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June 27, 2017

VIA CERTIFIED MAIL

The Honorable John F. Kelly
Secretary of Homeland Security
Washington, D.C. 20528

**Re: Request for Information Regarding Implementation of Executive Order
13,780**

Dear Secretary Kelly:

Muslim Advocates, the Southern Poverty Law Center, and Americans United for Separation of Church and State write to request that you release detailed guidance to the public concerning the implementation of President Donald Trump's March 6, 2017 Executive Order 13,780, titled "Protecting the Nation from Foreign Terrorist Entry into the United States." In light of the Supreme Court's June 26, 2017 order narrowing the scope of the injunctions against sections 2(c) and 6 of the Executive Order, the public is in urgent need of information about the manner through which persons can establish a "bona fide relationship with a person or entity in the United States," the precise criteria for adjudicating waiver requests under section 3 of the Executive Order, the office and contact person to whom such requests should be directed, the timing for the adjudication of requests, and any appeal process available to persons who receive a negative determination. We seek the requested material in order to provide our organizations and affected communities with the information necessary to make this waiver process meaningful.

I. Background

On January 27, 2017, President Trump issued Executive Order 13,769, titled "Protecting the Nation from Foreign Terrorist Entry into the United States" ("First Executive Order").¹ The First Executive Order temporarily banned entry of individuals from seven predominantly Muslim countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—and temporarily suspended the

¹ Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017).



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entire United States Refugee Admissions Program and indefinitely barred entry of Syrian refugees.²

In the wake of nationwide confusion and legal challenges to the First Executive Order, President Trump issued a new executive order with the same title on March 6, 2017 (“Second Executive Order”).³ Significantly, the Second Executive Order empowers the Commissioner of U.S. Customs and Border Protection (CBP) or his designee, with oversight from the Secretary of Homeland Security, to grant case-by-case waivers to certain individuals for whom entry into the United States would otherwise be suspended as a result of the Executive Order.⁴

II. Public Need for Information on Establishing Bona Fide Relationships and Waiver Process

On June 26, 2017, the Supreme Court narrowed the nationwide injunctions that were previously in effect against sections 2(c) and 6 of the Second Executive Order, allowing implementation of those sections against persons who do not have “a credible claim of a bona fide relationship with a person or entity in the United States.”⁵ While the Supreme Court provided a few examples of how a bona fide relationship could be established—for example through a close familial relationship, a worker who has accepted an offer of employment from an American company, or a lecturer invited to address an American audience—it is essential that additional guidance be provided about how individuals can demonstrate a bona fide relationship, and if there is any recourse in situations where the federal government concludes that a person does not have a credible claim of a bona fide relationship.

For affected individuals from the six countries who cannot establish a bona fide relationship with a United States person or entity, the waiver process set forth in section 3 of the Executive Order is now the only way to gain entry into the United States or to have their refugee applications processed. It is therefore critical for these individuals affected by the ban and for organizations that assist them to have meaningful information on how the waiver process will work. To that end, we request that you release immediate guidance explaining the precise criteria by which such requests will be adjudicated, the supporting documents applicants should enclose along with their applications, the office and contact person to whom the requests should be directed, and any appeals process available to persons whose requests are denied.

² *Id.* §§ 3(c), 5(a), (c)

³ Exec. Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017).

⁴ *Id.* § 3(c).

⁵ *Trump v. International Refugee Assistance Project*, No. 16-1436, slip op. at 12 (U.S. June 26, 2017).



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We request this information within 48 hours of your receipt of this letter and no later than the date of implementation of the Second Executive Order. Please direct your response to Sirine Shebaya via email at sirine@muslimadvocates.org or via mail at Muslim Advocates, P.O. Box 66408, Washington, DC 20035.

Sincerely,

Sirine Shebaya
Senior Staff Attorney
Muslim Advocates

Richard B. Katskee
Legal Director
Americans United for Separation of
Church and State

Gillian Gillers
Staff Attorney
Southern Poverty Law Center

Enclosure