

Congress of the United States
Washington, DC 20515

August 5, 2019

The Honorable Kevin K. McAleenan
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, DC 20520

The Honorable Michael R. Pompeo
Secretary
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Acting Secretary McAleenan and Secretary Pompeo:

We write to request further information about the 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*.

We remain deeply concerned by the initial and ongoing impact of this extraordinary ban on U.S. citizens and residents, as well as their loved ones who remain overseas while subject to the travel ban's restrictions. We continue to have serious concerns regarding the implementation of the waiver process at the Departments of Homeland Security and State, and the role of the Bureau of Consular Affairs in this process in determining who may enter the United States, when, and under what conditions. We have identified serious issues in the implementation of the travel ban waiver regime and are exploring legislative solutions to address these issues. As the impact of the travel ban continues to affect our constituents in a seemingly haphazard manner, we write to request further clarification of its implementation, including how your Departments administer the waiver process. Please provide the following no later than August 23, 2019:

1. All documents, descriptions, guidance, workflow charts, and cables related to the waiver process under PP 9645. This includes but is not limited to 17 STATE 97682 and 17 STATE 56801, or other information available on the Department of State's Consular Affairs internal web page, including CAWeb or any other site.
2. All forms to be completed by visa applicants and Department of State officials during the waiver application and consideration process, as well as an explanation as to how these forms differ from or mirror forms for other waivers regarding criminal ineligibilities or national security concerns for those traveling to the United States.
3. All correspondence to and from the Consular Affairs Visa Office (CA/VO) in which consular officers seek direction or guidance about granting a waiver under PP 9645, including any emails to, from, or copying countries-of-concern-inquiries@state.gov from January 20, 2017 to the date of this letter.

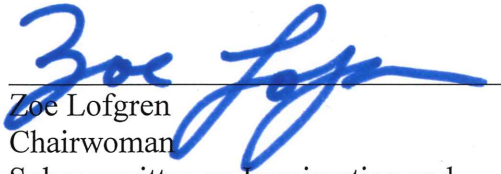
4. All “Advisory Opinions” or other guidance issued by CA/VO or any other office at the Department on the scope of the waivers under PP 9645.
5. The number of cases referred by consular officers to CA/VO, including those cases referred to countries-of-concern-inquiries@state.gov, and the number and types of decisions and/or recommendations from CA/VO on those cases, including how many of those cases have been ultimately approved for a waiver, rejected, or otherwise adjudicated.
6. The Department of State released a January 23, 2018 “Operational Question & Answer (Q&A)” document in Freedom of Information Act (FOIA) litigation – a document it declined to provide to Congress months later.¹ Please provide a full, unredacted copy of the latest Operational Q&A guidance.
7. The title and function of Departments of State and Homeland Security officials at each step of the waiver process, including what guidance consular officers are expected to provide to applicants, who that information is provided to, and what offices and officials within or outside the Departments are responsible for granting, denying, or otherwise processing requests for waivers.
8. “[T]he complete reports submitted to the President every 180 days under section 4 of Presidential Proclamation 9645,”² that Fiscal Year 2019 Department of State, Foreign Operations, and Related Programs Appropriations Act require that the Departments of State and Homeland Security provide to the appropriate congressional committees no later than May 16, 2019, but which have not been provided to date.
9. The complete report from the Department of Homeland Security to the President, entitled “20-day Report to the President on Section 2(b) of Executive Order 13780: Protecting the Nation from Foreign Terrorist Entry in the United States,” all attachments to that report, and any subsequent documents prepared by the Departments of State or Homeland

¹ [“Operational Q&As on P.P. 9645 in light of the U.S. Supreme Court orders of December 4, 2017, lifting lower court injunctions and pursuant to guidance in 17 STATE 97682.”](#) U.S. Department of State (Jan. 23, 2018). That document was posted from FOIA litigation on September 21, 2018. [FOIA Response Details Guidance on Processing of Travel Ban Waivers](#), American Immigration Lawyers Association (Sept. 21, 2018). Meanwhile, a letter from the Department to Senator Van Hollen five months later declined to turn over the very same redacted guidance that the Department had already released in FOIA litigation. [Letter from Assistant Secretary Mary Elizabeth Taylor to Senator Van Hollen](#) (Feb. 22, 2019).

² [Explanatory Statement accompanying Consolidated Appropriations Act, 2019 \(H.J. Res. 31\)](#), including the reporting requirement under the heading “Program Issues, Visa Applicants” of [Senate Report 115-282](#).

Security assessing or recommending whether to add, maintain, or remove countries from the travel ban list.

Thank you for your prompt response to this letter.



Zoe Lofgren
Chairwoman
Subcommittee on Immigration and
Citizenship
House Committee on the Judiciary



Ami Bera
Chairman
Subcommittee on Oversight and
Investigations
House Foreign Affairs Committee