

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA JAMIL HAMAMA, et al., on
behalf of themselves and all those
similarly situated,

Petitioners,

v.

REBECCA ADDUCCI, Director of the
Detroit District of Immigration and
Customs Enforcement,

Respondent.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith

Mag. Judge David R. Grand

Class Action

**MEMORANDUM OF THE CHALDEAN COMMUNITY FOUNDATION
IN SUPPORT OF PETITIONERS' MOTION FOR
HABEAS CORPUS CLASS ACTION PETITION**

ISSUES PRESENTED

1. Whether Petitioners should be removed to Iraq.

The CCF answers “No.”

2. Whether Respondent violated Petitioners’ Due Process rights by threatening removal to Iraq with knowledge of the extreme danger Petitioners would be subjected to.

The CCF answers “Yes.”

3. Whether Petitioners may seek asylum pursuant to 8 U.S.C. § 1101(a)(42)(A).

The CCF answers “Yes.”

4. Whether Petitioners are entitled to the relief afforded to non-citizens for withholding of removal and present their individual cases to the Attorney General under 8 U.S.C. § 1231(b)(3)(A).

The CCF answers “Yes.”

5. Whether Petitioners should be provided the opportunity to review the U.S. Government’s agreement with the Iraqi Government regarding the removal of Iraqi nationals and its bearing on the propriety of removal of Petitioners.

The CCF answers “Yes.”

MOST APPROPRIATE AUTHORITIES

1. *DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989)
2. *Yousig v. Lynch*, 796 F.3d 622 (6th Cir. 2015)
3. 8 U.S.C. § 1101(a)(42)(A)
4. 8 U.S.C. § 1231(b)(3)(A)

TABLE OF CONTENTS

STATEMENT OF INTEREST OF AMICUS CURIAE	1
I. INTRODUCTION.....	2
II. ARGUMENT	3
A. Petitioners Are Religious and/or Ethnic Minorities Highly Likely to Suffer Serious Harm or Death if Removed	3
1. Sectarian Violence Makes Iraq Unstable and Dangerous	3
2. Violence and Instability Has Created a Refugee Crisis That Makes Returning to Iraq Unconscionable	6
3. Chaldeans Face a Particularly High Risk of Violence and Persecution in Iraq.....	7
B. This Court Should Enforce Petitioners’ Constitutional and Statutory Rights.....	9
1. Respondent Violated Petitioners’ Rights to Due Process	10
2. This Court Should Permit Petitioners to Apply for Asylum	11
3. This Court Should Permit Petitioners to Apply for Withholding of Removal	13
C. The Court Should Provide Petitioners’ Sufficient Time and Opportunity to Investigate the U.S. Government’s Recent Agreement With the Iraqi Government.....	14
1. The U.S. Government Reversed Its General Policy Against Deporting Iraqi Nationals	14
2. The U.S.-Iraqi Agreement Did Not Eliminate the Significant Threats Faced By Petitioners	15
3. Even If Iraq Will Accept Petitioners, U.S. Law Bars Their Removal	16
III. CONCLUSION	17

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Amadou v. INS</i> , 226 F.3d 724 (6th Cir. 2000)	9
<i>Bi Qing Zheng v. Lynch</i> , 819 F.3d 287 (6th Cir. 2016)	11
<i>DeShaney v. Winnebago Cty. Dep't of Soc. Servs.</i> , 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989).....	10, 11
<i>Estelle v. Gamble</i> , 429 U.S. 97, 97 S. Ct. 285, 50 L.Ed.2d 251 (1976)	10
<i>INS v. Cardoza-Fonseca</i> , 480 U.S. 421 (1987)	12
<i>In re Jean</i> , 23 I&N Dec. 373 (2002).....	12
<i>Washington v. Trump</i> , No. 17-35105 (9th Cir. Feb. 9, 2017).....	15
<i>Youngberg v. Romeo</i> , 457 U.S. 307, 102 S.Ct. 2452, 73 L.Ed.2d 28 28 (1982)	10
<i>Yousig v. Lynch</i> , 796 F.3d 622 (6th Cir. 2015)	13

STATUTES

8 U.S.C § 1101(a)(42)(A)	11, 12
8 U.S.C. § 1231(b)(3)(A).....	9, 13
8 U.S.C. § 1158(a)(1).....	9, 12
8 U.S.C. § 1158(b)(2)(A)	12

OTHER AUTHORITIES

8 C.F.R. § 1212.7(d)	12
----------------------------	----

Amnesty International, <i>Iraq: Turning A Blind Eye. The Arming of the Popular Mobilization Units</i> (2017)	4
Amnesty International, <i>Banished and Dispossessed: Forced Displacement and Deliberate Destruction in Northern Iraq</i> (2016)	5, 6
Amnesty International, <i>Ethnic Cleansing on a Historic Scale: Islamic State's Systematic Targeting of Minorities in Northern Iraq</i> (2014).....	6, 7, 8
Amnesty International, <i>Iraq 2016/2017</i>	4
Executive Order No. 13769	14, 15
Executive Order No. 13780	15
U.S. Commission on International Religious Freedom Annual Report (2016).....	6
U.S. Commission on International Religious Freedom Annual Report (2017).....	7
U.S. Department of State Human Rights Report (2015)	5, 11
U.S. Department of State, <i>Iraq Travel Warning</i> (June 14, 2017),	4, 11

STATEMENT OF INTEREST OF AMICUS CURIAE

The Chaldean Community Foundation (“CCF”) is a nonprofit organization based in Southeast Michigan, dedicated to advancing the needs of the Chaldean-American community. The CCF provides refugees with acculturation training, mental health services, healthcare and disability assistance, language courses, immigration and naturalization services, career assistance, scholarship programs, and auto loan programs.

In 2015 alone, the CCF served more than 18,000 individuals, approximately 85% of whom are Chaldean. Demand for the CCF’s services and advocacy has dramatically increased as a result of recent domestic and international developments. In 2016, that figure rose to more than 22,000 individuals served.

The CCF works with Iraqi immigrants and refugees on a daily basis and equips them with the skills and resources necessary to overcome the trauma and persecution they faced in Iraq. The CCF therefore has a unique perspective regarding the threats and danger that Chaldeans—and other Iraqi immigrants—would face if removed to Iraq today. The CCF serves people whose stories deserve to be heard before being condemned to a place of great danger.

I. INTRODUCTION

Despite a longstanding recognition that Iraq is highly dangerous, particularly for religious and ethnic minorities, on June 11, 2017, the Immigration and Customs Enforcement (“ICE”) arrested and detained a large number of Iraqis—primarily Chaldean Iraqis—for deportation. Four days later, Petitioners initiated this action.

Petitioners’ Motion should be granted by the Court. First, the conditions in Iraq are extremely dangerous for religious and ethnic minorities. The U.S. Government itself cautions against travel to Iraq, particularly for religious and ethnic minorities. These conditions render Petitioners’ forcible removal contrary to U.S. law. Petitioners are also entitled to demonstrate whether they are eligible for one of the protections mentioned above. Not only do Petitioners’ constitutional rights bar involuntarily removal to Iraq, but they may also be eligible for asylum or withholding of removal under statutory law.

Petitioners’ Motion should also be granted so that they have adequate time and opportunity to review the United States’ recent agreement with the Iraqi government, in which the latter agreed to accept the deportation of Iraqi nationals. Petitioners’ threatened removal has nothing to do with improved country conditions, since Iraq is more dangerous than ever. Instead, Respondent is only seeking Petitioners’ removal because the Iraqi government agreed to accept them. No effort has been made to address Petitioners’ real fears of harm or death if removed.

Because there is little, if any, harm in delaying removal, Petitioners' Motion should accordingly be granted.

II. ARGUMENT

A. Petitioners Are Religious and/or Ethnic Minorities Highly Likely to Suffer Serious Harm or Death if Removed

1. Sectarian Violence Makes Iraq Unstable and Dangerous

Iraq today faces upheaval and violence, as clashing factions fight over political power and control of territory and resources, with battle lines drawn on religious and ethnic grounds.¹ From the 1980s until Saddam Hussein was overthrown in 2003, many of these divisions were buried just below the surface.² In the ensuing years, sectarian fault lines reopened,³ increasing ethnic, religious, and political violence, and introducing the terrorist organization, the Islamic State of Iraq and the Levant ("ISIL").⁴ The power-vacuum ultimately led to widespread sectarian violence between Shi'a and Sunni Muslims, with Iraqi Christians and Kurds targeted

¹ See generally Kenneth Katzman & Carla E. Hummud, Cong. Research Serv., RS21968, Iraq: Politics and Governance (2016).

² National Geographic, *What Does It Mean to Be Iraqi Anymore?*, NATIONAL GEOGRAPHIC (last visited June 17, 2017), <http://news.nationalgeographic.com/news/special-features/2014/08/140801-iraq-sunni-shiite-baghdad-caliphate-saddam-hussein-al-qaeda-infocus/>.

³ Katzman & Hummud, *supra* note 1, at 7.

⁴ *Id.* at 22. For example, while Saddam Hussein empowered Iraq's Sunni population, the Prime Minister elected in 2005, Nuri Kamal al-Maliki, favored the Shi'a population. This reversal "created division and distrust in Iraq and helped contribute to the rise of extremist groups such as ISIS."

for violence.⁵ After the U.S. withdrew from Iraq in 2011, a fragile power-sharing arrangement quickly unraveled, plunging the country into further sectarian violence.⁶ Beset by corruption, the Iraqi government has remained powerless over increasing terrorist activity and taken few (if any) steps to provide security to its people.⁷

Today, numerous terrorist and rebel groups are active in Iraq, making travel to the region remarkably dangerous. Indeed, as recently as June 14, 2017, the U.S. Department of State warned against all travel to Iraq, citing the high risk of kidnapping and terrorist violence.⁸ Attacks often occur in public places and may take the form of explosive devices placed on people or vehicles, as well as mines placed on or concealed near roads, mortars, rockets, and gunfire.⁹ “In addition to the extreme personal risks of kidnapping, injury, or death posed by such actions, legal risks include arrest, fines, and expulsion.”¹⁰ The U.S. Department of State’s

⁵ *Id.* at 33.

⁶ *Id.* at 14, 22.

⁷ See generally Amnesty International, *Iraq 2016/2017*, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iraq/report-iraq/>; Amnesty International, *Iraq: Turning A Blind Eye. The Arming of the Popular Mobilization Units* (2017), https://www.amnestyusa.org/files/iraq_report_turning_a_blind_eye.pdf.

⁸ United States Department of State, *Iraq Travel Warning* (June 14, 2017), <https://travel.state.gov/content/passports/en/alertswarnings/iraq-travel-warning.html>.

⁹ *Id.*

¹⁰ *Id.*

Human Rights Report lists numerous human rights violations occurring in Iraq, including

unlawful killings; torture and other cruel punishments; poor conditions in prison facilities; denial of fair public trials; arbitrary arrest; arbitrary interference with privacy and home; limits on freedoms of speech, assembly, and association due to sectarianism and extremist threats; lack of protection of stateless persons; wide-scale governmental corruption; human trafficking; and limited exercise of labor rights.¹¹

These violations have been perpetuated by groups including ISIL, Iraqi government security and law enforcement personnel, and Shiite militias. In sum, Iraq today is unsafe, unstable, and rife with human rights violations.

The safety and security of Iraq's Christian and other religious minority populations is of extremely significant concern.¹² As a result of the constant threat of persecution, more than three quarters of Iraq's approximately 1.5 million Christians have fled from country since 2003, with more than 30,000 moving to Michigan. The rise of ISIL in June 2014 has only exacerbated inter-community tensions and violence, and ISIL itself has carried out waves of violence against Christians, Muslims, and other religious groups.¹³ Most appallingly, in May of

¹¹ United States Department of State, *Iraq 2015 Human Rights Report* (2015), <https://www.state.gov/documents/organization/253137.pdf>.

¹² Katzman & Hummud, *supra* note 1, at 33.

¹³ See generally Amnesty International, *Banished and Dispossessed: Forced Displacement and Deliberate Destruction in Northern Iraq* (2016),

2017, Sheikh al Moussani, an official responsible for all Shi'a religious sites, declared that Iraqi Christians were infidels and called for jihad against them.¹⁴ If a government official incites the persecution of Christians *today*, it surely puts in doubt the willingness of the Iraqi government to provide religious minorities with reasonable security.

2. Violence and Instability Has Created a Refugee Crisis That Makes Returning to Iraq Unconscionable

Over three million people have been displaced by the ongoing conflict in Iraq, creating one of the highest number and fastest rate of displacements in the world.¹⁵ Most of the displaced Iraqis cannot return to their homes because their towns and villages were captured by ISIL and remain under its brutal control.¹⁶ Entire villages have been wiped off the map by ISIL's bloody reign of terror.¹⁷ Since 2014, ISIL has carried out ethnic cleansing on a historic scale in Iraq.¹⁸ In 2015, the United

https://www.amnestyusa.org/files/banished_and_dispossessed_-_forced_displacement_and_deliberate_destruction_in_northern_iraq.pdf (hereinafter, Amnesty International, *Banished and Dispossessed*); Amnesty International, *Ethnic Cleansing on a Historic Scale: Islamic State's Systematic Targeting of Minorities in Northern Iraq* (2014), https://www.es.amnesty.org/uploads/media/Iraq_ethnic_cleansing_final_formatted.pdf (hereinafter, Amnesty International, *Ethnic Cleansing on a Historic Scale*).

¹⁴ "Convert or die, says Shia leader to Iraqi Christians," THE NEW ARAB (May 16, 2017).

¹⁵ Amnesty International, *Banished and Dispossessed*, *supra* note 10, at 1.

¹⁶ *Id.*

¹⁷ *Id.* at 13.

¹⁸ See generally Amnesty International, *Ethnic Cleansing on a Historic Scale*, *supra* note 10; see also United States Commission on International Religious Freedom, 2016 Annual Report

States Commission on International Religious Freedom concluded that ISIL was committing genocide against religious minorities, including Christians, as well as committing crimes against humanity against religious and ethnic minorities.¹⁹

3. Chaldeans Face a Particularly High Risk of Violence and Persecution in Iraq

While the instability in Iraq threatens many religious and ethnic minorities, Chaldeans (also known as Assyrians or Syriac) are at particular and heightened risk of violence. As religious and ethnic minorities, Chaldeans face extreme persecution in Iraq.²⁰ Although ethnic and religious minorities such as Chaldean Christians, Assyrian Christians, Turkmen Shi'a, Shabak Shi'a, Yezidis, Kakai and Sabeen Mandaean have simultaneously lived together in some regions of Iraq for centuries, this dynamic is currently under siege.²¹ Today, the areas that are home to these minorities, such as the Nineveh province, are under ISIL-control or siege, and people who were not able to flee when ISIL seized the area remain trapped there.²²

(2016), <http://www.uscifr.gov/reports-briefs/annual-report/2016-annual-report>; United States Commission on International Religious Freedom, 2017 Annual Report (2017), <http://www.uscifr.gov/reports-briefs/annual-report/2017-annual-report>.

¹⁹ See United States Commission on International Religious Freedom, 2016 Annual Report, *supra* note 15.

²⁰ See, e.g., United States Commission on International Religious Freedom, 2016 Annual Report, *supra* note 15: "In August 2015, Iraqi Defense Minister, Khaled al-Obeidi reported that ISIL had killed 2,000 Iraqis in the largely Christian Nineveh Plains between January and August 2015, and that more than 125,000 Christians fled to the KRG for protection."

²¹ Amnesty International, *Ethnic Cleansing on a Historic Scale*, *supra* note 10, at 4.

²² *Id.*

Amnesty International has found that ISIL has systematically targeted non-Arab and non-Sunni Muslim communities, killing or abducting hundreds, or possibly thousands, and forcing more than 830,000 others to flee the areas it has captured since June 10, 2014.²³ Northern Iraqi provinces and towns from which most Chaldean Americans came are particularly dangerous. Since 2014, hundreds of men from towns and villages in this northern region were captured and shot dead in cold blood.²⁴ Amnesty International's field investigations have concluded that ISIL is systematically and deliberately carrying out a program of ethnic cleansing in the areas under its control, which include the area of origin for the majority of Chaldean Iraqis.²⁵

The CCF is intimately aware of this reality because of its work with immigrants and refugees, who have fled the very violence and persecution the Petitioners are now at risk of facing. The CCF works, for example, with Salam A.,

²³ *Id.*

²⁴ *Id.* at 8 (One witness to the mass killings described them thusly: "A white Toyota pick-up stopped by the house of my neighbour, Salah Mrad Noura, who raised a white flag to indicate they were peaceful civilians. The pick-up had some 14 IS men on the back. They took out some 30 people from my neighbour's house: men, women and children. They put the women and children, some 20 of them, on the back of another vehicle which had come, a large white Kia, and marched the men, about nine of them, to the nearby wadi [dry river bed]. There they made them kneel and shot them in the back. They were all killed; I watched from my hiding place for a long time and none of them moved. I know two of those killed: my neighbour Salah Mrad Noura, who was about 80 years old, and his son Kheiro, aged about 45 or 50.").

²⁵ *Id.*

who was tortured by terrorists for refusing to convert to Islam. His body was mutilated and badly beaten, and he was left in a dumpster to die. Fortunately, Salam somehow survived, escaped, and made it to America, where he can now practice his religion in peace. The CCF is also working with Emad T., a teacher, artist, and political cartoonist who grew up in the Christian village of Qaraqoosh, which has since been captured by ISIL. In Iraq, he faced death threats for his cartoons and feared that his children would be orphaned. The CCF is personally assisting Sameerah A., her husband, and their six children, who fled Mosul after it was captured by ISIL and plunged into violence and terror. These are but three refugees from a veritable stream of people who have fled their own destruction. Forcibly removing the Petitioners to Iraq, and into a cauldron of violence and terror, would be unconscionable, and for many, invite their deaths.

B. This Court Should Enforce Petitioners' Constitutional and Statutory Rights

The U.S. Constitution entitles non-citizens living in the United States to due process of law. *Amadou v. INS*, 226 F.3d 724, 726-27 (6th Cir. 2000). Accordingly, a non-citizen threatened with removal from the United States deserves a full and fair hearing. *Id.* U.S. statutory law provides additional protection to two categories of non-citizens: refugees and likely victims of torture. If threatened with removal from the United States, a refugee may apply for asylum under 8 U.S.C. § 1158(a)(1), or alternatively, for withholding of removal under 8 U.S.C. § 1231(b)(3)(A).

1. Respondent Violated Petitioners' Rights to Due Process

Respondent violated Petitioners' due process rights by threatening them with removal to an extremely dangerous country against their will. In *DeShaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989), the United States Supreme Court found that, "in certain limited circumstances the Constitution imposes upon the State affirmative duties of care and protection with respect to particular individuals." *Id.* at 198. The Supreme Court found that the government was required to prohibit cruel and unusual punishment when the relevant parties were deprived of their liberty of self-care. *See, e.g., Estelle v. Gamble*, 429 U.S. 97, 97 S. Ct. 285, 50 L.Ed.2d 251 (1976); *Youngberg v. Romeo*, 457 U.S. 307, 102 S.Ct. 2452, 73 L.Ed.2d 28 28 (1982). Indeed, "when the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—*e.g.*, food, clothing, shelter, medical care, and *reasonable safety*—it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause." *DeShaney*, 489 U.S. at 200 (emphasis added). "The affirmative duty to protect arises not from the State's knowledge of the individual's predicament or from its expressions of intent to help him, but from the limitation which it has imposed on his freedom to act on his own behalf." *Id.*

By threatening Petitioners with involuntary removal to Iraq under the country's current conditions, Respondent has denied Petitioners' basic due process rights. The U.S. Department of State warns against traveling to Iraq, which it defines as "very dangerous."²⁶ And, as noted, the Department of State's Human Rights Report has documented the unlawful killings, torture, and daily threats of extremist violence that Petitioners would certainly face—without receiving any protections from the Iraqi government.²⁷ There is certainly no difference between the dangers

Petitioners would face in Iraq and those identified by the *DeShaney* Court. Petitioners pose no threat to the United States. Instead, Respondent has threatened Petitioners' life and liberty by forcing their removal to a highly dangerous country.

The Court should adhere to *DeShaney*'s holding and deny Petitioners' removal as a violation of their fundamental rights to due process.

2. This Court Should Permit Petitioners to Apply for Asylum

U.S. law entitles refugees to seek asylum, defined by 8 U.S.C. § 1101(a)(42)(A). An asylum applicant must establish both subjective and objective fear of persecution in her country of origin. *Bi Qing Zheng v. Lynch*, 819 F.3d 287 (6th Cir. 2016). Fear of persecution is objectively reasonable if the applicant

²⁶ United States Department of State, *Iraq Travel Warning* (June 14, 2017), <https://travel.state.gov/content/passports/en/alertswarnings/iraq-travel-warning.html>.

²⁷ United States Department of State, *Iraq 2015 Human Rights Report* (2015), <https://www.state.gov/documents/organization/253137.pdf>.

establishes at least a ten percent chance that she will be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion in her country of origin. *See INS v. Cardoza-Fonseca*, 480 U.S. 421, 439–40 (1987). Exceptions to asylum eligibility may be overcome with proof that deportation would burden the refugee (or her family) with extremely unusual hardship.²⁸ 8 C.F.R. § 1212.7(d); *In re Jean*, 23 I&N Dec. 373, 385 (2002) (weighing purported hardship to the applicant against the nature of crimes committed or dangers posed by the applicant).

It is indisputable that many Petitioners are refugees within the meaning of 8 U.S.C. § 1101(a)(42)(A), and may seek asylum. The Court should permit Petitioners to assert their well-founded fears of future persecution and grave danger in Iraq. Even if Petitioners committed serious crimes that might bar relief under 8 U.S.C. § 1158(b)(2)(A), Petitioners have a right to produce evidence that deportation would burden them (or their families) with extremely unusual hardship. Petitioners have established deep roots in Southeastern Michigan, paid taxes, and served their communities. In addition, many are the sole source of income and support for their

²⁸ If the Immigration Judge finds that an alien, having been convicted of a particularly serious crime, is a danger to the United States, or if there are reasonable grounds for regarding the alien as a danger to the security of the United States, the Judge should not extend relief to the asylum applicant. 8 U.S.C. § 1158(a)(1). “Serious crimes” include aggravated felonies for which an alien serves at least five years in prison.

Michigan families. This Court should accordingly permit Petitioners to seek appropriate relief.

3. This Court Should Permit Petitioners to Apply for Withholding of Removal

U.S. law also affords non-discretionary relief to non-citizens for withholding of removal when they establish a “clear probability” of persecution. Indeed, “the Attorney General may not remove an alien if he decides that the alien’s life or freedom would be threatened in that country because of the alien’s race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A). Although the Attorney General may nevertheless order the removal of an alien who has “been convicted by a final judgment of a particularly serious crime [deemed] a danger to the community of the United States,” *id.* at § 1231(b)(3)(B)(ii), the Attorney General has the discretion to withhold removal based on the circumstances of each individual. Petitioners surely must be given the opportunity to seek the exercise of the Attorney General’s discretion.

The Sixth Circuit has held that, based on country conditions in Iraq, the “status as a Christian alone entitles a [non-immigrant alien] to withholding of removal, given that there is ‘a clear probability’ that he would be subject to future persecution if returned to contemporary Iraq.” *See Yousig v. Lynch*, 796 F.3d 622, 628 (6th Cir. 2015). Although Petitioners are not all Christians, each of them faces certain and extreme dangers to their life and liberty, should Respondent remove them to Iraq.

Petitioners therefore deserve the opportunity to present their case before the Attorney General, so that the Attorney General can exercise his discretion.

C. The Court Should Provide Petitioners Sufficient Time and Opportunity to Investigate the U.S. Government's Recent Agreement With the Iraqi Government

1. The U.S. Government Reversed Its General Policy Against Deporting Iraqi Nationals

Respondent has instituted a sudden policy change by threatening Petitioners with removal; indeed, many have lived peacefully in this country for decades. Respondent is now attempting to deport Petitioners because the Iraqi Government has agreed to accept them. The underlying facts to this sudden reversal in policy are relevant to Petitioners' present Motion, which touches on their fundamental rights to life and security.

On January 27, 2017, President Trump signed Executive Order No. 13769 ("EO-1"), titled "Protecting the Nation From Foreign Terrorist Entry Into the United States." (*See* Ex. A.) EO-1 consisted of several substantial changes to the United States' immigration policy. First, it blocked for a period of 90 days the entry into the United States of any person from seven countries: Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. (*See* Ex. A at Section 3(c).) EO-1 also suspended the U.S. Refugee Admissions Program ("USRAP") for 120 days and limited the total number of refugees for fiscal year 2017 to 50,000. (*Id.* at Sections 5(a), 5(d).)

Following legal challenges before the Ninth Circuit, *see, e.g. Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 9, 2017), President Trump signed a second Executive Order No. 13780 (“EO-2”) on March 6, 2017. (*See* Ex. B.) EO-2 made several changes to the original text of EO-1. Most importantly for the present dispute, Iraq was removed from the list of countries from which nationals will not be admitted to the United States. EO-2 provided that Iraq presented a “special case” justifying its removal from the list of prohibited countries in EO-2. Statements by U.S. government officials confirmed that Iraq was removed from the banned country list in EO-2 because of Iraq’s agreement to accept the return of Iraqi nationals—*not* because country conditions in Iraq had improved. *See, e.g.*, Exs. C; D (“Iraq has agreed to the timely return and repatriation of its nationals who are subject to final orders of removal. That is a very, very important provision.”).

2. The U.S.-Iraqi Agreement Did Not Eliminate the Significant Threats Faced By Petitioners

The negotiations and subsequent U.S.-Iraq Agreement reflected in EO-2 show the true justification for the Government’s sudden reversal of its prior policy not to enforce Orders of Removal against Petitioners. And, while the Government is certainly within its rights to seek immigration agreements with foreign governments, the quid pro quo in the present case shows that the present Orders of Removal are not being enforced on the basis that country conditions in Iraq are now sufficiently safe, such that deporting them would not violate the law. Indeed, nothing in the quid

pro quo agreement negates Petitioners' central contention here: that deporting them to Iraq would place them in immediate threat of serious harm or death.

Petitioners should be permitted to explore what, if any, protections the Iraqi government would provide to deportees upon their arrival in the country, including what travel documents they may be provided with and what other safety measures will be available. This information is highly relevant to Petitioners' pending or forthcoming claims for asylum and/or withholding from removal because it directly impacts Petitioners' ability to show that, notwithstanding whatever safety measures the Iraqi government has agreed to provide, they are not adequate to overcome existing conditions in Iraq.

3. Even If Iraq Will Accept Petitioners, U.S. Law Bars Their Removal

Although Iraq has allowed the United States to deport Iraqi nationals, U.S. law nevertheless forbids their removal. Indeed, Respondent cannot remove Petitioners from the safety they currently have in the United States and place them in a dangerous, war-torn country, where their life and liberty will be at risk. Respondent has violated Petitioners' due process rights and refused to provide Petitioners with the rights they are constitutionally and statutorily provided. The Court should accordingly grant Petitioners' Motion so that they can review the terms of the U.S.-Iraq Agreement and have the opportunity to challenge their sufficiency to overcome the severe dangers Petitioners will face if forcibly removed.

III. CONCLUSION

For the reasons stated herein, the Chaldean Community Foundation respectfully requests that this Court grant Petitioners' Motion.

Dated: June 22, 2017

Respectfully Submitted,

/s/ Carl M. Levin

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on the attorneys of record in this matter by efileing on June 22, 2017.

The statement above is true to the best of my knowledge, information and belief.

/s/ Carl M. Levin
Carl M. Levin

24961096.1

INDEX OF EXHIBITS

- A. Executive Order 13769
- B. Executive Order 13780
- C. 6/12/17 Reuters Article
- D. 3/7/17 Washington Times Article

EXHIBIT A

Administration of Donald J. Trump, 2017

Executive Order 13769—Protecting the Nation From Foreign Terrorist Entry Into the United States

January 27, 2017

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, and section 301 of title 3, United States Code, and to protect the American people from terrorist attacks by foreign nationals admitted to the United States, it is hereby ordered as follows:

Section 1. Purpose. The visa-issuance process plays a crucial role in detecting individuals with terrorist ties and stopping them from entering the United States. Perhaps in no instance was that more apparent than the terrorist attacks of September 11, 2001, when State Department policy prevented consular officers from properly scrutinizing the visa applications of several of the 19 foreign nationals who went on to murder nearly 3,000 Americans. And while the visa-issuance process was reviewed and amended after the September 11 attacks to better detect would-be terrorists from receiving visas, these measures did not stop attacks by foreign nationals who were admitted to the United States.

Numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001, including foreign nationals who entered the United States after receiving visitor, student, or employment visas, or who entered through the United States refugee resettlement program. Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter the United States. The United States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.

In order to protect Americans, the United States must ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles. The United States cannot, and should not, admit those who do not support the Constitution, or those who would place violent ideologies over American law. In addition, the United States should not admit those who engage in acts of bigotry or hatred (including "honor" killings, other forms of violence against women, or the persecution of those who practice religions different from their own) or those who would oppress Americans of any race, gender, or sexual orientation.

Sec. 2. Policy. It is the policy of the United States to protect its citizens from foreign nationals who intend to commit terrorist attacks in the United States; and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

Sec. 3. Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern. (a) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall immediately conduct a review to determine the information needed from any country to adjudicate any visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat.

(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall submit to the President a report on the results of the review described in subsection (a) of this section, including the Secretary of Homeland Security's determination of the information needed for adjudications and a list of countries that do not provide adequate information, within 30 days of the date of this order. The Secretary of Homeland Security shall provide a copy of the report to the Secretary of State and the Director of National Intelligence.

(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).

(d) Immediately upon receipt of the report described in subsection (b) of this section regarding the information needed for adjudications, the Secretary of State shall request all foreign governments that do not supply such information to start providing such information regarding their nationals within 60 days of notification.

(e) After the 60-day period described in subsection (d) of this section expires, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the President a list of countries recommended for inclusion on a Presidential proclamation that would prohibit the entry of foreign nationals (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas) from countries that do not provide the information requested pursuant to subsection (d) of this section until compliance occurs.

(f) At any point after submitting the list described in subsection (e) of this section, the Secretary of State or the Secretary of Homeland Security may submit to the President the names of any additional countries recommended for similar treatment.

(g) Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.

(h) The Secretaries of State and Homeland Security shall submit to the President a joint report on the progress in implementing this order within 30 days of the date of this order, a second report within 60 days of the date of this order, a third report within 90 days of the date of this order, and a fourth report within 120 days of the date of this order.

Sec. 4. Implementing Uniform Screening Standards for All Immigration Programs. (a) The Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall implement a program, as part of the adjudication process for immigration benefits, to identify individuals seeking to enter the

United States on a fraudulent basis with the intent to cause harm, or who are at risk of causing harm subsequent to their admission. This program will include the development of a uniform screening standard and procedure, such as in-person interviews; a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that the applicant is who the applicant claims to be; a process to evaluate the applicant's likelihood of becoming a positively contributing member of society and the applicant's ability to make contributions to the national interest; and a mechanism to assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the United States.

(b) The Secretary of Homeland Security, in conjunction with the Secretary of State, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation, shall submit to the President an initial report on the progress of this directive within 60 days of the date of this order, a second report within 100 days of the date of this order, and a third report within 200 days of the date of this order.

Sec. 5. Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017. (a) The Secretary of State shall suspend the U.S. Refugee Admissions Program (USRAP) for 120 days. During the 120-day period, the Secretary of State, in conjunction with the Secretary of Homeland Security and in consultation with the Director of National Intelligence, shall review the USRAP application and adjudication process to determine what additional procedures should be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States, and shall implement such additional procedures. Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures. Upon the date that is 120 days after the date of this order, the Secretary of State shall resume USRAP admissions only for nationals of countries for which the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence have jointly determined that such additional procedures are adequate to ensure the security and welfare of the United States.

(b) Upon the resumption of USRAP admissions, the Secretary of State, in consultation with the Secretary of Homeland Security, is further directed to make changes, to the extent permitted by law, to prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality. Where necessary and appropriate, the Secretaries of State and Homeland Security shall recommend legislation to the President that would assist with such prioritization.

(c) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of nationals of Syria as refugees is detrimental to the interests of the United States and thus suspend any such entry until such time as I have determined that sufficient changes have been made to the USRAP to ensure that admission of Syrian refugees is consistent with the national interest.

(d) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States, and thus suspend any such entry until such time as I determine that additional admissions would be in the national interest.

(e) Notwithstanding the temporary suspension imposed pursuant to subsection (a) of this section, the Secretaries of State and Homeland Security may jointly determine to admit

individuals to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the admission of such individuals as refugees is in the national interest—including when the person is a religious minority in his country of nationality facing religious persecution, when admitting the person would enable the United States to conform its conduct to a preexisting international agreement, or when the person is already in transit and denying admission would cause undue hardship—and it would not pose a risk to the security or welfare of the United States.

(f) The Secretary of State shall submit to the President an initial report on the progress of the directive in subsection (b) of this section regarding prioritization of claims made by individuals on the basis of religious-based persecution within 100 days of the date of this order and shall submit a second report within 200 days of the date of this order.

(g) It is the policy of the executive branch that, to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees. To that end, the Secretary of Homeland Security shall examine existing law to determine the extent to which, consistent with applicable law, State and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions, and shall devise a proposal to lawfully promote such involvement.

Sec. 6. Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility. The Secretaries of State and Homeland Security shall, in consultation with the Attorney General, consider rescinding the exercises of authority in section 212 of the INA, 8 U.S.C. 1182, relating to the terrorism grounds of inadmissibility, as well as any related implementing memoranda.

Sec. 7. Expedited Completion of the Biometric Entry-Exit Tracking System. (a) The Secretary of Homeland Security shall expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

(b) The Secretary of Homeland Security shall submit to the President periodic reports on the progress of the directive contained in subsection (a) of this section. The initial report shall be submitted within 100 days of the date of this order, a second report shall be submitted within 200 days of the date of this order, and a third report shall be submitted within 365 days of the date of this order. Further, the Secretary shall submit a report every 180 days thereafter until the system is fully deployed and operational.

Sec. 8. Visa Interview Security. (a) The Secretary of State shall immediately suspend the Visa Interview Waiver Program and ensure compliance with section 222 of the INA, 8 U.S.C. 1202, which requires that all individuals seeking a nonimmigrant visa undergo an in-person interview, subject to specific statutory exceptions.

(b) To the extent permitted by law and subject to the availability of appropriations, the Secretary of State shall immediately expand the Consular Fellows Program, including by substantially increasing the number of Fellows, lengthening or making permanent the period of service, and making language training at the Foreign Service Institute available to Fellows for assignment to posts outside of their area of core linguistic ability, to ensure that non-immigrant visa-interview wait times are not unduly affected.

Sec. 9. Visa Validity Reciprocity. The Secretary of State shall review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal insofar as practicable with respect to validity period and fees, as required by sections 221(c) and 281 of the INA, 8 U.S.C. 1201(c) and 1351, and other treatment. If a country does not treat United States nationals seeking nonimmigrant visas in a reciprocal manner, the Secretary of State shall adjust the visa validity period, fee schedule, or other treatment to match the treatment of United States nationals by the foreign country, to the extent practicable.

Sec. 10. Transparency and Data Collection. (a) To be more transparent with the American people, and to more effectively implement policies and practices that serve the national interest, the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent with applicable law and national security, collect and make publicly available within 180 days, and every 180 days thereafter:

- (i) information regarding the number of foreign nationals in the United States who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; or removed from the United States based on terrorism-related activity, affiliation, or material support to a terrorism-related organization, or any other national security reasons since the date of this order or the last reporting period, whichever is later;
- (ii) information regarding the number of foreign nationals in the United States who have been radicalized after entry into the United States and engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States, since the date of this order or the last reporting period, whichever is later; and
- (iii) information regarding the number and types of acts of gender-based violence against women, including honor killings, in the United States by foreign nationals, since the date of this order or the last reporting period, whichever is later; and
- (iv) any other information relevant to public safety and security as determined by the Secretary of Homeland Security and the Attorney General, including information on the immigration status of foreign nationals charged with major offenses.

(b) The Secretary of State shall, within one year of the date of this order, provide a report on the estimated long-term costs of the USRAP at the Federal, State, and local levels.

Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

The White House,
January 27, 2017.

[Filed with the Office of the Federal Register, 11:15 a.m., January 31, 2017]

NOTE: This Executive order was published in the *Federal Register* on February 1.

Categories: Executive Orders : Foreign terrorist entry into the U.S., protection efforts.

Subjects: Terrorism : Counterterrorism efforts.

DCPD Number: DCPD201700076.

EXHIBIT B

Administration of Donald J. Trump, 2017

Executive Order 13780—Protecting the Nation From Foreign Terrorist Entry Into the United States

March 6, 2017

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, and section 301 of title 3, United States Code, and to protect the Nation from terrorist activities by foreign nationals admitted to the United States, it is hereby ordered as follows:

Section 1. Policy and Purpose. (a) It is the policy of the United States to protect its citizens from terrorist attacks, including those committed by foreign nationals. The screening and vetting protocols and procedures associated with the visa-issuance process and the United States Refugee Admissions Program (USRAP) play a crucial role in detecting foreign nationals who may commit, aid, or support acts of terrorism and in preventing those individuals from entering the United States. It is therefore the policy of the United States to improve the screening and vetting protocols and procedures associated with the visa-issuance process and the USRAP.

(b) On January 27, 2017, to implement this policy, I issued Executive Order 13769 (Protecting the Nation from Foreign Terrorist Entry into the United States).

(i) Among other actions, Executive Order 13769 suspended for 90 days the entry of certain aliens from seven countries: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. These are countries that had already been identified as presenting heightened concerns about terrorism and travel to the United States. Specifically, the suspension applied to countries referred to in, or designated under, section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), in which Congress restricted use of the Visa Waiver Program for nationals of, and aliens recently present in, (A) Iraq or Syria, (B) any country designated by the Secretary of State as a state sponsor of terrorism (currently Iran, Syria, and Sudan), and (C) any other country designated as a country of concern by the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence. In 2016, the Secretary of Homeland Security designated Libya, Somalia, and Yemen as additional countries of concern for travel purposes, based on consideration of three statutory factors related to terrorism and national security: "(I) whether the presence of an alien in the country or area increases the likelihood that the alien is a credible threat to the national security of the United States; (II) whether a foreign terrorist organization has a significant presence in the country or area; and (III) whether the country or area is a safe haven for terrorists." 8 U.S.C. 1187(a)(12)(D)(ii). Additionally, Members of Congress have expressed concerns about screening and vetting procedures following recent terrorist attacks in this country and in Europe.

(ii) In ordering the temporary suspension of entry described in subsection (b)(i) of this section, I exercised my authority under Article II of the Constitution and under section 212(f) of the INA, which provides in relevant part: "Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate." 8 U.S.C. 1182(f). Under these authorities, I determined that, for a brief period of 90 days, while existing screening and vetting procedures were

under review, the entry into the United States of certain aliens from the seven identified countries—each afflicted by terrorism in a manner that compromised the ability of the United States to rely on normal decision-making procedures about travel to the United States—would be detrimental to the interests of the United States. Nonetheless, I permitted the Secretary of State and the Secretary of Homeland Security to grant case-by-case waivers when they determined that it was in the national interest to do so.

(iii) Executive Order 13769 also suspended the USRAP for 120 days. Terrorist groups have sought to infiltrate several nations through refugee programs. Accordingly, I temporarily suspended the USRAP pending a review of our procedures for screening and vetting refugees. Nonetheless, I permitted the Secretary of State and the Secretary of Homeland Security to jointly grant case-by-case waivers when they determined that it was in the national interest to do so.

(iv) Executive Order 13769 did not provide a basis for discriminating for or against members of any particular religion. While that order allowed for prioritization of refugee claims from members of persecuted religious minority groups, that priority applied to refugees from every nation, including those in which Islam is a minority religion, and it applied to minority sects within a religion. That order was not motivated by animus toward any religion, but was instead intended to protect the ability of religious minorities—whoever they are and wherever they reside—to avail themselves of the USRAP in light of their particular challenges and circumstances.

(c) The implementation of Executive Order 13769 has been delayed by litigation. Most significantly, enforcement of critical provisions of that order has been temporarily halted by court orders that apply nationwide and extend even to foreign nationals with no prior or substantial connection to the United States. On February 9, 2017, the United States Court of Appeals for the Ninth Circuit declined to stay or narrow one such order pending the outcome of further judicial proceedings, while noting that the "political branches are far better equipped to make appropriate distinctions" about who should be covered by a suspension of entry or of refugee admissions.

(d) Nationals from the countries previously identified under section 217(a)(12) of the INA warrant additional scrutiny in connection with our immigration policies because the conditions in these countries present heightened threats. Each of these countries is a state sponsor of terrorism, has been significantly compromised by terrorist organizations, or contains active conflict zones. Any of these circumstances diminishes the foreign government's willingness or ability to share or validate important information about individuals seeking to travel to the United States. Moreover, the significant presence in each of these countries of terrorist organizations, their members, and others exposed to those organizations increases the chance that conditions will be exploited to enable terrorist operatives or sympathizers to travel to the United States. Finally, once foreign nationals from these countries are admitted to the United States, it is often difficult to remove them, because many of these countries typically delay issuing, or refuse to issue, travel documents.

(e) The following are brief descriptions, taken in part from the Department of State's *Country Reports on Terrorism 2015* (June 2016), of some of the conditions in six of the previously designated countries that demonstrate why their nationals continue to present heightened risks to the security of the United States:

(i) *Iran*. Iran has been designated as a state sponsor of terrorism since 1984 and continues to support various terrorist groups, including Hizballah, Hamas, and terrorist groups in Iraq. Iran has also been linked to support for al-Qa'ida and has permitted al-Qa'ida to transport funds and fighters through Iran to Syria and South Asia. Iran does not cooperate with the United States in counterterrorism efforts.

(ii) *Libya*. Libya is an active combat zone, with hostilities between the internationally recognized government and its rivals. In many parts of the country, security and law enforcement functions are provided by armed militias rather than state institutions. Violent extremist groups, including the Islamic State of Iraq and Syria (ISIS), have exploited these conditions to expand their presence in the country. The Libyan government provides some cooperation with the United States' counterterrorism efforts, but it is unable to secure thousands of miles of its land and maritime borders, enabling the illicit flow of weapons, migrants, and foreign terrorist fighters. The United States Embassy in Libya suspended its operations in 2014.

(iii) *Somalia*. Portions of Somalia have been terrorist safe havens. Al-Shabaab, an al-Qa'ida-affiliated terrorist group, has operated in the country for years and continues to plan and mount operations within Somalia and in neighboring countries. Somalia has porous borders, and most countries do not recognize Somali identity documents. The Somali government cooperates with the United States in some counterterrorism operations but does not have the capacity to sustain military pressure on or to investigate suspected terrorists.

(iv) *Sudan*. Sudan has been designated as a state sponsor of terrorism since 1993 because of its support for international terrorist groups, including Hizballah and Hamas. Historically, Sudan provided safe havens for al-Qa'ida and other terrorist groups to meet and train. Although Sudan's support to al-Qa'ida has ceased and it provides some cooperation with the United States' counterterrorism efforts, elements of core al-Qa'ida and ISIS-linked terrorist groups remain active in the country.

(v) *Syria*. Syria has been designated as a state sponsor of terrorism since 1979. The Syrian government is engaged in an ongoing military conflict against ISIS and others for control of portions of the country. At the same time, Syria continues to support other terrorist groups. It has allowed or encouraged extremists to pass through its territory to enter Iraq. ISIS continues to attract foreign fighters to Syria and to use its base in Syria to plot or encourage attacks around the globe, including in the United States. The United States Embassy in Syria suspended its operations in 2012. Syria does not cooperate with the United States' counterterrorism efforts.

(vi) *Yemen*. Yemen is the site of an ongoing conflict between the incumbent government and the Houthi-led opposition. Both ISIS and a second group, al-Qa'ida in the Arabian Peninsula (AQAP), have exploited this conflict to expand their presence in Yemen and to carry out hundreds of attacks. Weapons and other materials smuggled across Yemen's porous borders are used to finance AQAP and other terrorist activities. In 2015, the United States Embassy in Yemen suspended its operations, and embassy staff were relocated out of the country. Yemen has been supportive of, but has not been able to cooperate fully with, the United States in counterterrorism efforts.

(f) In light of the conditions in these six countries, until the assessment of current screening and vetting procedures required by section 2 of this order is completed, the risk of erroneously permitting entry of a national of one of these countries who intends to commit terrorist acts or otherwise harm the national security of the United States is unacceptably high. Accordingly, while that assessment is ongoing, I am imposing a temporary pause on the entry of nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen, subject to categorical exceptions and case-by-case waivers, as described in section 3 of this order.

(g) Iraq presents a special case. Portions of Iraq remain active combat zones. Since 2014, ISIS has had dominant influence over significant territory in northern and central Iraq. Although that influence has been significantly reduced due to the efforts and sacrifices of the Iraqi

government and armed forces, working along with a United States-led coalition, the ongoing conflict has impacted the Iraqi government's capacity to secure its borders and to identify fraudulent travel documents. Nevertheless, the close cooperative relationship between the United States and the democratically elected Iraqi government, the strong United States diplomatic presence in Iraq, the significant presence of United States forces in Iraq, and Iraq's commitment to combat ISIS justify different treatment for Iraq. In particular, those Iraqi government forces that have fought to regain more than half of the territory previously dominated by ISIS have shown steadfast determination and earned enduring respect as they battle an armed group that is the common enemy of Iraq and the United States. In addition, since Executive Order 13769 was issued, the Iraqi government has expressly undertaken steps to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal. Decisions about issuance of visas or granting admission to Iraqi nationals should be subjected to additional scrutiny to determine if applicants have connections with ISIS or other terrorist organizations, or otherwise pose a risk to either national security or public safety.

(h) Recent history shows that some of those who have entered the United States through our immigration system have proved to be threats to our national security. Since 2001, hundreds of persons born abroad have been convicted of terrorism-related crimes in the United States. They have included not just persons who came here legally on visas but also individuals who first entered the country as refugees. For example, in January 2013, two Iraqi nationals admitted to the United States as refugees in 2009 were sentenced to 40 years and to life in prison, respectively, for multiple terrorism-related offenses. And in October 2014, a native of Somalia who had been brought to the United States as a child refugee and later became a naturalized United States citizen was sentenced to 30 years in prison for attempting to use a weapon of mass destruction as part of a plot to detonate a bomb at a crowded Christmas-tree-lighting ceremony in Portland, Oregon. The Attorney General has reported to me that more than 300 persons who entered the United States as refugees are currently the subjects of counterterrorism investigations by the Federal Bureau of Investigation.

(i) Given the foregoing, the entry into the United States of foreign nationals who may commit, aid, or support acts of terrorism remains a matter of grave concern. In light of the Ninth Circuit's observation that the political branches are better suited to determine the appropriate scope of any suspensions than are the courts, and in order to avoid spending additional time pursuing litigation, I am revoking Executive Order 13769 and replacing it with this order, which expressly excludes from the suspensions categories of aliens that have prompted judicial concerns and which clarifies or refines the approach to certain other issues or categories of affected aliens.

Sec. 2. Temporary Suspension of Entry for Nationals of Countries of Particular Concern During Review Period. (a) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall conduct a worldwide review to identify whether, and if so what, additional information will be needed from each foreign country to adjudicate an application by a national of that country for a visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual is not a security or public-safety threat. The Secretary of Homeland Security may conclude that certain information is needed from particular countries even if it is not needed from every country.

(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall submit to the President a report on the results of the worldwide review described in subsection (a) of this section, including the Secretary of Homeland Security's determination of the information needed from each country for adjudications and a list of countries that do not provide adequate information, within 20 days of the effective date of this order. The Secretary of Homeland Security shall provide a copy of the report to the Secretary of State, the Attorney General, and the Director of National Intelligence.

(c) To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening and vetting of foreign nationals, to ensure that adequate standards are established to prevent infiltration by foreign terrorists, and in light of the national security concerns referenced in section 1 of this order, I hereby proclaim, pursuant to sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), that the unrestricted entry into the United States of nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen would be detrimental to the interests of the United States. I therefore direct that the entry into the United States of nationals of those six countries be suspended for 90 days from the effective date of this order, subject to the limitations, waivers, and exceptions set forth in sections 3 and 12 of this order.

(d) Upon submission of the report described in subsection (b) of this section regarding the information needed from each country for adjudications, the Secretary of State shall request that all foreign governments that do not supply such information regarding their nationals begin providing it within 50 days of notification.

(e) After the period described in subsection (d) of this section expires, the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, shall submit to the President a list of countries recommended for inclusion in a Presidential proclamation that would prohibit the entry of appropriate categories of foreign nationals of countries that have not provided the information requested until they do so or until the Secretary of Homeland Security certifies that the country has an adequate plan to do so, or has adequately shared information through other means. The Secretary of State, the Attorney General, or the Secretary of Homeland Security may also submit to the President the names of additional countries for which any of them recommends other lawful restrictions or limitations deemed necessary for the security or welfare of the United States.

(f) At any point after the submission of the list described in subsection (e) of this section, the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, may submit to the President the names of any additional countries recommended for similar treatment, as well as the names of any countries that they recommend should be removed from the scope of a proclamation described in subsection (e) of this section.

(g) The Secretary of State and the Secretary of Homeland Security shall submit to the President a joint report on the progress in implementing this order within 60 days of the effective date of this order, a second report within 90 days of the effective date of this order, a third report within 120 days of the effective date of this order, and a fourth report within 150 days of the effective date of this order.

Sec. 3. Scope and Implementation of Suspension.

(a) *Scope.* Subject to the exceptions set forth in subsection (b) of this section and any waiver under subsection (c) of this section, the suspension of entry pursuant to section 2 of this order shall apply only to foreign nationals of the designated countries who:

- (i) are outside the United States on the effective date of this order;
- (ii) did not have a valid visa at 5:00 p.m., eastern standard time on January 27, 2017; and
- (iii) do not have a valid visa on the effective date of this order.

(b) *Exceptions.* The suspension of entry pursuant to section 2 of this order shall not apply to:

- (i) any lawful permanent resident of the United States;

- (ii) any foreign national who is admitted to or paroled into the United States on or after the effective date of this order;
- (iii) any foreign national who has a document other than a visa, valid on the effective date of this order or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as an advance parole document;
- (iv) any dual national of a country designated under section 2 of this order when the individual is traveling on a passport issued by a non-designated country;
- (v) any foreign national traveling on a diplomatic or diplomatic-type visa, North Atlantic Treaty Organization visa, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, or G-4 visa; or
- (vi) any foreign national who has been granted asylum; any refugee who has already been admitted to the United States; or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

(c) *Waivers*. Notwithstanding the suspension of entry pursuant to section 2 of this order, a consular officer, or, as appropriate, the Commissioner, U.S. Customs and Border Protection (CBP), or the Commissioner's delegate, may, in the consular officer's or the CBP official's discretion, decide on a case-by-case basis to authorize the issuance of a visa to, or to permit the entry of, a foreign national for whom entry is otherwise suspended if the foreign national has demonstrated to the officer's satisfaction that denying entry during the suspension period would cause undue hardship, and that his or her entry would not pose a threat to national security and would be in the national interest. Unless otherwise specified by the Secretary of Homeland Security, any waiver issued by a consular officer as part of the visa issuance process will be effective both for the issuance of a visa and any subsequent entry on that visa, but will leave all other requirements for admission or entry unchanged. Case-by-case waivers could be appropriate in circumstances such as the following:

- (i) the foreign national has previously been admitted to the United States for a continuous period of work, study, or other long-term activity, is outside the United States on the effective date of this order, seeks to reenter the United States to resume that activity, and the denial of reentry during the suspension period would impair that activity;
- (ii) the foreign national has previously established significant contacts with the United States but is outside the United States on the effective date of this order for work, study, or other lawful activity;
- (iii) the foreign national seeks to enter the United States for significant business or professional obligations and the denial of entry during the suspension period would impair those obligations;
- (iv) the foreign national seeks to enter the United States to visit or reside with a close family member (e.g., a spouse, child, or parent) who is a United States citizen, lawful permanent resident, or alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry during the suspension period would cause undue hardship;
- (v) the foreign national is an infant, a young child or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case;
- (vi) the foreign national has been employed by, or on behalf of, the United States Government (or is an eligible dependent of such an employee) and the employee can

document that he or she has provided faithful and valuable service to the United States Government;

(vii) the foreign national is traveling for purposes related to an international organization designated under the International Organizations Immunities Act (IOIA), 22 U.S.C. 288 *et seq.*, traveling for purposes of conducting meetings or business with the United States Government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;

(viii) the foreign national is a landed Canadian immigrant who applies for a visa at a location within Canada; or

(ix) the foreign national is traveling as a United States Government-sponsored exchange visitor.

Sec. 4. Additional Inquiries Related to Nationals of Iraq. An application by any Iraqi national for a visa, admission, or other immigration benefit should be subjected to thorough review, including, as appropriate, consultation with a designee of the Secretary of Defense and use of the additional information that has been obtained in the context of the close U.S.-Iraqi security partnership, since Executive Order 13769 was issued, concerning individuals suspected of ties to ISIS or other terrorist organizations and individuals coming from territories controlled or formerly controlled by ISIS. Such review shall include consideration of whether the applicant has connections with ISIS or other terrorist organizations or with territory that is or has been under the dominant influence of ISIS, as well as any other information bearing on whether the applicant may be a threat to commit acts of terrorism or otherwise threaten the national security or public safety of the United States.

Sec. 5. Implementing Uniform Screening and Vetting Standards for All Immigration Programs. (a) The Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence shall implement a program, as part of the process for adjudications, to identify individuals who seek to enter the United States on a fraudulent basis, who support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry. This program shall include the development of a uniform baseline for screening and vetting standards and procedures, such as in-person interviews; a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that applicants are who they claim to be; a mechanism to assess whether applicants may commit, aid, or support any kind of violent, criminal, or terrorist acts after entering the United States; and any other appropriate means for ensuring the proper collection of all information necessary for a rigorous evaluation of all grounds of inadmissibility or grounds for the denial of other immigration benefits.

(b) The Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Director of National Intelligence, shall submit to the President an initial report on the progress of the program described in subsection (a) of this section within 60 days of the effective date of this order, a second report within 100 days of the effective date of this order, and a third report within 200 days of the effective date of this order.

Sec. 6. Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017. (a) The Secretary of State shall suspend travel of refugees into the United States under the USRAP, and the Secretary of Homeland Security shall suspend decisions on applications for refugee status, for 120 days after the effective date of this order, subject to waivers pursuant to subsection (c) of this section. During the 120-day period, the Secretary of State, in conjunction with the Secretary of

Homeland Security and in consultation with the Director of National Intelligence, shall review the USRAP application and adjudication processes to determine what additional procedures should be used to ensure that individuals seeking admission as refugees do not pose a threat to the security and welfare of the United States, and shall implement such additional procedures. The suspension described in this subsection shall not apply to refugee applicants who, before the effective date of this order, have been formally scheduled for transit by the Department of State. The Secretary of State shall resume travel of refugees into the United States under the USRAP 120 days after the effective date of this order, and the Secretary of Homeland Security shall resume making decisions on applications for refugee status only for stateless persons and nationals of countries for which the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence have jointly determined that the additional procedures implemented pursuant to this subsection are adequate to ensure the security and welfare of the United States.

(b) Pursuant to section 212(f) of the INA, I hereby proclaim that the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States, and thus suspend any entries in excess of that number until such time as I determine that additional entries would be in the national interest.

(c) Notwithstanding the temporary suspension imposed pursuant to subsection (a) of this section, the Secretary of State and the Secretary of Homeland Security may jointly determine to admit individuals to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the entry of such individuals as refugees is in the national interest and does not pose a threat to the security or welfare of the United States, including in circumstances such as the following: the individual's entry would enable the United States to conform its conduct to a preexisting international agreement or arrangement, or the denial of entry would cause undue hardship.

(d) It is the policy of the executive branch that, to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees. To that end, the Secretary of State shall examine existing law to determine the extent to which, consistent with applicable law, State and local jurisdictions may have greater involvement in the process of determining the placement or resettlement of refugees in their jurisdictions, and shall devise a proposal to lawfully promote such involvement.

Sec. 7. Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility. The Secretary of State and the Secretary of Homeland Security shall, in consultation with the Attorney General, consider rescinding the exercises of authority permitted by section 212(d)(3)(B) of the INA, 8 U.S.C. 1182(d)(3)(B), relating to the terrorism grounds of inadmissibility, as well as any related implementing directives or guidance.

Sec. 8. Expedited Completion of the Biometric Entry-Exit Tracking System. (a) The Secretary of Homeland Security shall expedite the completion and implementation of a biometric entry-exit tracking system for in-scope travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

(b) The Secretary of Homeland Security shall submit to the President periodic reports on the progress of the directive set forth in subsection (a) of this section. The initial report shall be submitted within 100 days of the effective date of this order, a second report shall be submitted within 200 days of the effective date of this order, and a third report shall be submitted within 365 days of the effective date of this order. The Secretary of Homeland Security shall submit further reports every 180 days thereafter until the system is fully deployed and operational.

Sec. 9. Visa Interview Security. (a) The Secretary of State shall immediately suspend the Visa Interview Waiver Program and ensure compliance with section 222 of the INA, 8 U.S.C. 1202, which requires that all individuals seeking a nonimmigrant visa undergo an in-person interview, subject to specific statutory exceptions. This suspension shall not apply to any foreign national traveling on a diplomatic or diplomatic-type visa, North Atlantic Treaty Organization visa, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, or G-4 visa; traveling for purposes related to an international organization designated under the IOIA; or traveling for purposes of conducting meetings or business with the United States Government.

(b) To the extent permitted by law and subject to the availability of appropriations, the Secretary of State shall immediately expand the Consular Fellows Program, including by substantially increasing the number of Fellows, lengthening or making permanent the period of service, and making language training at the Foreign Service Institute available to Fellows for assignment to posts outside of their area of core linguistic ability, to ensure that nonimmigrant visa-interview wait times are not unduly affected.

Sec. 10. Visa Validity Reciprocity. The Secretary of State shall review all nonimmigrant visa reciprocity agreements and arrangements to ensure that they are, with respect to each visa classification, truly reciprocal insofar as practicable with respect to validity period and fees, as required by sections 221(c) and 281 of the INA, 8 U.S.C. 1201(c) and 1351, and other treatment. If another country does not treat United States nationals seeking nonimmigrant visas in a truly reciprocal manner, the Secretary of State shall adjust the visa validity period, fee schedule, or other treatment to match the treatment of United States nationals by that foreign country, to the extent practicable.

Sec. 11. Transparency and Data Collection. (a) To be more transparent with the American people and to implement more effectively policies and practices that serve the national interest, the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent with applicable law and national security, collect and make publicly available the following information:

- (i) information regarding the number of foreign nationals in the United States who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; or removed from the United States based on terrorism-related activity, affiliation with or provision of material support to a terrorism-related organization, or any other national-security-related reasons;
- (ii) information regarding the number of foreign nationals in the United States who have been radicalized after entry into the United States and who have engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States;
- (iii) information regarding the number and types of acts of gender-based violence against women, including so-called "honor killings," in the United States by foreign nationals; and
- (iv) any other information relevant to public safety and security as determined by the Secretary of Homeland Security or the Attorney General, including information on the immigration status of foreign nationals charged with major offenses.

(b) The Secretary of Homeland Security shall release the initial report under subsection (a) of this section within 180 days of the effective date of this order and shall include information for the period from September 11, 2001, until the date of the initial report. Subsequent reports shall be issued every 180 days thereafter and reflect the period since the previous report.

Sec. 12. Enforcement. (a) The Secretary of State and the Secretary of Homeland Security shall consult with appropriate domestic and international partners, including countries and organizations, to ensure efficient, effective, and appropriate implementation of the actions directed in this order.

(b) In implementing this order, the Secretary of State and the Secretary of Homeland Security shall comply with all applicable laws and regulations, including, as appropriate, those providing an opportunity for individuals to claim a fear of persecution or torture, such as the credible fear determination for aliens covered by section 235(b)(1)(A) of the INA, 8 U.S.C. 1225(b)(1)(A).

(c) No immigrant or nonimmigrant visa issued before the effective date of this order shall be revoked pursuant to this order.

(d) Any individual whose visa was marked revoked or marked canceled as a result of Executive Order 13769 shall be entitled to a travel document confirming that the individual is permitted to travel to the United States and seek entry. Any prior cancellation or revocation of a visa that was solely pursuant to Executive Order 13769 shall not be the basis of inadmissibility for any future determination about entry or admissibility.

(e) This order shall not apply to an individual who has been granted asylum, to a refugee who has already been admitted to the United States, or to an individual granted withholding of removal or protection under the Convention Against Torture. Nothing in this order shall be construed to limit the ability of an individual to seek asylum, withholding of removal, or protection under the Convention Against Torture, consistent with the laws of the United States.

Sec. 13. Revocation. Executive Order 13769 of January 27, 2017, is revoked as of the effective date of this order.

Sec. 14. Effective Date. This order is effective at 12:01 a.m., eastern daylight time on March 16, 2017.

Sec. 15. Severability. (a) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its other provisions to any other persons or circumstances shall not be affected thereby.

(b) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements.

Sec. 16. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

The White House,

March 6, 2017.

[Filed with the Office of the Federal Register, 11:15 a.m., March 8, 2017]

NOTE: This Executive order was published in the *Federal Register* on March 9.

Categories: Executive Orders : Foreign terrorist entry into the U.S., protection efforts.

Subjects: Terrorism : Counterterrorism efforts.

DCPD Number: DCPD201700158.

EXHIBIT C

NewsRoom

6/12/17 Reuters U.S. Politics News 18:19:52

Reuters US Politics News
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June 12, 2017

U.S. targets Iraqis for deportation in wake of travel ban deal

Timothy McLaughlin; Chicago

Andrew Hay

Mica Rosenberg; New York

Yeganeh Torbati; Washington

Mica Rosenberg

Ahmed Rasheed; Baghdad

Noeleen Walder

US-USA-IMMIGRATION-IRAQ:U.S. targets Iraqis for deportation in wake of travel ban deal

2017-06-12 21:51:42 GMT+00:00

(Reuters) - U.S. immigration authorities are arresting Iraqi immigrants ordered deported for serious crimes, the U.S. government said on Monday, after Iraq agreed to accept U.S. deportees as part of a deal to remove it from President Donald Trump's travel ban.

Dozens of Iraqi Chaldean Catholics in Detroit, Michigan were among those targeted in immigration sweeps over the weekend, according to immigration attorneys and family members, some of whom feared they would be killed if deported to their home country where they have faced persecution.

Kurdish Iraqis were also picked up in Nashville, Tennessee in recent days, attorneys, activists and family members told Reuters.

The actions came as part of the Trump administration's push to increase immigration enforcement and make countries, which have resisted in the past, take back nationals ordered deported from the United States.

"As a result of recent negotiations between the U.S. and Iraq, Iraq has recently agreed to accept a number of Iraqi nationals subject to orders of removal," said Gillian Christensen, a spokeswoman for U.S. Immigration and Customs Enforcement.

Christensen said the agency arrested individuals who had criminal convictions for violations ranging from homicide to drug charges and had been ordered removed by an immigration judge. She declined to give more details, citing the ongoing nature of the operation.

An Iraqi official said Iraqi diplomatic and consular missions would coordinate with U.S. authorities to issue travel documents for the deportees when they can be proven "to be 'Iraqi' based on our records and investigation."

The Iraqi official said around 100 people were arrested just in Detroit over the weekend.

Reuters could not independently confirm all of the cases.

The moves come after the U.S. government dropped Iraq from a list of countries targeted by a revised version of Trump's temporary travel ban issued in March.

The March 6 order said Iraq was taken off the list because the Iraqi government had taken steps "to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal."

There are approximately 1,400 Iraqi nationals with final orders of removal currently in the United States, according to U.S. officials.

Iraq had previously been considered one of 23 "recalcitrant" countries, along with China, Afghanistan, Iran, Somalia and others, that refused to cooperate with ICE's efforts to remove nationals from the United States, according to ICE.

At least some of the people who were picked up came to the United States as children, got in trouble years ago and already served their sentences, according to immigration attorneys and local activists. They had been given an effective reprieve from deportation because Iraq would not take them back.

"I understand these are criminals, but they paid their dues," said Eman Jajonie-Daman, an immigration attorney in Detroit who had been receiving frantic phone calls from clients' families over the weekend. "But we cannot send them back to die."

TRUMP SUPPORTERS

Some of the weekend arrests took place in Michigan's Macomb County, which Trump won by 53.6 percent in the 2016 Presidential race, backed by many in the Iraqi Christian community.

The community is home to many refugees who have fled Iraq in the face of religious persecution, according to the Chaldean Community Foundation.

At least one family of Trump supporters has been affected by the recent enforcement actions.

Nahrain Hamama said ICE agents came to her house on Sunday morning and arrested her 54-year-old husband Usama Hamama, a supermarket manager who goes by "Sam." He has lived in the United States since childhood and has four U.S.-born children. During the election, all his U.S. citizen relatives were Trump supporters, Hamama said.

"He forgot his language, he doesn't speak Arabic anymore. We have no family there on both sides. Where would he go? What would he do? How would he live?" Hamama said. She fears for his health and that he will be targeted by groups in Iraq because of his religion, made more visible because of a cross tattooed on his wrist.

Sam got in trouble with the law in his 20s, in what his wife called a "road rage" incident where he brandished a gun during a fight in traffic. He served time in prison and was ordered deported after being released. For the past seven years he has regularly checked in with immigration officials, his wife said. "It is a shame that for one mistake, that he paid for legally, now he has to pay with his own life."

---- Index References ----

Company: USIIC

News Subject: (Crime (1CR87); Criminal Law (1CR79); Government Litigation (1GO18); Immigration & Naturalization (1IM88); Legal (1LE33); Prisons (1PR87); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Region: (Americas (1AM92); Gulf States (1GU47); Michigan (1MI45); Middle East (1MI23); North America (1NO39); Tennessee (1TE37); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); USA (1US73))

Language: EN

Other Indexing: (Donald John Trump; Donald Trump; Gillian Christensen; Usama Hamama; Eman Jajonie-Daman) (Bangalore; India)

Keywords: (MCC:a); (N2:CIV); (N2:CLJ); (N2:CRIM); (N2:CWP); (N2:DIP); (N2:IMM); (N2:IRQ); (N2:JUDIC); (N2:MEAST); (N2:MTPIX); (N2:NEWS1); (N2:PIA); (N2:POL); (N2:PPX); (N2:USA); (N2:WASH); (OCC:OLRTXT); (02000000); (02002000); (11000000); (11002000); (11007000); (14003002); (16009000); (N2:US); (N2:IQ)

Word Count: 771

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NewsRoom

EXHIBIT D

Trump's first victory in deportation feud is Iraq



Airport officials and civil rights lawyers across the U.S. are getting ready to face President Trump's latest travel ban, which no longer affects Iraqi visitors. (Associated Press) [more >](#)

By Stephen Dinan - *The Washington Times* - Tuesday, March 7, 2017

Iraq earned its way out of President Trump's "extreme vetting" doghouse in large part because it agreed to play ball on another of the president's big goals: getting countries to take back their illegal immigrant criminals.

Six countries remain on Mr. Trump's temporary travel ban list, but Iraq was not listed in the revised order Mr. Trump released Monday.

Officials said it was a reward for Iraq's efforts to fight the Islamic State inside its own borders, as well as promises of better cooperation not only in sharing information about its citizens seeking to travel to the U.S. — the goal of Mr. Trump's extreme vetting plans — but also in deportations.

"Iraq has agreed to the timely return and repatriation of its nationals who are subject to final orders of removal," a Homeland Security official told reporters this week, explaining how Iraq worked its way off the banned list. "That is a very, very important provision."

Mr. Trump's latest order was designed to repair the legal snafus that arose from his Jan. 27 imposition of a 120-day halt in the U.S. refugee program and a 90-day pause on admissions of citizens from Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen.

This week's version maintains the halt on refugees but narrows the scope of the travel ban, trying to avoid ensnaring visitors who already have some roots in the U.S., such as green card holders or those previously granted asylum.

Perhaps most striking, though, was Mr. Trump's decision to drop Iraq from the banned list, instead proposing stiffer inquiries to make sure would-be visitors didn't have ties to the Islamic State rebels that have ravaged the country.

Iraq vehemently objected to being included on the original list, and some analysts said Mr. Trump was risking the partnership that the two countries had forged in the fight against the Islamic State.

"Iraq is an important ally in the fight to defeat ISIS, with their brave soldiers fighting in close coordination with America's men and women in uniform," Secretary of State Rex W. Tillerson said Monday. He also said Iraqi Prime Minister Haider al-Abadi deserved special credit for making the commitments to cooperate.

The Iraqi Embassy in Washington didn't respond to repeated phone and email messages this week.

Mr. Trump's initial target list of seven countries was compiled based on a 2015 measure approved by Congress beefing up travel scrutiny for countries that were deemed risks for sneaking potential terrorists into the U.S.

But Trump administration officials said another reason the countries landed on the initial ban was because their citizens had high rates of overstaying their visas in the U.S., where they become illegal immigrants.

At least some of the Sept. 11, 2001, terrorists were in the U.S. after overstaying legal visas.

Making the situation worse, the seven countries on the list were resistant to taking people back when the U.S. tried to deport them — meaning that even if American authorities identified potential bad actors, they couldn't get rid of them.

"Even if the United States finds someone who is a terrorist from one of these countries inside the United States or at the time they applied for admission to the United States, [it] is much, much more difficult to remove them back to their home country," the Homeland Security official said.

From Oct. 1, 2012, to June 30, 2016, Iraq refused to take back 160 criminals whom the U.S. was trying to deport, according to data obtained by the Immigration Reform Law Institute.

Iran refused 227 criminals.

Somalia rejected 139 criminals and 271 noncriminals, while Sudan refused 72 criminals and two noncriminals, and Yemen declined 19 criminals and one noncriminal. Libya and Syria each registered in the single digits.

As of last summer, U.S. Immigration and Customs Enforcement listed 23 countries as uncooperative when it came to taking back their deportees, including Iran, Iraq, Libya, Somalia and Sudan.

The list is now down to 20 countries, though ICE officials declined to name them. Iraq is still on the list for now.

“While Iraq is still considered a recalcitrant country, the Iraqi government has begun to undertake steps to enable the return of Iraqi nationals subject to final orders of removal,” an ICE official said.

Those on the list can be subject to severe penalties, including the halt of all visas to citizens of those countries — a punishment even more severe than Mr. Trump’s latest travel ban. That punishment has been used only twice, though pressure has been growing to flex it more often.

During his campaign and again as president, Mr. Trump promised to use the power, saying that when countries refuse to take back their deportees it endangers U.S. citizens.

Perhaps the most notorious case was a Haitian man who had served prison time for attempted murder. Haiti refused to accept him when he was released, and ICE ended up releasing him.

Months later, he killed a young woman in Connecticut in a dispute over drugs with her boyfriend.

Dale Wilcox, executive director of the Immigration Reform Law Institute, said the case of Iraq proves that the threat of stripping visas can force countries to cooperate.

“In response to his predecessors almost never exercising this power, President Trump reaffirmed it in a January executive order and, as we can see now, it appears to be bearing fruit,” Mr. Wilcox said.

Still, Mr. Trump could be taking somewhat of a risk in carving Iraq out of the ban.

At least 19 people from Iraq have been connected to terrorist plots in the U.S. since Sept. 11, 2001, according to an analysis of congressional data by the Center for Immigration Studies.

