

United States Senate

WASHINGTON, DC 20510

April 19, 2018

The Honorable John Sullivan
Acting Secretary of State
U.S. Department of State
2201 C St NW
Washington, DC 20520

The Honorable Kirstjen Nielsen
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, DC 20530

Dear Acting Secretary Sullivan and Secretary Nielsen:

We write to request further information on the administration's implementation of Presidential Proclamation 9645 (PP 9645), *Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats*.

Under section 4(a) of the proclamation, the President directs the Secretary of Homeland Security, in consultation with the Secretary of State and the appropriate heads of agencies, to submit a report with recommendations on changes to the proclamation, including the addition or subtraction of countries subject to travel restrictions. Section 4 further requires the Secretary of State to conduct engagements with the countries subject to travel restrictions on "information-sharing, identity-management, or risk factor deficiencies." However, the administration has provided little specificity on the baseline criteria required by the proclamation, the deficiencies of each country subject to travel restrictions under the proclamation, the engagements the administration has conducted with the countries identified in the proclamation, or the actions the identified countries have taken to come into compliance.

This lack of transparency extends to foreign nationals seeking waivers to PP 9645, as authorized under section 3(c) of the proclamation. It is our understanding that the Department of State has issued guidance to consular officers on the criteria for interpreting and implementing PP 9645, including the issuance of waivers. However, the administration has not provided to Congress any meaningful guidance on the waiver program – specifically the three criteria required for a waiver, including what constitutes the "national interest," when denying entry would cause "undue hardship," and when entry does not "pose a threat to the national security or public safety of the United States." In a February 22 letter to Senators Van Hollen and Flake on the requirements for receiving a waiver, the State Department simply referred back to the proclamation's nebulous criteria.

Finally, the administration's statements on the number of visas granted under the proclamation are incomplete and inconsistent. In a letter to Senators Van Hollen and Flake on February 22, the State Department stated it had only issued two waivers from the period of December 8 – February 15. In a *Reuters* report issued less than two weeks later, the State Department asserted it had issued "around 100 waivers." In a subsequent article by *Vice News*, the State Department said it had issued approximately 250 waivers. We understand now that the State Department has

issued about 450 waivers, but the State Department has not provided comparable statistics on the total number of applicants seeking waivers under the proclamation.

Given these concerns, we ask that you provide our offices with the following documents and information by April 30, 2018:

- The complete reports submitted by the Secretary of Homeland Security to the President every 180 days under Section 4 of PP 9645 and any similar recommendation reports submitted prior to the announcement of PP 9645
- The guidance the State Department has issued to consular officers on the implementation of the proclamation and the criteria for evaluating waivers
- The number of visa applications received and processed from countries affected by PP 9645 as of April 18, 2018, including:
 - The total number of applications for nonimmigrant and immigrant visas
 - The number of applicants refused for reasons unrelated to the proclamation
 - The number of applicants qualifying for an exception
 - The number of applicants who failed to meet the criteria for a waiver
 - The number of applicants refused under the proclamation with waiver consideration
 - The number of waivers approved

We thank you for your attention to this issue and look forward to your response.

Respectfully,



Chris Van Hollen
United States Senator



Chris Murphy
United States Senator



Richard Blumenthal
United States Senator