

June 13, 2018

Dear Members of Congress,

We, the undersigned organizations, represent millions of Americans who have been directly impacted, have had family members directly impacted, or are deeply disturbed by Executive Order 13769, Executive Order 13780, and Presidential Proclamation 9645 – collectively known as the “Muslim Ban” – as well as “extreme vetting,”¹ which includes invasive probing into the beliefs, statements, and associations of visa applicants and U.S. residents. Unfortunately, in the nearly eighteen months since the Trump Administration began implementing these policies, Congress has not held a single hearing or engaged in appropriate oversight of them. The undersigned organizations call upon Congress to take necessary steps to obtain full information about how Proclamation 9645 and “extreme vetting” are being implemented, including by conducting hearings and mandating regular reporting from the Administration regarding key aspects of these policies.

The Muslim Ban implements President Trump’s campaign promise to prevent Muslims from entering the United States. The Trump Administration cites national security concerns as a justification for its ban and extreme vetting measures but uses intentionally misleading data and flawed methodologies to broadly impugn Muslims as dangerous.² Reports suggest that Stephen Miller, Senior Advisor to President Trump, actively pushed the President to insert baseless assertions about foreign-born nationals into official reports.³ Empirical studies examining the last three decades of vetting procedures have concluded that the pre-Trump Administration vetting system was more than sufficient to protect the nation and that the risk of vetting failures approached zero.⁴

¹ See Federal Register, “Notice of Information Collection Under OMB Emergency Review: Supplemental Questions for Visa Applicants,” May 4, 2017. (<https://www.federalregister.gov/documents/2017/05/04/2017-08975/notice-of-information-collection-under-omb-emergency-review-supplemental-questions-for-visa>); Federal Register, “60-Day Notice of Proposed Information Collection: Supplemental Questions for Visa Applicants,” August 3, 2017. (<https://www.federalregister.gov/documents/2017/08/03/2017-16343/60-day-notice-of-proposed-information-collection-supplemental-questions-for-visa-applicants>); Federal Register, “60-Day Notice of Proposed Information Collection: Application for Immigrant Visa and Alien Registration,” March 30, 2018. (<https://www.federalregister.gov/documents/2018/03/30/2018-06490/60-day-notice-of-proposed-information-collection-application-for-immigrant-visa-and-alien>); See also Brennan Center for Justice, “Ice Extreme Vetting Initiative: A Resource Page,” May 24, 2018. (<https://www.brennancenter.org/analysis/ice-extreme-vetting-initiative-resource-page>).

² See Brennan Center for Justice, “Brennan Center, Project Democracy, and Lawfare Request Correction to DOJ-DHS Section 11 Report on Terrorism Data,” February 12, 2018. (<https://www.brennancenter.org/analysis/brennan-center-protect-democracy-and-lawfare-request-corrections-doj-dhs-section-11-report>).

³ Josh Dawsey and Nick Miroff, “‘We’re closed!’: Trump directs his anger over immigration at Homeland Security secretary,” *Hartford Courant*, (May 25, 2018), <http://www.courant.com/politics/hc-wp-trump-nielsen-immigration-20180525-story.html>.

⁴ See Cato Institute, “Extreme Vetting of Immigrants: Estimating Terrorism Vetting Failures,” April 17, 2018. (<https://www.cato.org/publications/policy-analysis/extreme-vetting-immigrants-estimating-terrorism-vetting-failure>).

The availability of waivers under Proclamation 9645 does not cure its deficiencies. Section 3(c) of Proclamation 9645 allows for case-by-case waivers to be issued to individuals who would otherwise be prohibited from receiving immigrant or non-immigrant visas under the terms of the Proclamation. To qualify for a waiver, applicants must demonstrate that: 1) denying entry would cause the applicant an undue hardship; 2) entry of the applicant would not pose a threat to the national security or public safety of the United States; and 3) entry of the applicant would be in the national interest.

While the exact number of waivers issued is unclear without reliable information from this administration, it is beyond dispute that the number of waivers issued is a tiny fraction of the 150 million people impacted by the Muslim ban. In addition, the Administration has provided no policies, procedures, or guidelines governing the issuance of waivers.

State Department data indicates that, since the implementation of these policies, visas issued to Muslim-majority countries have plummeted.⁵ Activists have also been barred from entry.⁶ The social media monitoring that the Administration is conducting under the rubric of “extreme vetting” is chilling free speech⁷, and the Administration has instituted these procedures without congressional oversight or meaningful public scrutiny.

Congress should mandate that the State Department and U.S. Citizenship and Immigration Services report information on visa applicants impacted by “extreme vetting” through unreasonably drawn-out application times or outright denials, as well as on waivers from the Muslim Ban. Along with other details, reporting should explain the specific criteria for waiver consideration and denial.

Irrespective of how the Supreme Court ultimately rules on the constitutionality of the Presidential Proclamation, it is incumbent on Congress to fulfill its own constitutional duty to the American people to serve as a check on the Executive as a co-equal branch of government. This responsibility must be taken seriously and carried out vigorously, particularly under such extraordinary circumstances. Congress must uphold its duty by rescinding the Muslim ban, taking steps to end so-called “extreme vetting”, and in the interim, conduct Congressional oversight hearings, demand statistics regarding visa delays and denials and waivers of the Muslim ban, and further investigate the ways in which these discriminatory policies are being implemented.

⁵ Nahal Toosi, Ted Hesson, Sarah Frostenson, “Foreign visas plunge under Trump,” (April 3, 2018), <https://www.politico.com/interactives/2018/trump-travel-ban-visas-decline>.

⁶ Carrie DeCell, *Trump’s ‘extreme vetting’ is muzzling activists and shutting them out*, The Guardian (Apr. 20, 2018) <https://www.theguardian.com/commentisfree/2018/apr/20/trump-extreme-vetting-activists-censorship-immigration>.

⁷ Hugh Handeyside, “‘Extreme Vetting’ of Visitors Poses an Extreme Threat to Our Principles and Our Security,” (April 10, 2017), <https://www.aclu.org/blog/national-security/discriminatory-profiling/extreme-vetting-visitors-poses-extreme-threat-our>.

Signed,

American-Arab Anti-Discrimination Committee
American Civil Liberties Union
Americans United for Separation of Church and State
Arab American Association of New York
Arab American Institute
Arab Community Center for Economic and Social Services (ACCESS)
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Atlanta
Asian Pacific Policy and Planning Council
Brennan Center for Justice at NYU School of Law
CAIR San Francisco Bay Area
Center for Constitutional Rights
Center for Victims of Torture
CLEAR Project at CUNY School of Law
Council on American-Islamic Relations (CAIR)
Defending Rights & Dissent
Engage Action
Foreign Policy for America
Interfaith Worker Justice
International Refugee Assistance Project (IRAP) at the Urban Justice Center
Iranian American Bar Association
J Street
Jobs With Justice
Lutheran Immigration and Refugee Service
MomsRising
Montgomery County (MD) Civil Rights Coalition
Multifaith Alliance for Syrian Refugees
Muslim Advocates
Muslim Public Affairs Council
National Council of Jewish Women
National Immigration Law Center
National Network for Arab American Communities
NIAC Action
Only Through US
Oxfam America
Peace Action
Poligon Education Fund

Project South

Sikh American Legal Defense and Education Fund

South Asian Americans Leading Together (SAALT)

STAND: The Student-Led Movement To End Mass Atrocities

T'ruah: The Rabbinic Call for Human Rights

Win Without War

Yemeni American Merchants Association (YAMA)

18MillionRising.org