

**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.

**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 12:19 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Oregon lawsuit  
**Attachments:** ACLUsuit.pdf

fyi

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 8:33 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** Oregon lawsuit

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US Customs & Border Protection  
Department of Homeland Security

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

UNITE OREGON,

Plaintiff

v.

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

Case No.

COMPLAINT FOR DECLATORY  
 AND INJUNCTIVE RELIEF

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

Defendants

**Introduction**

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

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

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

### **Subject Matter Jurisdiction**

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

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

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

### **Venue**

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

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

### **Parties**

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

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

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

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

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

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

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

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

## **Legal Framework**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

detrimental to the interests” of the country.

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

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

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

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

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

other immigrants must be immediately removed.

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

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

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

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

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

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

spent \$1.8 Billion in the local visitor industry.

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

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

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

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

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

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

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

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

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

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

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

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

immigration attorney.

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

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

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

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

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

### **Unite Oregon**

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

52. Unite Oregon is a membership organization.

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

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

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

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



the enumerated countries reunite with them in Oregon.

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

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

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

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

### **Causes of Action**

#### **Count 1**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Christianity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Request for Relief**

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

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

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

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

Respectfully submitted on February 1, 2017.

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF OREGON

IMMIGRANT LAW GROUP PC

*/s/ Mathew W Dos Santos*

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 12:51 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Congressional Inquiries Regarding Executive Orders

Field Liaison has been receiving notifications that some Ports and Field Offices are receiving inquiries from congressional staffers regarding the recent Executive Orders that were signed. The Office of Congressional Affairs (OCA) has provided the following guidance:

Please refer all congressional inquiries to [OCAInquiry@cbp.dhs.gov](mailto:OCAInquiry@cbp.dhs.gov).

At this time, the Office of Congressional Affairs is under strict instruction to forward such inquiries to DHS. OCA will log and coordinate all inquiries with DHS.

Thank you.

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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)  
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**From:** (b)(6), (b)(7)(C)  
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**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Congressional Inquiries Regarding Executive Orders

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Program Manager, Public Affairs Liaison  
Customs and Border Protection  
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**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 27, 2017 3:23:23 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** FW: Congressional Inquiries Regarding Executive Orders

Greetings,

Please ensure your staff are aware of the following guidance for congressional inquiries.

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

Program Manager; Public Affairs Liaison  
Customs and Border Protection  
San Francisco Field Office

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

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

**Sent:** Friday, January 27, 2017 1:16:24 AM

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

**Subject:** FW: Congressional Inquiries Regarding Executive Orders

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

Assistant Director Field Operations  
Border Security  
San Francisco Field Office  
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**From:** (b)(6), (b)(7)(C) on behalf of OFO-FIELD LIAISON

**Sent:** Thursday, January 26, 2017 4:25:08 PM

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(b)(6), (b)(7)(C); SHOBERG, ERIK; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) MARTEL, CARLOS C; (b)(6), (b)(7)(C) SABATINO, DIANE J;  
(b)(6), (b)(7)(C) STAVINOH, STEVEN; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) PEREZ, ROBERT E; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) HOWE, RANDY J; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) FLORES, PETE ROMERO; (b)(6), (b)(7)(C) HUMPHREY,  
BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) JAMES, MICHELE (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) BROOKS, WILLIAM K; (b)(6), (b)(7)(C)  
**Cc:** CBP-CAT; MURDOCK, JUDSON W; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) OFO-FIELD LIAISON

**Subject:** Congressional Inquiries Regarding Executive Orders

Good evening Directors,

Field Liaison has been receiving notifications that some Ports and Field Offices are receiving inquiries from congressional staffers regarding the recent Executive Orders that were signed. The Office of Congressional Affairs (OCA) has provided the following guidance:

Please refer all congressional inquiries to [OCAInquiry@cbp.dhs.gov](mailto:OCAInquiry@cbp.dhs.gov).

At this time, the Office of Congressional Affairs is under strict instruction to forward such inquiries to DHS. OCA will log and coordinate all inquiries with DHS.

Thank you.

Respectfully,

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

Field Liaison Division

Office of Field Operations

U.S. Customs and Border Protection

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

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

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

E-Mail: **(b)(6), (b)(7)(C)**

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 3:41 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: media and congressional inquiries

Thanks

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:36:16 PM  
**To:** (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** RE: media and congressional inquiries

I provided the media contact information to the Port.

I have already provided the congressional contact information to Bonamici's office. I will send it to our contacts at the other local congressional offices, too.

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

Sent via Android device

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 11:04:47 AM  
**To:** (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** FW: media and congressional inquiries

Please share the contact information with our stakeholders including port and airlines

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 11:01:13 AM  
**To:** (b)(6), (b)(7)(C)

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

Cc: HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** media and congressional inquiries

All,

We are receiving many inquiries from the media and members of congress, as well as from the public. Please remind all your staff that they are not to discuss or make an comments regarding the Executive Orders or any impact to current CBP operations.

All media inquiries regarding the EO or its impact may be referred directly to [cbpmediarelations.cbp.dhs.gov](mailto:cbpmediarelations.cbp.dhs.gov).

All congressional inquiries may be referred directly to [ocainquiry.cbp.dhs.gov](mailto:ocainquiry.cbp.dhs.gov) or 202-344-1760

For any other media inquiries, or as an alternate contact, please refer to me at

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

Please let me know if there are any question.

Also, please do not give my cell phone out to the public or media, however managers may feel free to call me at

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

(b)(6), (b)(7)(C) or any urgent issues.

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

Program Manager; Public Affairs Liaison  
Customs and Border Protection  
San Francisco Field Office

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

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 3:23 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: (b)(6), (b)(7)(C) today

Good. Thanks

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 11:53:58 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: (b)(6), (b)(7)(C) today

(b)(6), (b)(7)(C) will send some preliminary bullets to (b)(6), (b)(7)(C) and Mr. Humphrey so that they are "on notice"

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

BTW, I am at the FIS.

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

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 11:43 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: Implementation

Ok. Prepare to be asked many questions by the DFO.

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 11:35:49 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: Implementation

This may require C1 waiver.

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

Sent via Android device

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 11:18:12 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: Implementation

Thank you. I will call Mr. Humphrey with thorough information/facts.

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

From: (b)(6), (b)(7)(C)  
Sent: Sunday, January 29, 2017 10:59 AM  
To: (b)(6), (b)(7)(C)  
Subject: RE: Implementation

Yes, we should also report to the DFO. (b)(5)  
(b)(5)

From: (b)(6), (b)(7)(C)  
Sent: Sunday, January 29, 2017 10:25:35 AM  
To: (b)(6), (b)(7)(C)  
Subject: RE: Implementation

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

(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: Sunday, January 29, 2017 10:21 AM  
To: (b)(6), (b)(7)(C)  
Subject: RE: Implementation

Yes, read guidance and eo and it applies to nationality only \_\_\_\_\_

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

Sent: Sunday, January 29, 2017 10:14:14 AM

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

Subject: Implementation

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

I read the guidance the same way as you, if they are a citizen of one of the 7 countries, the action applies to them. If they are a citizen of a 3rd country, it does not apply.

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

Sent via Android device



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**From:** (b)(6), (b)(7)(C)  
**Sent:** Wednesday, February 01, 2017 11:27 AM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** ACLU

The office phone have lit up in Portland and Boise. As soon as one person gets off the phone they are calling again asking if we are following the EO and if we have detainees, etc. We have instituted a method to be able to answer customer questions while screening these out. I'm sure all airport locations are being bombarded.

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

(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)

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, February 03, 2017 12:55 PM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** FOIA  
**Attachments:** PRL Mission Support\_20170203\_100737.pdf

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

Please see the attached foia request from the ACLU. It is related to the EO. I believe it wise to get counsel and direction before I forward it to our FOIA Officer for action. Thank you \_\_\_\_\_

From: (b)(7)(E) on behalf of PRL Mission Support

Sent: Friday, February 03, 2017 7:07:37 AM

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

Subject: Scanned image from Mission Support MFP

Reply to: PRL Mission Support (b)(7)(E)

**(b)(7)(E)**

File Format: PDF (Medium)  
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document.

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<http://www.adobe.com/>



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”)<sup>1</sup> 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.<sup>2</sup> 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

<sup>1</sup> 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.

<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> Two unions representing more than 21,000 federal immigration officers praised the Executive Order,<sup>5</sup> issuing a joint press release that "applaud[ed] the three executive orders [President Trump] has issued to date."<sup>6</sup> 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.<sup>7</sup>

Beginning Saturday morning, protests erupted nationwide and attorneys rushed to airports to assist detained individuals and their families.<sup>8</sup> Over the next twenty-four hours, five federal courts ordered officials to temporarily stop enforcement of the Executive Order.<sup>9</sup> 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

<sup>3</sup> 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>.

<sup>4</sup> 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>.

<sup>5</sup> 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/>.

<sup>6</sup> *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>.

<sup>7</sup> 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/>.

<sup>8</sup> 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>.

<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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.”<sup>12</sup> 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.<sup>13</sup>

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.”<sup>14</sup> But on Sunday, DHS Secretary John Kelly deemed “the entry of lawful permanent residents to be in the national interest”<sup>15</sup> and, that evening, the Trump administration clarified that the Executive Order does not apply to green card holders.<sup>16</sup> 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

<sup>10</sup> 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>.

<sup>11</sup> 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](https://www.aclusocal.org/sites/default/files/vayeghan_-_order_re_tro.pdf).

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

<sup>13</sup> 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.”).

<sup>14</sup> 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>.

<sup>15</sup> *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>.

<sup>16</sup> 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.”<sup>17</sup> 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.<sup>18</sup> Shortly thereafter, Ms. Yates was relieved of her position by President Trump.<sup>19</sup> The same evening, President Trump also replaced the acting director of U.S. Immigration and Customs Enforcement (“ICE”).<sup>20</sup>

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.<sup>21</sup> 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.

<sup>17</sup> *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>.

<sup>18</sup> 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/>.

<sup>19</sup> *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>.

<sup>20</sup> *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>.

<sup>21</sup> 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](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](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;<sup>22</sup>
  - 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;<sup>23</sup>
  - 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;<sup>24</sup>
  - e. Judge Brinkema’s Temporary Restraining Order, issued in the Eastern District of Virginia on January 28, 2017;<sup>25</sup>

<sup>22</sup> *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).

<sup>23</sup> 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/>.

<sup>24</sup> 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>.

<sup>25</sup> 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;<sup>26</sup>
  - g. Judge Burroughs' Temporary Restraining Order, issued in the District of Massachusetts on January 29, 2017;<sup>27</sup>
  - 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;<sup>28</sup>
  - 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;<sup>29</sup>
  - k. DHS Secretary John Kelly's "Statement on the Entry of Lawful Permanent Residents Into the United States," issued on January 29, 2017;<sup>30</sup>
  - l. DHS's "Statement on Compliance with Court Orders and the President's Executive Order," issued on January 29, 2017;<sup>31</sup> 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:

<sup>26</sup> 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>.

<sup>27</sup> 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>.

<sup>28</sup> 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](https://www.aclusocal.org/sites/default/files/vayeghan_-_order_re_tro.pdf).

<sup>29</sup> *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>.

<sup>30</sup> *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>.

<sup>31</sup> *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.<sup>32</sup>

**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

<sup>32</sup> *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).<sup>33</sup> 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).<sup>34</sup> 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”).<sup>35</sup>

<sup>33</sup> *See also* 6 C.F.R. § 5.5(e)(1).

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

<sup>35</sup> 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,<sup>36</sup> and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.<sup>37</sup>

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*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).

<sup>36</sup> 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>.

<sup>37</sup> 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](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.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup>

<sup>38</sup> *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](https://www.aclu.org/sites/default/files/assets/eye_on_fbi_-_sars.pdf).

<sup>39</sup> *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](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>.

<sup>40</sup> *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.<sup>41</sup>

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.<sup>42</sup> Similarly, the ACLU produced a summary of documents released in response to a FOIA request related to the FISA Amendments Act<sup>43</sup>; 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 requests<sup>44</sup>; and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.<sup>45</sup>

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).<sup>46</sup> 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

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<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>.

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

<sup>42</sup> [https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos\\_2009\\_0305.pdf](https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf).

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

<sup>44</sup> [https://www.aclu.org/sites/default/files/field\\_document/nsi\\_stats.pdf](https://www.aclu.org/sites/default/files/field_document/nsi_stats.pdf).

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

<sup>46</sup> *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).<sup>47</sup> 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);<sup>48</sup> *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*

<sup>47</sup> *See also* 6 C.F.R. § 5.11(k).

<sup>48</sup> *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).<sup>49</sup>

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.”<sup>50</sup> As was true in those instances, the ACLU meets the requirements for a fee waiver here.

<sup>49</sup> 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.

<sup>50</sup> 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**  
**c/o Mitra Ebadolahi**  
 P.O. Box 87131  
 San Diego, CA 92138-7131

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,



Mark Silverstein  
 Legal Director, ACLU of Colorado

cc. Tara Rich, Legal and Policy Director  
       American Civil Liberties Union of Alaska  
 Richard Eppink, Legal Director  
       American Civil Liberties Union of Idaho Foundation  
 Kelly Simon, Staff Attorney  
       American Civil Liberties Union of Oregon  
 Courtney Bowie, Legal Director  
       American Civil Liberties Union of South Dakota, North Dakota, and Wyoming

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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)  
**Sent:** Thursday, February 02, 2017 11:46 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** Request for Feb 9 DHS CRCL Roundtable  
**Importance:** High

Hello (b)(6), (b)(7)(C) — Thank you again for your participation at our upcoming DHS Community Engagement Roundtable! Your commitment to attending during such a busy time does not go unnoticed. I'm confident these discussions to take place next week will be valuable moving forward, and go a long way to helping accomplish our shared objectives.

Speaking of which, the past few days have been exceptionally difficult, as you well know. Now that CBP has publicly posted talking points regarding the Executive Order, I am hoping you'd be amenable to speaking for a few minutes next week at the Roundtable. Obviously there wouldn't be any deviation from what is already publicly available, so the idea isn't to share new information. Rather, giving time and attention to such an important issue, especially by the lead of the organization, presents the transparency and openness desired by a community in need. Engaging on this would go far in both helping build trust and clarify rapidly spreading misinformation.

We already have full agenda, so certainly no formal presentation is being requested by any means. Simply, I'd like to place you on the agenda to inform the community that the CBP lead for their area will be present and, to the extent allowable by the talking points, speak about recent guidance on immigration law enforcement.

Please let me know if you have any concerns with this request, otherwise, I'd like to update the agenda and send it out today.

Thank you so much!

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

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

---

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, January 20, 2017 5:09 PM  
**To:** Community Engagement (b)(7)(E)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** Community Engagement

Please consider this my RVSP for the event. Thank you

(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:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 2:41 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: Detainees

FYSA. Protests expected at Sacramento Airport at noon today. Currently trying to get ahold of PD (b)(6), (b)(7)(C)

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

**From:** (b)(6)  
**Sent:** Sunday, January 29, 2017 11:22 AM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** (b)(6); (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** Re: Detainees

(b)(6), (b)(7)(C) protests at SMF will begin at noon.

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

On Jan 29, 2017, at 8:29 AM, ESPANOL, ALEX M  
 (b)(6), (b)(7)(C) >> wrote:

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

At this time all inquiries concerning the Executive Order are being directed to [cbpmediarelations@cbp.dhs.gov](mailto:cbpmediarelations@cbp.dhs.gov)<mailto:cbpmediarelations@cbp.dhs.gov>

All Congressional inquiries are directed to (b)(7)(E) or call (b)(7)(E)

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

SMF CBP local Public Relations Officer can be contacted at (b)(6), (b)(7)(C). I have cc him on this e-mail.

Please let me know if Sacramento Airport will be impacted by these protests as soon as possible.

Best Regards,

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

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

Sent: Sunday, January 29, 2017 7:10:00 AM

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

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

Subject: Detainees

(b)(6), (b)(7)(C) good morning. We are getting lots of questions and interest with regard to the JFK story about inbound passengers detained as a result of the Presidents Executive Order. Have any passengers been detained at SMF?

Numerous airports around the country are having protests. People are talking about SMF too. Please provide us any info you have.

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

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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.

**From:** (b)(6), (b)(7)(C)  
**Sent:** Friday, February 03, 2017 10:21 PM  
**To:** ENFORCEMENT PROGRAMS DIVISION; HUTTON, JAMES R  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** FW: EO Reporting

The San Francisco Field Office Ports of Entry have not had any encounters of those individuals subject to EO from last reporting period (noon - February 3<sup>rd</sup>) to 21:30EST.

(b)(6), (b)(7)(C)  
San Francisco Field Office  
US Customs and Border Protection  
(b)(6), (b)(7)(C) Office  
(b)(6), (b)(7)(C) Cell  
Fax

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---

**From:** HUTTON, JAMES R  
**Sent:** Friday, February 03, 2017 5:55:02 PM  
**To:** DIRECTORS FIELD OPS; BORDER SECURITY ASST DIRECTORS  
**Cc:** ENFORCEMENT PROGRAMS DIVISION; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** EO Reporting

DFO's  
Kindly request that all POEs within your AOR provide report to Enforcement Program Division for all encounters of those individuals subject to EO from last reporting period (noon - February 3<sup>rd</sup>) to 21:30EST.

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:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 2:32 AM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Guidance on Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States"

Sir,

Sent in the report. SFO had one encounter – a B1/B2 passenger holding a passport from Iran arriving on a pre-cleared flight from Canada. Tomorrow, they are expecting about 50 encounters, including one LPR.

**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Friday, January 27, 2017 10:55 PM

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

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

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

Interim guidance. I can still approve waivers for LPRs. The Acting Commissioner must approve waivers for UACs, previously admitted refugees, previously admitted asylees, and advance paroles.

Brian J. Humphrey  
 Director, Field Operations  
 San Francisco/Portland  
 33 New Montgomery St., Suite 1620  
 San Francisco, California 94105

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

**From:** HOFFMAN, TODD A  
**Sent:** Saturday, January 28, 2017 1:06:41 AM  
**To:** DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS  
**Cc:** Owen, Todd C (AC OFO); WAGNER, JOHN P; HUTTON, JAMES R; (b)(6), (b)(7)(C)

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

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

Directors,

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

Memorandum For: Directors, Field Operations

From: Todd A. Hoffman  
Executive Director  
Admissibility and Passenger Programs  
Office of Field Operations

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

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

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

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

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

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

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



*Returning Residents,*

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

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

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

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

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

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

Please ensure that this memorandum and attached muster are disseminated to all ports of entry within your jurisdiction. If you have any questions or require additional information, please contact (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) 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:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 4:24 PM  
**To:** OFO-FIELD LIAISON  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** RE: Guidance: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

As requested, below is the information on the three individuals currently being detained at SFO.

Application Withdrawn for Admission (I-275)

A# (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) (M, Age 65) COC: Iran EY 183

ACTION TAKEN:

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

Application Withdrawn for Admission (I-275)

A# (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) COC: (b)(6), (b)(7)(C)

ACTION TAKEN:

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

Application Withdrawn for Admission (I-275)

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

ACTION TAKEN:

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

**From:** (b)(6), (b)(7)(C) On Behalf Of OFO-FIELD LIAISON  
**Sent:** Saturday, January 28, 2017 11:31 AM  
**To:** JAMES, MICHELE; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)

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

**(b)(6), (b)(7)(C)** ; WHITE, ROBERT E ; **(b)(6), (b)(7)(C)** ; HUMPHREY, BRIAN J (DFO)

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

Cc: OFO-FIELD LIAISON < **(b)(7)(E)** ; **(b)(6), (b)(7)(C)**

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

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

Greetings Seattle, Chicago and San Francisco Directors,

EAC Owen and the Field Liaison Division will like to receive information/bullets of the detainees currently being held at Seattle, O'Hare, and San Francisco.

Thank you in advance.

Respectfully,

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

Program Manager, Field Liaison Division  
Office of Field Operations  
U.S. Customs & Border Protection  
1300 Pennsylvania Avenue, NW

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

Washington, DC 20229

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

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

*"A team is greater than the sum of its parts"*  
*Preparation+Attitude+Opportunity+Action=Luck*




---

From: **(b)(6), (b)(7)(C)** on behalf of OFO-FIELD LIAISON  
 Sent: Saturday, January 28, 2017 5:03:26 PM  
 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)** ; MURDOCK, JUDSON W; **(b)(6), (b)(7)(C)**  
**(b)(6), (b)(7)(C)** OFO-FIELD LIAISON

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

Greetings Directors,

Due to the President of the United States Executive Order, if your field office detains a returning refugee, the Field Liaison Division will need bullets for each encounter as soon as possible. This information is time sensitive and will be forwarded to C1, C2, EAC, DEAC, XD Ops, DXD Ops, XD (b)(6), (b)(7)(C) XD Hoffman and DXD Hutton. Thank you in advance.

Respectfully,

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

Program Manager, Field Liaison Division  
Office of Field Operations  
U.S. Customs & Border Protection  
1300 Pennsylvania Avenue, NW

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

Washington, DC 20229

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

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

"A team is greater than the sum of its parts"

Preparation+Attitude+Opportunity+Action=Luck

[cid:image001.jpg@01D1600E.F2626B80]

From: (b)(6), (b)(7)(C) On Behalf Of OFO-FIELD LIAISON

Sent: Saturday, January 28, 2017 1:09 AM

To: DIRECTORS FIELD OPS (b)(7)(E); EXECUTIVE DIRECTORS HQ  
(b)(7)(E) BORDER SECURITY ASST DIRECTORS  
(b)(7)(E) TRADE OPERATIONS ASST DIRECTORS  
(b)(7)(E) MISSION SUPPORT ASST DIRECTORS

Cc: (b)(6), (b)(7)(C) OFO-FIELD LIAISON (b)(7)(E)

(b)(7)(E)

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

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

MURDOCK, JUDSON W

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

(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)  
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 submitted 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 10:50 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Federal Court Stay - Hold all departures. Need confirmation

Acknowledged.

(b)(6), (b)(7)(C)  
Area Port Director  
Office of Field Operations  
Anchorage, AK

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

---

**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Saturday, January 28, 2017 6:44:22 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)**  
(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)

---

**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:** Thursday, February 02, 2017 4:08 PM  
**To:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** FW: Preservation of Documents Related to Executive Order "Protecting the Nation from Terrorist Entry into the United States by Foreign Nationals"  
**Attachments:** Litigation Hold Re Executive Order on Immigratiopn Issued January 2017.docx; Signed Memo to (b)(6), (b)(7)(C) e Notice of Obligation to Preserve Documents Rel....pdf

Fyi I n case you haven't seen.

(b)(6), (b)(7)(C)  
 Area Port Director  
 Office of Field Operations  
 Anchorage, AK


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

**From:** (b)(6), (b)(7)(C)  
**Sent:** Thursday, February 02, 2017 11:24:35 AM  
**To:** JAMES, MICHELE; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** Preservation of Documents Related to Executive Order "Protecting the Nation from Terrorist Entry into the United States by Foreign Nationals"

All,

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

(b)(6), (b)(7)(C)  
**Assistant Chief Counsel**  
 U.S. Customs and Border Protection  
 1000 Second Ave. | Suite 2550 | Seattle, Washington 98104

 (b)(6), (b)(7)(C)  
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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 2:35 PM  
**To:** (b)(6), (b)(7)(C)  
(OCC); Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C); HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS  
DIVISION  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** EO 212(f) Exemption for (b)(6), (b)(7)(C) UPDATE  
**Attachments:** (b)(6), (b)(7)(C).docx

This waiver request has been updated per OCC recommendation. The updated information is in **bold**.

**SIGMA Event:** (b)(7)(E)

**Waiver Narrative**

OFO 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)**



Chief **(b)(6), (b)(7)(C)**  
U.S. Customs and Border Protection  
San Francisco International Airport

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

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

**Sent:** Sunday, January 29, 2017 10:13 AM

**To:** **(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)**;  
HOFFMAN, TODD A **(b)(6), (b)(7)(C)** **(b)(6), (b)(7)(C)**;  
HUTTON, JAMES R **(b)(6), (b)(7)(C)**; OFO Field Programs **(b)(7)(E)**;  
ENFORCEMENT PROGRAMS DIVISION **(b)(7)(E)**

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

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

**Subject:** EO 212(f) Exemption for **(b)(6), (b)(7)(C)**

**SIGMA Event** **(b)(7)(E)**

**Waiver Narrative**

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)**



Chief **(b)(6), (b)(7)(C)**  
U.S. Customs and Border Protection  
San Francisco International Airport

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

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

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

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 2:24 PM  
**To:** (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C); Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C) HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS  
 DIVISION  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
 (b)(6), (b)(7)(C)  
**Subject:** EO 212(f) Exemption for (b)(6), (b)(6), (b)(7)(C), (b)(7)(E) UPDATE  
**Attachments:** (b)(6), (b)(7)(C) docx

This waiver request has been updated per OCC recommendation. The updated information is in **bold**.

**(b)(7)(E)**

EO 212(f) Exemption for **(b)(6), (b)(7)(C)**

**Waiver Narrative**

OFO 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)



(b)(6), (b)(7)(C)  
U.S. Customs and Border Protection  
San Francisco International Airport

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

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

Sent: Sunday, January 29, 2017 10:03 AM

To: (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)

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

HUTTON, JAMES R (b)(6), (b)(7)(C) OFO Field Programs (b)(7)(E)  
ENFORCEMENT PROGRAMS DIVISION (b)(7)(E)

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

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

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

Subject: EO 212(f) Exemption for (b)(6), (b)(7)(C)

(b)(7)(E)

EO 212(f) Exemption for (b)(6), (b)(7)(C)

Waiver Narrative

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)**

Details:

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

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





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

U.S. Customs and Border Protection  
San Francisco International Airport

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

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

**Waiver Narrative**

OFO 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)**

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

**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 1:13 PM  
**To:** (b)(6), (b)(7)(C)  
(OCC); Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C); HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS  
DIVISION  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** EO 212(f) Exemption for (b)(6), (b)(7)(C)  
**Attachments:** (b)(6), (b)(7)(C).docx

**SIGMA Event** (b)(7)(E)

**Waiver Narrative**  
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)**



Chief **(b)(6), (b)(7)(C)**  
U.S. Customs and Border Protection  
San Francisco International Airport

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

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



**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 1:03 PM  
**To:** (b)(6), (b)(7)(C)  
(OCC); Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS  
DIVISION  
**Cc:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
**Subject:** EO 212(f) Exemption for (b)(6), (b)(7)(C)  
**Attachments:** (b)(6), (b)(7)(C).docx

(b)(7)(E)

EO 212(f) Exemption for (b)(6), (b)(7)(C)

**Waiver Narrative**

OFO 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)**



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

U.S. Customs and Border Protection  
San Francisco International Airport

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

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

**Waiver Narrative**

OFO 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)**

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 3:47 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** SFO detentions

Hello Mr. Humphrey,

I am writing because Congresswoman Lee would like to know how many people have been detained at the three Bay Area airports under the administration's executive order issued Friday restricting travel for refugees and others. She would also like to know how many remain in detention at this time, and how many, if any, were removed from the US as a result.

Thank you.

(b)(6), (b)(7)(C)  
District Director - Congresswoman Barbara Lee (CA-13)

**From:** Owen, Todd C (AC OFO)  
**Sent:** Sunday, January 29, 2017 5:44 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Thanks Brian.

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

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From: HUMPHREY, BRIAN J (DFO)  
Sent: Sunday, January 29, 2017 10:42:37 PM  
To: MCALEENAN, KEVIN K; COUREY, (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C) HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS DIVISION  
Cc: (b)(6), (b)(7)(C)  
Subject: RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Thank you. I am walking the passenger to the door as I write. No passengers remain in custody

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

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From: MCALEENAN, KEVIN K  
Sent: Sunday, January 29, 2017 5:36:21 PM  
To: (b)(6), (b)(7)(C); Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C) HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS DIVISION  
Cc: HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C)  
Subject: RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

Exception approved

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From: (b)(6), (b)(7)(C)  
Sent: Sunday, January 29, 2017 5:32:00 PM

To: (b)(6), (b)(7)(C) Owen, Todd C (AC OFO); WAGNER, JOHN P; HOFFMAN, TODD A; (b)(6), (b)(7)(C) HUTTON, JAMES R; OFO Field Programs; ENFORCEMENT PROGRAMS DIVISION; HUTTON, JAMES R  
Cc: HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
(b)(6), (b)(7)(C) MCALEENAN, KEVIN K  
Subject: RE: EO 212(f) Exemption for (b)(6), (b)(7)(C)

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

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

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

From: (b)(6), (b)(7)(C)  
Sent: Sunday, January 29, 2017 5:25 PM  
To: (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)>;  
HOFFMAN, TODD A <(b)(6), (b)(7)(C)>; (b)(6), (b)(7)(C);  
HUTTON, JAMES R <(b)(6), (b)(7)(C)>; OFO Field Programs <(b)(7)(E)>;  
ENFORCEMENT PROGRAMS DIVISION <(b)(7)(E)>; HUTTON, JAMES R  
<(b)(6), (b)(7)(C)>  
Cc: HUMPHREY, BRIAN J (DFO) <(b)(6), (b)(7)(C)>

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

Subject: EO 212(f) Exemption for (b)(6), (b)(7)(C)

EO 212(f) Exemption for (b)(6), (b)(7)(C)

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

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

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

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

Section Chief – Tactical Branch  
Customs and Border Protection  
Area Port of San Francisco

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

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**From:** Owen, Todd C (AC OFO)  
**Sent:** Saturday, January 28, 2017 4:07 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Thanks Brian for the personal engagement. We are all in the office managing this as well.

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

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**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Saturday, January 28, 2017 3:59 PM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** Owen, Todd C (AC OFO) <(b)(6), (b)(7)(C)>; WAGNER, JOHN P (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

FYI. I am currently at SFO to get a perspective of the impact. All well so far. We have an especially good plan for LPRs and I've communicated with ACC on our detainees. We are expecting a 3pm Pacific Time protest with media. SFPD tells us the demonstration is more anti-President Trump than focused on anything we're implementing. The demonstrators are expected above our arrival level near the subway. We're working with SFPD closely. We'll do bullets if the demonstrators actually show up.

Brian J. Humphrey  
 Director, Field Operations  
 San Francisco/Portland  
 33 New Montgomery St., Suite 1620  
 San Francisco, California 94105  
 (b)(6), (b)(7)(C)

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:01:10 PM  
**To:** (b)(6), (b)(7)(C) OFO-FIELD LIAISON; DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS; TRADE OPERATIONS ASST DIRECTORS; MISSION SUPPORT ASST DIRECTORS  
**Cc:** (b)(6), (b)(7)(C) MURDOCK, JUDSON W; (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

For clarification please report your running totals.



Thank you,

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

Deputy Executive Director (Acting)  
OFO Operations

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

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

**Sent:** Saturday, January 28, 2017 11:43:28 AM

**To:** OFO-FIELD LIAISON; DIRECTORS FIELD OPS; EXECUTIVE DIRECTORS HQ; BORDER SECURITY ASST DIRECTORS; TRADE OPERATIONS ASST DIRECTORS; MISSION SUPPORT ASST DIRECTORS

**Cc:** (b)(6), (b)(7)(C) MURDOCK, JUDSON W; (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

DFOs,

Effective immediately: We are going to a three times per day reporting timeline, using the same attachment that was used for this morning's report. Reports will now be due to field liaison at 0500 hours, 1500 hours and 2100 hours (EST) daily until further notice.

Thank you,

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

Deputy Executive Director (Acting)  
OFO Operations

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

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

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 12:59 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** Automatic reply: 1/28/17 EY183 LPRs

I will be out of the office on Friday, January 27th and returning on Tuesday, January 31st. If you need immediate assistance, please contact the Watch Commander Center at (b)(6), (b)(7)(C) Thank you.

(b)(6), (b)(7)(C)  
Watch Commander  
San Francisco, CA  
(b)(6), (b)(7)(C)

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 2:54 AM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

Understood. Just arrived in Portland for a personal trip here with my best friend from college. Was supposed to meet with her the night we got stuck in the snow coming back from Nike. She has been pressuring me for a make up trip so this is it.

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

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**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Saturday, January 28, 2017 2:34:58 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

Thank you, my friend. Heard from everyone except (b)(6), (b)(7)(C) but didn't want to single him out

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

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

San Francisco, California 94105

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

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 1:58:00 AM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Reporting Guidance for Actions Taken Related to Executive Order: Protecting the Nation from Foreign Terrorist Entry Into the United States

I know you are just expecting a response from the PDs, but wanted to let you know I acknowledge receipt of all the messaging on this topic as well. Let me know if I can help on this in anyway.

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

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**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Saturday, January 28, 2017 1:50:42 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: 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  
 33 New Montgomery St., Suite 1620  
 San Francisco, California 94105  
 (b)(6), (b)(7)(C)

---

**From:** (b)(6), (b)(7)(C) 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)  
 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) (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 2:31 AM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: FINAL SIGNED EO FOR ACTION

10-4 sir.

(b)(6), (b)(7)(C)  
Area Port Director  
US Customs and Border Protection  
Honolulu, Hawaii

**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Saturday, January 28, 2017 5:51:15 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: FINAL SIGNED EO FOR ACTION

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.

We also don't have the report template, so if (b)(6), (b)(7)(C) and I don't hear from the ports, we will assume no encounters and assume no targeted passengers were erroneously admitted.

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

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

**(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)(6), (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)  
San Francisco, California 94105  
(b)(6), (b)(7)(C)

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**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) 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:** (b)(6), (b)(7)(C)  
**Sent:** Saturday, January 28, 2017 11:01 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: Federal Court Stay - Hold all departures. Need confirmation

Got it sir.

(b)(6), (b)(7)(C)  
Area Port Director  
US Customs and Border Protection  
Honolulu, Hawaii

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**From:** HUMPHREY, BRIAN J (DFO)  
**Sent:** Sunday, January 29, 2017 3:44:22 AM  
**To:** (b)(6), (b)(7)(C); (b)(6), (b)(7)(C); HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** FW: Federal Court Stay - Hold all departures. Need confirmation

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

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)**

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**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*

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 5:38 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** FW: Protest at airport

Sir,

FYSA.

(b)(6), (b)(7)(C)  
Area Port Director  
US Customs and Border Protection  
Honolulu, Hawaii

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 10:29:00 PM  
**To:** (b)(6), (b)(7)(C)  
**Cc:** (b)(6), (b)(7)(C)  
**Subject:** Protest at airport

Bruce,

FYSA. Sheriff's informed us there will be a protest against EO staged at the airport at 1500 this afternoon.

Thanks

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

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 1:11 AM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** SFO Today

Dear director Humphrey, I just wanted to let you know that my wife just arrived on a flight from the Middle East and I saw the massive protests at the airport while I was there. And, I must admit that I did stop and join and express my discontent with the executive order in my own muted sort of way, my 6 year old and 9 year old kids with me. But, I also wanted to reach out and let you know that people like me appreciate the work you and your team do, and that all of this puts everyone, including good people like you in a very difficult spot. You are a wonderful human being and have done (and continue to do) a great deal to keep people like me and my family safe in this crazy environment. Hang in there, I know it's tough, please let me know if there is anything I can do to be helpful as you and your team work through all of this.

Love and friendship,

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

**From:** (b)(6), (b)(7)(C)  
**Sent:** Monday, January 30, 2017 8:54 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** Re: PASSENGER ARRIVING SFO -- TK 79 (Mon, 1/30)

See you then/there. Not sure if you saw this:

<https://www.bloomberg.com/news/articles/2017-01-31/google-employees-rally-in-thousands-against-trump-immigration-ban>

Be well,

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



Google Employees Rally in Thousands Against Trump Immigration Ban

[www.bloomberg.com](http://www.bloomberg.com)

Sergey Brin and Sundar Pichai speak on the issue

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**From:** HUMPHREY, BRIAN J (DFO) <(b)(6), (b)(7)(C)>  
**Sent:** Monday, January 30, 2017 5:47 PM  
**To:** (b)(6), (b)(7)(C)  
**Subject:** RE: PASSENGER ARRIVING SFO -- TK 79 (Mon, 1/30)

Perfect. We can meet at my office and pick a place to visit.

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

(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 8:41:52 PM  
**To:** HUMPHREY, BRIAN J (DFO)  
**Subject:** RE: PASSENGER ARRIVING SFO -- TK 79 (Mon, 1/30)

How about Friday at 130pm?

On Jan 30, 2017 2:31 PM, "HUMPHREY, BRIAN J (DFO)" <(b)(6), (b)(7)(C)> wrote:  
Excellent. I'll keep open anytime Wednesday or Friday if that is fine with you. Just pick a time, my friend. I'll buy the coffee

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)

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 9:08 PM  
**To:** HUMPHREY, BRIAN J (DFO) <(b)(6), (b)(7)(C)>  
**Subject:** RE: PASSENGER ARRIVING SFO -- TK 79 (Mon, 1/30)

Please do, and let me know if you would like to meet. I should be in SF most of the week.

(b)(6), (b)(7)(C)  
On Jan 29, 2017 9:01 PM, "HUMPHREY, BRIAN J (DFO)" <(b)(6), (b)(7)(C)> wrote:

May I call you this week?

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

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**From:** (b)(6), (b)(7)(C)  
**Sent:** Sunday, January 29, 2017 11:45:26 PM  
**To:** HUMPHREY, BRIAN J (DFO); (b)(6), (b)(7)(C)  
**Subject:** PASSENGER ARRIVING SFO -- TK 79 (Mon, 1/30)

Dear Director Humphrey and Officer (b)(6), (b)(7)(C)

I know you are likely inundated with everything that is going on -- as always, we appreciate everything you do, even in difficult times like these. I did want to note that two leaders from our community are arriving on TK 79 (Turkish) tomorrow (Monday) at 4:30pm at SFO.

They are husband and wife -- husband a US Citizen and wife a British Citizen. They are coming from India -- were there to partake in the celebrations of His Holiness' birthday that just passed. Given their nationalities

and the place they are traveling from (India) aren't listed on the Executive Order -- they are still concerned, as you can imagine. I have reassured them that they should be fine.

Anything you might be able to do to ensure a smooth arrival for them would be greatly appreciated. I know this might be a tall order given everything you are dealing with at the port -- I really do understand. But, below is their information, just in case. THANK YOU SO MUCH for looking at this and considering.

Passenger 1:

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

Sincerely,

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