

United States Senate

WASHINGTON, DC 20510

January 29, 2017

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

Dear Secretary Kelly,

On January 27, 2017, President Trump issued an executive order entitled “Protecting the Nation From Foreign Terrorist Entry Into the United States”. The order temporarily halts the entry of all people from at least seven Muslim-majority countries: Iran, Iraq, Syria, Sudan, Somalia, Libya and Yemen, suspends the Syrian refugee program indefinitely, and bans the admission of all refugees to the United States for four months.

In the two days since the issuance of the executive order (EO), there has been widespread confusion and distress, as well as the reported detention of legal permanent residents at many major U.S. international airports, including Dulles International Airport in Virginia. Our staffs have worked diligently throughout the weekend to render assistance to distressed families, but it is completely unacceptable that public guidance from the Department of Homeland Security (DHS) was nonexistent, incomplete, or contradictory. We are deeply concerned about the uncertainty posed by this EO, and ultimately its potential to undermine our democracy.

The President stated Friday that his EO is not intended to be a “Muslim ban” or “target Muslims,” and during your confirmation hearing you expressed commitment to protecting religious liberty. However, as issued, the EO indefinitely suspends the Syrian refugee program and pauses immigrant and nonimmigrant entry of people from Muslim-majority countries—actions that run directly counter to our American values.

To that end, we would like an immediate response to the following questions:

- (1) We request on a daily, ongoing basis a complete list of the names of individuals, and their country of origin, detained at airports in Virginia, as well as the reason for their detention and where they are being held. This list should include individuals detained and subsequently transferred to Immigration and Customs Enforcement (ICE) custody.
- (2) On January 29th, DHS issued a press release that appears to be a commitment to disobey orders of federal courts in Virginia, Massachusetts, and New York. In particular it says, it “will continue to enforce” an EO that has been expressly stayed. Will DHS honor the rulings of the Eastern District of Virginia, the Eastern District of New York, and the United States District Court for the District of Massachusetts, or will you continue to enforce an executive order that has been expressly stayed?

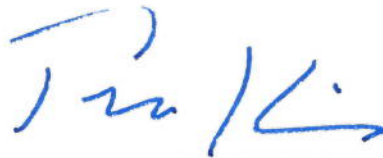
- (3) What, exactly, are the additional security checks that DHS is claiming are needed before nationals of the identified countries can enter the United States?
- (4) We have a number of specific questions about how, if the temporary restraining orders are lifted and the EO is to be enforced, certain rules and regulations would apply. We understand that DHS issued guidance to U.S. Customs and Border Protection (CBP), but we have not seen any public copies of that guidance. There are several categories of people affected:
- a. Dual nationals—CBP is applying this EO to “dual citizens” and “dual nationals.” What is DHS’ position on this? We understand that this applies to dual nationals of countries other than the United States. Can you confirm this does not apply to U.S. citizens, even those who are dual citizens of the seven countries?
 - b. Lawful permanent residents/green card holders—DHS has stated that it will refuse entry to lawful permanent residents and green card holders who are citizens of these countries. Is that correct, and on what legal basis (meeting with due process requirements) are they doing so?
 - c. Pending applicants—The EO states that the Department of State (State) should not issue immigrant visas to applicants to immigrate from abroad. How will the EO affect pending immigrant visa petitions for citizens of banned countries here in the United States eligible to adjust? If immigrant and nonimmigrant visas have already been issued, and those applicants have already gone through stringent criminal and background checks through State, will those visa applicants suffer?
 - d. Joining relatives—Will DHS and State consider people coming to join a relative already here (e.g. Syrians applying for L-2s to join an L-1 relative) differently?
 - e. Visa holders—With regard to nonimmigrant visa holders, is it the intention of DHS, State, and CBP to revoke nonimmigrant and/or immigrant visas to do an “end run” around the restraining orders?

The broadness of the EO suggests this is a policy targeting Muslims, an approach that national security experts have testified would harm, not help, our national security interests. We join the interfaith community in Virginia and around the country in objecting to these moves, and we will work in Congress to block any effort that trades dubious increases in our national security for certain alienation of partners with whom we must cooperate to address terrorism. We urge you in the strongest terms to provide immediate clarity to Congress and the American people.



Mark R. Warner
United States Senator

Sincerely,



Tim Kaine
United States Senator