
Acting DXD, Operations
Director, Field Operations Readiness Team
Office of Field Operations
U. S. Customs and Border Protection
(Office)
(b)(6), (b)(7)(C) (Cell)
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 2:33 PM
To: (b)(6), (b)(7)(C)
Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

I will.

(b)(6), (b)(7)(C)
Supervisory CBPO
Area Port of Portland, OR
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 10:59:24 AM
To: (b)(6), (b)(7)(C)
Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Thanks (b)(6), (b)(7)(C) Can you send (b)(6), (b)(7)(C) the link for contacting our poc in regard to the executive order. He is with the port of portland.
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 10:17:19 AM
To: HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C); (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

First report due by 11 AM.

Negative report from Area Portland, OR.

(b)(6), (b)(7)(C) Supervisory CBP Officer
A-TCET/Seaport Unit
Area Port of Portland, OR
US Customs & Border Protection
Office: (b)(6), (b)(7)(C)
Cell:
Fax: (b)(6), (b)(7)(C)
(b)(7)(E)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 11:03 AM
To: (b)(6), (b)(7)(C)
Subject: RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

We have one (b)(6), (b)(7)(C) returning on (b)(6), (b)(7)(C)

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

(b)(7)(E)

before but we will speak to him again today.

(b)(6), (b)(7)(C) Supervisory CBP Officer
 A-TCET/Seaport Unit
 Area Port of Portland, OR
 US Customs & Border Protection
 Office: (b)(6), (b)(7)(C)
 Cell:
 Fax: (b)(6), (b)(7)(C)

-----Original Message-----

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 8:00 AM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Thank you

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 7:46:27 AM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

(b)(6), (b)(7)(C) and I will work on our spreadsheet.

And brief rundown on today's flight showed (b)(6), (b)(7)(C) were intercepted by IAP Amsterdam and did not board (b)(6), (b)(7)(C)

We are still researching for any travellers from such countries.

We will let you know soon but for now it looks clear for us today.

(b)(6), (b)(7)(C)
Supervisory CBPO
Area Port of Portland, OR
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 7:31:23 AM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Attached is the template we have to complete and send in on Fridays. Our spreadsheet needs to gather this information on a running basis so the information can be tallied onto the Friday report.

(b)(6), (b)(7)(C)
From: HUMPHREY, BRIAN J (DFO)
Sent: Friday, January 27, 2017 10:50:42 PM
To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)

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

Subject: FW: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Attached is the report template HQ will expect from each field office. I still have not heard from all Area Ports on my initial message so I hope there are no surprises on missed encounters. Please submit your numbers to (b)(6), (b)(7)(C) and I by midnight Friday so that we may consolidate.

Thank you all.

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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

From: (b)(6), (b)(7)(C) A on behalf of OFO-FIELD LIAISON
Sent: Saturday, January 28, 2017 1:08:45 AM
To: DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS; TRADE OPERATIONS ASST DIRECTORS; MISSION SUPPORT ASST DIRECTORS
Cc: (b)(6), (b)(7)(C) OFO-FIELD LIAISON; (b)(6), (b)(7)(C) MURDOCK, JUDSON W;
(b)(6), (b)(7)(C)

Subject: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

MEMORANDUM FOR: Directors, Field Operations
Director, Pre-Clearance

FROM: (b)(6), (b)(7)(C) /s/
Deputy Executive Director, Operations (Acting)
Office of Field Operations

SUBJECT: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

On January 27, 2017, President Donald Trump issued Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States. 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.

As we push forward in our efforts to protect our Nation, OFO Operations will require daily reporting on our activities as related to this Executive Order. Reporting will include encounters in the air, land and sea environments with anyone who arrives into the U.S. from the seven (7) countries (Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen) that meets the criteria outlined in the Executive Order and the instructions issued to the field by Admissibility and Passenger Programs.

Using the attached spreadsheet, data should be captured daily for the 24-hour time period beginning at 0300 (EST) – and ending at 0259 hours (EST). By 0500 hours (EST) daily, each Field Office is required to submit their data from the previous 24-hours to OFO Field Liaison (b)(7)(E). Reports must be submitting using the attached Microsoft Excel template document. Field Liaison will consolidate these reports into a final report senior CBP and DHS leadership.

If you have any questions regarding to reporting, please contact the Field Liaison Division, at (b)(7)(E). For questions pertaining to the implementation of the new policy, please contact Ryan Hutton, Deputy Executive Director, Admissibility and Passenger Programs at (b)(6), (b)(7)(C).

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 4:09 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

10-4.

I am going to send 5PM report before I leave at 3:30.

No flights until 8 tonight.

(b)(6), (b)(7)(C) will send one at 11 PM to include Alaska and Volaris.

For now

Alaska 293 from Cabos has 117 passenger records received (116 US passports and 1 doc has not been loaded yet).

Volaris 938: has 190 passenger records received (75 US passports, 53 Mexican passports, and 62 documents not loaded yet)

(b)(6), (b)(7)(C) Supervisory CBP Officer
 A-TCET/Seaport Unit
 Area Port of Portland, OR
 US Customs & Border Protection
 Office: (b)(6), (b)(7)(C)
 Cell:
 Fax: (b)(6), (b)(7)(C)

-----Original Message-----

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 12:42 PM
To: (b)(6), (b)(7)(C)
Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

No worries. (b)(6), (b)(7)(C) notified the port. He was with TSA before.

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 11:59:35 AM
To: (b)(6), (b)(7)(C)
Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Is he with TSA or Port of Portland?

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

Supervisory CBPO
Area Port of Portland, OR

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

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

Sent: Saturday, January 28, 2017 10:59:24 AM

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

Subject: RE: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Thanks (b)(6), (b)(7)(C) Can you send (b)(6), (b)(7)(C) the link for contacting our poc in regard to the executive order. He is with the port of portland.

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

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

Sent: Saturday, January 28, 2017 10:17:19 AM

To: HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)

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

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

Subject: Daily Reporting_Portland, OR_ Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

First report due by 11 AM.

Negative report from Area Portland, OR.

(b)(6), (b)(7)(C) Supervisory CBP Officer
A-TCET/Seaport Unit
Area Port of Portland, OR
US Customs & Border Protection

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

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

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

(b)(7)(E)

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 11:41 AM
To: (b)(6), (b)(7)(C)
Subject: New Directive

No NIV, IV, LPR, Refugees, Asylees, and advance Paroles on DL 68 and DL 179.
We will check Alaska and Volaris.

(b)(6), (b)(7)(C) **Supervisory CBP Officer**
A-TCET/Seaport Unit
Area Port of Portland, OR
US Customs & Border Protection
Office: (b)(6), (b)(7)(C)
Cell:
Fax: (b)(6), (b)(7)(C)



From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 8:14 AM
To: (b)(6), (b)(7)(C)
Subject: New Directive

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

Here are the Two individuals that were traveling from Iran with IV. They were both pulled from the flight by IAP Amsterdam. It appears they were a husband/wife both with IV

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

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

U.S Customs & Border Protection
Passenger Analysis unit
Portland International Airport

P
F
C

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

If the Freedom of speech is taken away then the dumb and silent we may be led, like sheep to the slaughter. [George Washington](#)

From: HUMPHREY, BRIAN J (DFO)
Sent: Saturday, January 28, 2017 12:51 AM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION
Attachments: 2017protectingtheNationfromTerroristEntryintotheUnitedStates.eo.rel.docx

We still don't have guidance beyond the summary I sent of the conference call. Please call me directly if you are seeking a waiver for an LPR.

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

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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

From: HUMPHREY, BRIAN J (DFO)
Sent: Friday, January 27, 2017 10:14:34 PM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION

The attached executive order is effective immediately. Because of the urgency and sensitivity, I ask that each Area PD acknowledge receipt. Thank you.

Detailed guidance is expected within the hour, including reporting requirements. In the interim, this is my summary of tonight's conference call with HQ.

Affected countries: Iran, Iraq, Syria, Libya, Sudan, Somalia, Yemen

Effective immediately, all immigrant (including refugees) and non-immigrant visas of citizens from these countries are revoked. These passengers are to be offered withdrawal of application for admission. If they do not agree to

withdrawal, they will be expeditiously removed. If they claim credible fear, they will be processed accordingly. A/G/NATO visa holders are exempt and allowed entry.

LPRs presenting passports from these countries are included in the executive order. However, the Secretary has delegated waiver authority to DFOs to admit LPRs after undergoing a (b)(7)(E) secondary where we don't have (b)(7)(E) with proper notation of the DFO waiver in the remarks section. No LPR is to be removed.

Unaccompanied Alien Children, previously admitted refugees, previously admitted asylees, and persons with approved advanced paroles are included in the executive order. These individuals currently require a Secretary approved waiver. HQ guidance will cover the waiver procedures. HQ is requesting DFO delegated authority for these groups as well, but it is not yet approved. Such individuals will also be referred for secondary exam (b)(7)(E) where teams exist), with notation of the approved waiver in the remarks. Until such time that waiver authority is delegated (if at all), we will need to hold the passengers pending Secretary approval of the waiver. These individuals will not be expeditiously removed.

At this time, these procedures are to be followed for the next 90 days. Further guidance will follow at that time.

The State Department has already cancelled all the immigrant and non-immigrant visas, and (b)(7)(E)

(b)(7)(E)

Reporting: Eventually an automated report is expected from (b)(7)(E) but in the meantime, we will owe HQ a report each morning by 0500 hours Eastern Time. We will need the information in the SFFO by midnight Pacific Time in order to compile a consolidated FO response. Please copy (b)(6), (b)(7)(C) and I. A spreadsheet of the report fields is expected with the guidance due out soon from HQ.

Any questions, please feel free to call me.

Brian J. Humphrey
Director, Field Operations
San Francisco and Portland Field Offices

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

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

Sent: Friday, January 27, 2017 6:07 PM

To: DIRECTORS FIELD OPS <(b)(7)(E)>

Subject: FW: FINAL SIGNED EO FOR ACTION

Thank you,

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

Acting Deputy Executive Director
Operations
US Customs and Border Protection
Office (b)(6), (b)(7)(C)
Cell (b)(6), (b)(7)(C)

This document and any attachment(s) may contain restricted, sensitive, and/or law enforcement-sensitive information belonging to the U.S. Government. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient.

From: (b)(6), (b)(7)(C)
Sent: Friday, January 27, 2017 6:41 PM
To: HOFFMAN, TODD A (b)(6), (b)(7)(C) HUTTON, JAMES R (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) LANDFRIED, PHIL A (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C); MURDOCK, JUDSON W
(b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION

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: HUMPHREY, BRIAN J (DFO)
Sent: Friday, January 27, 2017 10:15 PM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION
Attachments: 2017protectingtheNationfromTerroristEntryintotheUnitedStates.eo.rel.docx
Importance: High

The attached executive order is effective immediately. Because of the urgency and sensitivity, I ask that each Area PD acknowledge receipt. Thank you.

Detailed guidance is expected within the hour, including reporting requirements. In the interim, this is my summary of tonight's conference call with HQ.

Affected countries: Iran, Iraq, Syria, Libya, Sudan, Somalia, Yemen

Effective immediately, all immigrant (including refugees) and non-immigrant visas of citizens from these countries are revoked. These passengers are to be offered withdrawal of application for admission. If they do not agree to withdrawal, they will be expeditiously removed. If they claim credible fear, they will be processed accordingly. A/G/NATO visa holders are exempt and allowed entry.

LPRs presenting passports from these countries are included in the executive order. However, the Secretary has delegated waiver authority to DFOs to admit LPRs after undergoing a (b)(7)(E) (secondary where we don't have (b)(7)(E) with proper notation of the DFO waiver in the remarks section. No LPR is to be removed.

Unaccompanied Alien Children, previously admitted refugees, previously admitted asylees, and persons with approved advanced paroles are included in the executive order. These individuals currently require a Secretary approved waiver. HQ guidance will cover the waiver procedures. HQ is requesting DFO delegated authority for these groups as well, but it is not yet approved. Such individuals will also be referred for secondary exam (b)(7)(E) where teams exist), with notation of the approved waiver in the remarks. Until such time that waiver authority is delegated (if at all), we will need to hold the passengers pending Secretary approval of the waiver. These individuals will not be expeditiously removed.

At this time, these procedures are to be followed for the next 90 days. Further guidance will follow at that time.

The State Department has already cancelled all the immigrant and non-immigrant visas, and (b)(7)(E)
 (b)(7)(E)

Reporting: Eventually an automated report is expected from (b)(7)(E) but in the meantime, we will owe HQ a report each morning by 0500 hours Eastern Time. We will need the information in the SFFO by midnight Pacific Time in order to compile a consolidated FO response. Please copy (b)(6), (b)(7)(C) and I. A spreadsheet of the report fields is expected with the guidance due out soon from HQ.

Any questions, please feel free to call me.

Brian J. Humphrey
Director, Field Operations
San Francisco and Portland Field Offices

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

From: **(b)(6), (b)(7)(C)**
Sent: Friday, January 27, 2017 6:07 PM
To: DIRECTORS FIELD OPS **(b)(7)(E)**
Subject: FW: FINAL SIGNED EO FOR ACTION

Thank you,

(b)(6), (b)(7)(C)
Acting Deputy Executive Director
Operations
US Customs and Border Protection
Office **(b)(6), (b)(7)(C)**
Cell **(b)(6), (b)(7)(C)**

This document and any attachment(s) may contain restricted, sensitive, and/or law enforcement-sensitive information belonging to the U.S. Government. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient.

From: **(b)(6), (b)(7)(C)**
Sent: Friday, January 27, 2017 6:41 PM
To: HOFFMAN, TODD A **(b)(6), (b)(7)(C)** HUTTON, JAMES R **(b)(6), (b)(7)(C)**
(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) LANDFRIED, PHIL A **(b)(6), (b)(7)(C)**
(b)(6), (b)(7)(C) MURDOCK, JUDSON W
(b)(6), (b)(7)(C)
Subject: FW: FINAL SIGNED EO FOR ACTION

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: HUMPHREY, BRIAN J (DFO)
Sent: Sunday, January 29, 2017 9:05 AM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order
Attachments: UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Per the attached guidance, we were to have requested C1 waivers for the five SFO cases currently detained. Please immediately send the detainee information to the individuals listed in the attachment so that we can receive the C1 waiver. We are to cancel the ER for the credible fear case and send their information for C1 waiver. On approval of the C1 waiver, release the individuals in custody. The credible fear claimant can proceed with their case on their own.

All future arrivals, (b)(7)(E) are to be processed for C1 waiver. Arriving LPRs will continue to be interviewed and processed for DFO waiver.

Brian J. Humphrey
 Director, Field Operations
 San Francisco/Portland

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

From: HUMPHREY, BRIAN J (DFO)
Sent: Sunday, January 29, 2017 2:57:32 AM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order

HQ has clarified that those individuals currently in custody and pending withdrawal or ER, as well as similarly situated future arrivals are to be reassessed for Commissioner waiver. Please follow the attached chain of command list to receive the C1 waiver.

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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




From: HUTTON, JAMES R
Sent: Sunday, January 29, 2017 2:00:24 AM
To: MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C) HOFFMAN, TODD A;
DIRECTORS FIELD OPS
Cc: (b)(6), (b)(7)(C) ALLES, RANDOLPH D; FLANAGAN, PATRICK S
Subject: RE: IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order

DFO's

Kindly request waivers pertaining to below follow per guidance in attached message. I will be reaching out to address any questions/concerns you may have.

Thank you,

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 1:39 AM
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) HUTTON,
JAMES R (b)(6), (b)(7)(C) DIRECTORS FIELD OPS (b)(7)(E)
Cc: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) ALLES, RANDOLPH D

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

FLANAGAN, PATRICK S

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

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 a (b)(7)(E) and where no derogatory information exists, consideration for a waiver pursuant to Section 3(g) or 5(e) as appropriate. If derogatory information is discovered during the examination, the case should be referred to up the chain to determine appropriate next steps. 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

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)
 UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States
Attachments: 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)
 (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 1st 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

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

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

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

(b)(5)

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)
✉ (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,

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)

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: 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)

Details:

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

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

SUBJECT OF INTEREST

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

Timeline:

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




Contacts:

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

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)

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

• **(b)(6), (b)(7)(C)**

(b)(7)(E)

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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

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

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




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

Details:

(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: HUMPHREY, BRIAN J (DFO)
Sent: Saturday, January 28, 2017 10:56 PM
To: (b)(6), (b)(7)(C)
Subject: RE: Federal Court Stay - Hold all departures. Need confirmation

Thank you

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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

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

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

From: (b)(6), (b)(7)(C)
Sent: Saturday, January 28, 2017 10:49:51 PM
To: HUMPHREY, BRIAN J (DFO)
Subject: RE: Federal Court Stay - Hold all departures. Need confirmation

Acknowledged

From: HUMPHREY, BRIAN J (DFO)
Sent: Saturday, January 28, 2017 7:44:22 PM

To: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) HUMPHREY, BRIAN J (DFO) (b)(6), (b)(7)(C)

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

Cc: (b)(6), (b)(7)(C)
Subject: FW: Federal Court Stay - Hold all departures. Need confirmation

To all Ports: We are to suspend departures of individuals targeted by the Executive Order who were subject to ER or withdrawal of application. All other actions of targeted arriving aliens remain in place, including continued detention of those previously set for departure via removal or withdrawal.

Area PDs please acknowledge

Brian J. Humphrey
Director, Field Operations
San Francisco/Portland

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

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

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

From: Owen, Todd C (AC OFO)
Sent: Saturday, January 28, 2017 10:34:00 PM

To: DIRECTORS FIELD OPS

Subject: Federal Court Stay - Hold all departures. Need confirmation

DFOs,

Based on this evening's federal court stay, we are to suspend all departures of those found inadmissible under the Executive Order, including those who wished to voluntarily depart. We should freeze all departures but continue to detain the individuals in the airports while we await further legal guidance. All pre-departure actions will remain underway.

Need confirmation from each DFO.

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

From: HUMPHREY, BRIAN J (DFO)
Sent: Monday, January 30, 2017 4:58 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: RE: President Executive Order Waiver Request _ LPR_Portland, Oregon

DFO waiver for this LPR is approved given that there is no derogatory information

Brian J. Humphrey
Director, Field Operations
San Francisco and Portland Field Offices
(b)(6), (b)(7)(C)
San Francisco, California 94105
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, January 30, 2017 1:31 PM
To: HUMPHREY, BRIAN J (DFO) (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C) (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C) (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: President Executive Order Waiver Request _ LPR_Portland, Oregon

Sir,

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)

From: HUMPHREY, BRIAN J (DFO)
Sent: Sunday, January 29, 2017 2:58 AM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
Subject: FW: IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order
Attachments: UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

HQ has clarified that those individuals currently in custody and pending withdrawal or ER, as well as similarly situated future arrivals are to be reassessed for Commissioner waiver. Please follow the attached chain of command list to receive the C1 waiver.

Brian J. Humphrey
 Director, Field Operations
 San Francisco/Portland

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

From: HUTTON, JAMES R
Sent: Sunday, January 29, 2017 2:00:24 AM
To: MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); WAGNER, JOHN P; (b)(6), (b)(7)(C); HOFFMAN, TODD A; DIRECTORS FIELD OPS
Cc: (b)(6), (b)(7)(C); ALLES, RANDOLPH D; FLANAGAN, PATRICK S
Subject: RE: IMMEDIATE ACTION: Executive Order Implementation and compliance with EDNY Court Order

DFO's
 Kindly request waivers pertaining to below follow per guidance in attached message. I will be reaching out to address any questions/concerns you may have.

Thank you,

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 1:39 AM

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) HUTTON,
JAMES R (b)(6), (b)(7)(C) DIRECTORS FIELD OPS (b)(7)(E)

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

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 a (b)(7)(E) and where no derogatory information exists, consideration for a waiver pursuant to Section 3(g) or 5(e) as appropriate. If derogatory information is discovered during the examination, the case should be referred to up the chain to determine appropriate next steps. 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

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: UPDATED Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States
Attachments: 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)
 (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 1st 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

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

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

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

(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: 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,

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: (b)(7)(E)
(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: 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; (b)(6), (b)(7)(C); (b)(6), (b)(7)(C)
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)

Details:

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

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

SUBJECT OF INTEREST

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

Timeline:

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

Contacts:

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

Field Office contacted at 1244hours.

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

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)

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

• (b)(6), (b)(7)(C)
7
•

(b)(7)(E)

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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

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

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

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


Details:

(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: HUMPHREY, BRIAN J (DFO)
Sent: Wednesday, February 01, 2017 12:08 PM
To: (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)
Subject: FW: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry
Attachments: Guidance Memo (2.1.2017) (003).docx

Area Port Directors: Please acknowledge receipt and immediately implement **updated guidance that the Executive Order does NOT apply to lawful permanent residents.** Please process LPRs from the seven countries as you'd process any other LPR. Do not refer to secondary or conduct a (b)(7)(E) interview unless you have other independent reasons that would have subjected the passenger to further inspection prior to the EO

Brian J. Humphrey
 Director, Field Operations
 San Francisco and Portland Field Offices
(b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)

From: HOFFMAN, TODD A
Sent: Wednesday, February 01, 2017 8:58 AM
To: DIRECTORS FIELD OPS (b)(7)(E) EXECUTIVE DIRECTORS HQ
 (b)(7)(E)
Cc: Owen, Todd C (AC OFO) (b)(6), (b)(7)(C) WAGNER, JOHN P (b)(6), (b)(7)(C)
 (b)(6), (b)(7)(C)
Subject: FW: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

Directors,

Per the below, LPRs are no longer subject to the Executive Order. To ensure compliance, please IMMEDIATELY distribute throughout your area of responsibility.

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

From: (b)(6), (b)(7)(C)
Sent: Wednesday, February 01, 2017 11:53 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) HOFFMAN, TODD A
(b)(6), (b)(7)(C) HUTTON, JAMES R (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

FLANAGAN, PATRICK S (b)(6), (b)(7)(C) ALLES, RANDOLPH D (b)(6), (b)(7)(C)
Subject: URGENT - FOR IMMEDIATE ACTION - White House Guidance Clarifying Executive Order on Foreign Terrorist Entry

ATTORNEY CLIENT PRIVILEGED
ATTORNEY WORK PRODUCT

All,

(b)(5)

(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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THE WHITE HOUSE

WASHINGTON

February 1, 2017

MEMORANDUM TO THE ACTING SECRETARY OF STATE, THE ACTING ATTORNEY GENERAL, AND THE SECRETARY OF HOMELAND SECURITY**FROM:** Donald F. McGahn II – Counsel to the President**SUBJECT:** Authoritative Guidance on Executive Order Entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (Jan. 27, 2017)

Section 3(c) of the Executive Order entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (Jan. 27, 2017) suspends for 90 days the entry into the United States of certain aliens from countries referred to in section 217(a)(12) of the Immigration and Nationality Act (INA), 8 U.S.C. 1187(a)(12). Section 3(e) of the order directs the Secretary of Homeland Security, in consultation with the Secretary of State, to submit to the President a list of countries recommended for inclusion on a Presidential proclamation that would prohibit the entry of certain foreign nationals from countries that do not provide information needed to adjudicate visas, admissions, or other benefits under the INA.

I understand that there has been reasonable uncertainty about whether those provisions apply to lawful permanent residents of the United States. Accordingly, to remove any confusion, I now clarify that Sections 3(c) and 3(e) do not apply to such individuals. Please immediately convey this interpretive guidance to all individuals responsible for the administration and implementation of the Executive Order.