



By Fed Ex and Email

January 29, 2018

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Re: *Request for Correction Under the Information Quality Act*

To whom it may concern:

On behalf of Muslim Advocates, we respectfully submit this request for correction pursuant to the Information Quality Act (“IQA”) to the U.S. Department of Homeland Security (“DHS”) and the U.S. Department of Justice (“DOJ”) and, together with DHS, the “Departments” or “you”). We request that you retract and correct the misleading and biased information issued in your first joint report published pursuant to Section 11 of Executive Order 13780, Protecting the Nation from Foreign Terrorist Entry into the United States (the “Report”).<sup>1</sup>

The Report asserts, among other things, that 73 percent of individuals convicted of international terrorism-related offenses are foreign-born. But this figure, disseminated in response to a request for information on the number of terrorism-related offenses committed by foreign *nationals*, misleadingly also includes foreign-born persons—a term that includes naturalized citizens (*i.e.*, individuals who are not foreign nationals). The 73 percent figure also excludes convictions for acts of domestic terrorism, and thereby vastly misrepresents the actual terror threat to the country. Bizarrely, the 73 percent figure does include in its calculation foreign nationals whose only apparent tie to the United States comes through their extradition to this country to be prosecuted for terrorism. These choices artificially inflate the rate of terrorism

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<sup>1</sup> U.S. Dep’t Homeland Security and U.S. Dep’t Justice, Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into the United States Initial Section 11 Report (Jan. 2018), <https://www.dhs.gov/sites/default/files/publications/Executive%20Order%2013780%20Section%2011%20Report%20-%20Final.pdf> (the “Report”).

that the government represents is committed by immigrants. Apparently finding the artificially high rate useful for its purposes, DOJ promptly tweeted it out, further disseminating deceptive information to the public.<sup>2</sup>

Because the 73 percent figure and much of the other information in the Report is misleading, reflecting the biased views of the Administration, the Report fails to meet the basic information quality standards required by federal law. Yet the Administration is already using the Report in its ongoing attempts to restrict lawful immigration, and in particular immigration by Muslims. Attorney General Sessions stated that the Report “reveals an indisputable sobering reality—our immigration system has undermined our national security and public safety.”<sup>3</sup> Similarly, Homeland Security Secretary Nielsen repeated the 73 percent statistic in her testimony before the U.S. Senate Committee on the Judiciary on January 16, 2018.<sup>4</sup> Indeed, the Report appears to have been issued primarily to serve the Administration’s political ends—reportedly being substantially drafted by Attorney General Sessions’ office, and contrary to the claim that it is “[a]n analysis conducted by DHS,”<sup>5</sup> without input from DHS career analysts.<sup>6</sup>

Accordingly, on behalf of Muslim Advocates, Democracy Forward Foundation makes this request for correction, pursuant to the Departments’ IQA guidelines, of the information contained in the Report. We request that you retract the Report, and to the extent that you determine that publishing a revised report is necessary, include in it data that avoids the errors identified below, or, to the extent the Departments do not have relevant data, to admit as much. Doing so is necessary to correct the misimpression, intentionally conveyed by the Departments,

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<sup>2</sup> Dep’t Justice (@TheJusticeDepartment), Twitter (Jan. 16, 2018, 6:40am), <https://twitter.com/TheJusticeDept/status/953275839361187840> (“DOJ, DHS REPORT: THREE OUT OF FOUR INDIVIDUALS CONVICTED OF INTERNATIONAL TERRORISM AND TERRORISM-RELATED OFFENSES WERE FOREIGN-BORN”).

<sup>3</sup> See Press Release, U.S. Dep’t Justice, DOJ, DHS Report: Three Out of Four Individuals Convicted Of International Terrorism and Terrorism-Related Offenses Were Foreign-Born (Jan. 16, 2018), <https://www.justice.gov/opa/pr/doj-dhs-report-three-out-four-individuals-convicted-international-terrorism-and-terrorism> (“DOJ Press Release”); see also Press Release, U.S. Dep’t Homeland Security, DOJ, DHS Report: Three Out of Four Individuals Convicted Of International Terrorism and Terrorism-Related Offenses Were Foreign-Born (Jan. 16, 2018), <https://www.dhs.gov/news/2018/01/16/dhs-doj-report-three-out-four-individuals-convicted-international-terrorism-and> (“DHS Press Release”).

<sup>4</sup> Anna Giaritelli, *DHS Chief: Foreign-born have made up 3 in 4 of international terrorism convictions in US courts since Sept. 11 attacks*, Wash. Examiner (Jan. 16, 2018), <http://www.washingtonexaminer.com/dhs-chief-foreign-born-have-made-up-3-in-4-of-international-terrorism-convictions-in-us-courts-since-sept-11-attacks/article/2646031>; see also Homeland Security Oversight: Testimony of Secretary Kirstjen Nielsen, C-Span (Jan. 16, 2018), <https://www.c-span.org/video/?439257-1/homeland-security-secretary-kirstjen-nielsen-faces-questions-da-ca>.

<sup>5</sup> Report at 2.

<sup>6</sup> Spencer Ackerman, *Team Trump Bypassed DHS Analysts to Produce Bogus Terror Report*, Daily Beast (Jan. 21, 2018), <https://www.thedailybeast.com/team-trump-bypassed-dhs-analysts-to-produce-bogus-terror-report>.

that the Report reveals that “our immigration system has undermined our national security and public safety.”<sup>7</sup>

## **I. Executive Order 13780 Section 11 Report.**

Executive Order 13780, purports to promote the “policy of the United States to protect its citizens from terrorist attacks, including those committed by foreign nationals” by “improv[ing] the screening and vetting protocols and procedures associated with the visa issuance process and the USRAP [United States Refugee Admissions Program].”<sup>8</sup> Section 11 of the Executive Order instructs the Secretary of Homeland Security, in consultation with the Attorney General, “to 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.<sup>9</sup>

The Report, which was jointly disseminated by the Departments on January 16, 2018, purports to provide an initial report regarding the information required by Section 11. In response to the above four subsections, the Report sets forth various information, including the assertion that 73 percent of individuals convicted of “international terrorism-related charges in U.S. federal courts between September 11, 2001, and December 31, 2016” were “foreign-born,”<sup>10</sup> as well as eight “illustrative examples” of such individuals.<sup>11</sup> The Report also provides an

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<sup>7</sup> DOJ Press Release; DHS Press Release.

<sup>8</sup> Exec. Order No. 13780, 82 FR 13209 (Mar. 6, 2017) (the “Exec. Order”). Executive Order 13780 is colloquially known as Muslim Ban 2.0 or Travel Ban 2.0, and has been the subject of extensive litigation relating to its discriminatory intent and unlawfulness, including its constitutional violations.

<sup>9</sup> *Id.*

<sup>10</sup> As discussed in greater detail below, the term “foreign-born” would still include individuals who lawfully immigrated to the United States, and naturalized to become full United States citizens. This

assortment of statistical information that it claims is related to gender-based violence, and “other information” that it determined to be relevant to public safety and security.

## II. Requirements of the IQA

The IQA, which is found at Section 515 of Public Law 106-554, together with its implementing regulations and guidelines, requires that information disseminated to the public by federal agencies, including by DHS and DOJ, be accurate, reliable, and unbiased.<sup>12</sup> It also directs the Office of Management and Budget (“OMB”) to issue guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.”<sup>13</sup> Federal agencies, in turn, must issue their own guidelines, likewise “ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency” and establishing “administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines.”<sup>14</sup>

Pursuant to these directives, OMB, as well as DHS and DOJ, promulgated guidelines establishing information quality standards and providing a means for parties to seek redress for information that does not conform to these standards.<sup>15</sup> Thus, under the OMB and agency guidelines, the touchstone for the IQA is that (1) information (2) disseminated by an agency (3) be of requisite quality.

The Report is covered by the IQA. DHS guidelines, as well as the substantially similar DOJ guidelines, define “information,” in relevant part, as “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical,

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group of people is expressly different than foreign nationals, which would not include naturalized United States citizens. The Executive Order asked only for information concerning terrorism-related offenses for “foreign nationals in the United States.” Report at 1.

<sup>11</sup> *Id.* at 2-7.

<sup>12</sup> Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2763A-153 & 154, 44 U.S.C. § 3516, note (West) (the “IQA”); Office of Mgmt. & Budget, Exec. Office of the President, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (Feb. 22, 2002) (“OMB Guidelines”), <https://www.gpo.gov/fdsys/pkg/FR-2002-02-22/pdf/R2-59.pdf>; U.S. Dep’t Homeland Security, Information Quality Guidelines (last visited Jan. 18, 2018), <https://www.dhs.gov/sites/default/files/publications/dhs-iq-guidelines-fy2011.pdf> (“DHS Guidelines”); U.S. Dep’t Justice, Information Quality: Ensuring the Quality of the Information Disseminated by the Department (Nov. 2016), <https://www.justice.gov/iqpr/information-quality> (“DOJ Guidelines”).

<sup>13</sup> IQA § 515(a).

<sup>14</sup> *Id.* § 515(b); *see also Prime Time Int’l Co. v. Vilsack*, 599 F.3d 678, 684-86 (D.C. Cir. 2010) (describing the statutory and administrative scheme of the IQA).

<sup>15</sup> *See* DHS Guidelines; *see also* DOJ Guidelines.

graphic, cartographic, narrative, or audiovisual forms.”<sup>16</sup> The Report purports to present facts, primarily in the form of numerical data and narrative description, and therefore was required to adhere to the standards of the IQA.

The Report was disseminated to the public, for the purposes of the IQA. DHS and DOJ’s IQA guidelines define “dissemination” in substantially the same manner, including “agency initiated or sponsored distribution of information to the public.”<sup>17</sup> The Departments issued the Report with accompanying press releases, and have made the Report available to the public on their respective webpages.<sup>18</sup>

IQA guidelines define what it means for information to be of sufficient quality to meet the statutory standard. Specifically, quality “is an encompassing term comprising utility, objectivity, and integrity.”<sup>19</sup> Among other standards relevant here, “in assessing the usefulness of the information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also from the perspective of the public.”<sup>20</sup> And, “objectivity” includes:

Whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation.<sup>21</sup>

Further, where the information is disseminated in “a statistical context,” the DHS guidelines require that DHS “generate the original and supporting data, and develop the analytic results, using sound statistical and research methods.”<sup>22</sup> DOJ’s guidelines require the use of “reliable data sources, sound analytical techniques, and document[ed] methods and data sources.”<sup>23</sup>

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<sup>16</sup> See DHS Guidelines; cf. DOJ Guidelines (defining information to include “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. It includes information that an agency disseminates from a web page, but does not include information disseminated by others and accessible through hyperlinks from an agency web page.”).

<sup>17</sup> See DHS Guidelines; see also DOJ Guidelines (“Except for those categories of information that are specifically exempted from coverage (see below), these guidelines apply to all information disseminated by DOJ and DOJ initiated or sponsored dissemination of information by DOJ grantees, contractors, or cooperators on or after October 1, 2002, regardless of when the information was first disseminated.”).

<sup>18</sup> See DHS Press Release (providing a link to the Report at a dhs.gov web domain); DOJ Press Release (providing a link to the Report at a justice.gov web domain).

<sup>19</sup> See OMB Guidelines, 67 Fed. Reg. 8452, 8459.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> DHS Guidelines.

<sup>23</sup> DOJ Guidelines.

As set forth in detail in the following section, the Report fails to meet the IQA requirements regarding quality, utility, objectivity, and integrity. These failures hamper the public's ability to participate in the ongoing debate regarding immigration policy and national security by providing misinformation with the purpose of bolstering the Administration's anti-immigrant agenda. The Report's failings also may impede public safety agencies who look to glean insights from the Report for accurately assessing and protecting against true national security threats.

### **III. The Report Violates the IQA by Disseminating Information Which is Designed to Mislead the Public About the Risk that Immigrants to the United States Will Commit Acts of Terrorism.**

#### **A. The Report provides misleading and biased information by substituting foreign-born for foreign national.**

Section 11 directed the Departments to provide information related to foreign nationals and terrorism-related offenses, which the Executive Order claimed would be used to inform the country's immigration policy. Instead, the Report provided information regarding *foreign-born* individuals rather than foreign nationals, which allows it to attribute 73 percent of international terrorism-related offenses to individuals who the Departments apparently perceive as foreign, despite their American citizenship.

The Report's topline conclusion is that "at least 549 individuals were convicted of international terrorism-related charges in U.S. federal courts between September 11, 2001, and December 31, 2016," and that "approximately 73 percent (402 of these 549 individuals) were foreign-born."<sup>24</sup> The Department's math, however, relies on the wrong inputs in a misleading way. The report further states that of these 549 individuals, 254 were not U.S. citizens, 148 were foreign-born, naturalized and received U.S. citizenship, and 147 were U.S. citizens by birth.<sup>25</sup> Had the Report followed the Executive Order's directive to report on foreign nationals, even based on its own, flawed, data, it would have concluded that fewer than half, or 46 percent, of individuals charged or convicted of international terrorism-related offenses met this criterion.

The failure to use the proper numerator (or, more precisely, the one that would have actually reflected the data collection requested by E.O. 13780) is only part of the problem. The Departments have also failed to adhere to the IQA's requirements that federally produced data also be, among other criteria, useful and unbiased.<sup>26</sup> Responding to a request for information that purports to be about the terrorist threat that foreign national immigrants pose to the United States by substituting information that includes naturalized citizens fails that metric and perpetuates the Administration's discriminatory view that only native-born individuals are actually American. Such a manipulation of information is misleading and biased, in violation of IQA guidelines.

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<sup>24</sup> Report at 2.

<sup>25</sup> *Id.*

<sup>26</sup> OMB Guidelines.

**B. The Report’s substitution of international terrorism for all terrorism misleadingly ignores domestic terrorism, artificially inflating the proportion of terrorist incidents committed by foreign nationals.**

In response to the Executive Order’s charge that the Departments provide information regarding foreign nationals charged with or convicted of terrorism-related offenses, the Report fails to do so and instead provides data related only to *international* terrorism-related offenses.<sup>27</sup> This sleight of hand artificially increases the proportion of foreign nationals presented as responsible for terrorist incidents.

The Report states that it has only considered information about international terrorism-related offenses, specifically: “public convictions in federal courts between September 11, 2001, and December 31, 2016 resulting from international terrorism investigations, including investigations of terrorist acts planned or committed outside the territorial jurisdiction of the United States over which Federal criminal jurisdiction exists and those within the United States involving international terrorists and terrorist groups.”<sup>28</sup> In so doing, the Report categorically excludes all terrorism-related offenses that occurred in the United States, and which were planned and executed by individuals without international connections. This exclusion dramatically misrepresents the actual terrorist threat posed by foreign nationals in the United States.

In contrast to the Report’s representations, studies show, as the government itself is aware, that native-born citizens commit significant numbers of terrorist attacks in the United States.<sup>29</sup> An April 2017 Government Accountability Office report concluded that “of the 85 violent extremist incidents that resulted in death since September 12, 2001, far right wing violent extremist groups were responsible for 62 (73 percent) while radical Islamist violent extremists were responsible for 23 (27 percent).”<sup>30</sup> Similarly, DHS and the Federal Bureau of Investigation published an intelligence bulletin in May 2017 titled, “White Supremacist Extremism Poses Persistent Threat of Lethal Violence.” That bulletin states that white supremacist extremists, who are very rarely immigrants, were responsible for 49 homicides in 26 attacks from 2000 to

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<sup>27</sup> Report at 2.

<sup>28</sup> *Id.*

<sup>29</sup> See Alex Nwrasteh, *New Government Terrorism Report Provides Little Useful Information*, Cato Inst. (Jan. 16, 2018), <https://www.cato.org/blog/new-government-terrorism-report-nearly-worthless> (“Since the beginning of 2002, native-born Americans were responsible for 78 percent of all murders in terrorist attacks committed on U.S. soil while foreign-born terrorists only committed 22 percent.”); see also Lachlan Markay and Spencer Ackerman, *Fuzzy Math: Team Trump Cooks Terror Stats for Bogus Immigration Agreement*, Daily Beast (Jan. 16, 2018), <https://www.thedailybeast.com/team-trump-cooks-terror-stats-for-bogus-immigration-argument?via=ios> (citing a New America Foundation study, which found that 85 percent of individuals who were charged with, or died engaging in, an act of terrorism were United States citizens or lawful permanent residents.”).

<sup>30</sup> See U.S. Gov’t Accountability Office, *Countering Violent Extremism: Actions Needed to Define Strategy and Assess Progress of Federal Efforts* at 3-5 (Apr. 2017), available at <http://www.gao.gov/assets/690/683984.pdf>.

2016 . . . more than any other domestic extremism movement.”<sup>31</sup> Despite the existence of this threat, the Departments omitted data related to domestic terrorism without explanation.

By presenting data that omits completely information about the threat posed by domestic terrorists without international ties, as responsive to the directive to provide data regarding *all* terrorism, domestic and international, the Departments have presented incomplete and misleading information in violation of the IQA. Indeed, the Departments’ data has artificially inflated the percentage of foreign nationals that they can claim are involved in terrorism-related offenses. It is common sense that foreign nationals are more likely to be involved in terrorist events occurring in foreign countries or involving foreign groups than they are to be involved in purely domestic terrorist events.<sup>32</sup> As one commentator concluded, “[i]ncluding the actual number of deaths caused by terrorists flips the DHS/DOJ statistics on its head.”<sup>33</sup> Such a manipulation of the data plainly violates information quality requirements.

**C. The Report’s inclusion of individuals who committed terrorism overseas and whose only apparent tie to the United States is extradition to the United States for prosecution is misleading.**

The Executive Order also directs the Departments to collect information regarding terrorist events that took place in the United States, specifically data about individuals who were charged with or convicted of terrorism-related offenses “*while in the United States*” or who have been removed from the United States for various reasons.<sup>34</sup> The Report includes, however, information about individuals who “committed offenses while located abroad, including those who were transported to the United States for prosecution.”<sup>35</sup> Although someone who has been extradited to the United States for trial may be charged and convicted while in the United States, the offenses committed by that person overseas do not necessarily reflect the actual terror threat to the United States, nor could they serve to inform the United States’ immigration policy. Including information about offenses that occur overseas will, however, naturally increase the number of foreign nationals the Departments can claim are responsible for terrorism-related offenses.

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<sup>31</sup> See FBI & DHS Joint Intelligence Bulletin, White Supremacist Extremism Poses Persistent Threat of Lethal Violence 4 (May 10, 2017), *available at* <https://www.documentcloud.org/documents/3924852-White-Supremacist-Extremism-JIB.html>; *see also* Jana Winter, *FBI and DHS Warned of Growing Threat from White Supremacists Months Ago*, Foreign Policy (Aug. 14, 2017), <http://foreignpolicy.com/2017/08/14/fbi-and-dhs-warned-of-growing-threat-from-white-supremacists-months-ago/> (citing the FBI & DHS Joint Intelligence Bulletin, *supra* note 31).

<sup>32</sup> William Braniff, executive director of the National Consortium for the Study of Terrorism and Responses to Terrorism (START) at the University of Maryland, noted that “If you’re looking at international terrorism, you’re going to see people with a more international background—that’s just common sense. . . . [DHS and DOJ] exclude a lot of data what would present a different picture.” See Markay and Ackerman, *supra* note 29.

<sup>33</sup> Nwrasteh, *supra* note 29.

<sup>34</sup> Exec. Order at 1.

<sup>35</sup> Report at 2.

The Departments provide no information in the Report about why they chose to include terrorism-related offenses that did not occur in the United States. Moreover, in plain violation of IQA guidelines that agencies provide supporting data for statistical information, the Departments do not provide access to underlying aggregate data that would reveal the degree to which including overseas offenses misrepresents the nexus between foreign nationals and the risk of terrorism in the United States. As OMB itself notes in the context of this guideline, doing so is necessary, “so that the public can assess for itself whether there may be some reason to question the objectivity of the sources.”<sup>36</sup> By failing to provide the public with this opportunity, the Departments have violated the IQA.

**D. The Report’s examples of foreign nationals charged with or convicted of terrorism-related offenses are misleading and perpetuate the Administration’s discriminatory narrative that Muslims are likely to commit acts of terrorism.**

The Report provides eight “illustrative examples among the 402 convictions of foreign nationals or naturalized U.S. citizens.”<sup>37</sup> Because the Report offers no raw data tables revealing biometric information for the 402 convicted persons—despite IQA guidelines directing that agencies provide supporting data for statistical information<sup>38</sup>—there is no way for outside observers to test the Departments’ assertion that these examples are “illustrative.” Even without the ability to verify, however, it seems highly unlikely that the vignettes offered as “illustrative examples” are in any way representative for the obvious reason that they exclusively chronicle Muslims who arrived in the United States through the precise immigration provisions the Administration now seeks to do away with: refugee resettlement, migration preferences to support family reunification, and the diversity visa lottery.<sup>39</sup>

By selecting anecdotes that perpetuate the Administration’s discriminatory view of immigrants and failing to provide transparency about the underlying data that would allow the public to determine whether these anecdotes are misrepresentative, as they appear to be, the Report again fails the IQA guideline requirement to be objective.

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<sup>36</sup> OMB Guidelines, 67 Fed. Reg. 8452, 8459.

<sup>37</sup> Report at 3-7.

<sup>38</sup> OMB Guidelines, 67 Fed. Reg. 8452, 8459.

<sup>39</sup> See Faiza Patel, *Trump Administration’s Fuzzy Math on Terrorist Origins is More than Misleading -- It’s Dishonest*, Just Security (Jan. 16, 2018), <https://www.justsecurity.org/51084/trump-administrations-fuzzy-math-terrorist-origins-misleading-its-dishonest/>; see also Dan Merica and Tal Kopan, *Trump demands Congress terminate diversity immigration lottery*, CNN (Nov. 1, 2017), <http://www.cnn.com/2017/11/01/politics/donald-trump-chuck-schumer-nyc-attack/index.html> (detailing President Trump’s plans to reform the immigration system).

**E. The Report’s information relating to gender-based violence is misleading and perpetuates anti-Muslim stereotypes.**

Subsection (iii) of Section 11 of the Executive Order instructs the Departments to provide 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. Given that the Administration proposed eliminating funding for programs to prevent violence against women at the same time that the President requested this information,<sup>40</sup> the motivation in the information request does not appear to be the actual protection of women but instead appears to be to perpetuate stigma about Muslims. The information provided by the Report, which purports to be responsive to the Executive Order’s directive, is inaccurate and misleading.

In fact, as the Report must acknowledge, the federal government has not “recorded and tracked in an aggregated statistical manner information pertaining to gender-based violence against women committed at the federal and state level.”<sup>41</sup> Nor does the federal government have reliable information regarding the prevalence of so-called “honor killings.” The Departments appear not to possess any information that is responsive to the directive of subsection (iii) that meets IQA standards.

Yet, instead of reaching that conclusion and recommending further study, the Departments provided alternate data, which range from irrelevant to inaccurate. The Report cites the average annual number of non-fatal domestic violence victimizations, which is an alarmingly large number, but plainly fails to reveal the proportion perpetuated by foreign nationals.<sup>42</sup> Indeed, studies show that gender-based violence rates are largely the same across all countries, a point which further casts doubt on the Report’s attempt to link gender-based violence with national origin.<sup>43</sup>

The Report then points to discredited data to perpetuate the stigmatization of Muslims inherent in the Executive Order’s implication that “honor killings” are a significant problem in the United States. First, the Report fails to define what it interprets the term “honor killings” to mean. The Report next asserts that “a study commissioned and provided to the DOJ’s Bureau of Justice Statistics in 2014 estimated that an average of 23-27 honor killings occur every year in the United States.”<sup>44</sup> As an initial matter, the study was not commissioned by the Department of

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<sup>40</sup> See Melissa Jeltsen, *Trump’s Budget Would Be Devastating to Poor Victims of Domestic Abuse*, HuffPost (Mar. 17, 2017), [https://www.huffingtonpost.com/entry/trump-budget-domestic-abuse-victims\\_us\\_58cc2184e4b0ec9d29dbd9f7](https://www.huffingtonpost.com/entry/trump-budget-domestic-abuse-victims_us_58cc2184e4b0ec9d29dbd9f7).

<sup>41</sup> Report at 7.

<sup>42</sup> *Id.*

<sup>43</sup> K.M. Devries et al., *The Global Prevalence of Intimate Partner Violence Against Women*, 340 Science 1527, 1527-1528 (June 2013) (estimating that 30 percent of women experience domestic violence and that though there are some slight regional variations, the rates exceed 19 percent everywhere in the world except East Asia).

<sup>44</sup> Report at 8.

Justice, but by a private organization.<sup>45</sup> Moreover, the author of that study has disclaimed the accuracy of its conclusion, saying “it’s not terribly scientific,” a fact not disclosed by the Report, despite the OMB guidelines’ directive that “error sources affecting data quality should be identified and disclosed to users.”<sup>46</sup>

Finally, the Report also cites a study regarding the number of women and girls who may be *at risk for* female genital mutilation, noting that the number was three times higher in 2012 than in 1990.<sup>47</sup> What the Report fails to explain is that the study’s methodology simply correlates the risk of female genital mutilation in various countries to the number of women and girls living in the United States who were born in that country or who lived with a parent born in that country.<sup>48</sup> In other words, the study that purports to inform the risk that immigrants pose with regard to violence against women, simply tracks immigration rates, and explicitly does not present “scientifically valid information” about the behavior of those immigrant populations in the United States.

#### **IV. Muslim Advocates is an Affected Person**

Muslim Advocates is an affected person entitled to seek a correction of disseminated information that fails to meet the IQA’s quality standards. Muslim Advocates is a civil rights organization that promotes freedom and justice for Americans of all faiths, with a particular focus on issues impacting the Muslim community. Muslim Advocates engages in civil rights litigation, policy advocacy, and public education to fight inaccurate stereotypes about Muslims and other immigrants. In particular, Muslim Advocates works to ensure that policies enacted under the banner of national security do not wrongfully discriminate against Muslims and are not based on inaccurate or misleading information.

The guidelines define “affected person” as one who “may benefit or be harmed by the disseminated information,” including one who “use[s] information.”<sup>49</sup> Muslim Advocates uses reliable information concerning the American immigration population in its work, and it, as well as its clients, is also “harmed” by the dissemination of the Report, which seeks to portray immigrants, and particularly Muslim immigrants, as inherently violent and likely to commit acts of terror. Moreover, the Report serves as a mechanism to justify the travel and refugee bans, which the Administration has attempted to justify, at least in part, by reference to the kinds of inaccurate data and biased findings contained in the Report. The Report serves as further *post hoc* justification for those efforts, which directly harm Muslim Advocates and its clients.

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<sup>45</sup> Jesse Singal, *Here’s What the Research Says About Honor Killings in the U.S.*, N.Y. Mag. (March 6, 2017), <http://nymag.com/daily/intelligencer/2017/03/heres-what-the-research-says-about-american-honor-killing-s.html>.

<sup>46</sup> *See id.*; *see also* OMB Guidelines 8452, 8459.

<sup>47</sup> Report at 8.

<sup>48</sup> *Id.* at 8 n.17 (citing Howard Goldberg et al., *Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012*, 131 Pub. Health Rep. 340-347 (2016)).

<sup>49</sup> *See* DHS Guidelines; *see also* DOJ Guidelines.

A retraction and correction of the Report and its findings would therefore benefit Muslim Advocates by advancing its mission of advocating on behalf of Muslim, Arab, South Asian, and immigrant communities.

#### **IV. Conclusion and Relief Requested**

Given the importance and immediacy of the public dialogue on the Administration's proposed immigration policy efforts, and the impact that the misleading Report may have on this debate, we request that the Departments retract and, if you determine that publishing a revised report is necessary, correct the Report as outlined above within 60 days.

Sincerely,

/s/ Robin Thurston

Robin Thurston, Senior Counsel  
Democracy Forward Foundation

/s/ Sirine Shebaya

Sirine Shebaya, Senior Staff Attorney  
Muslim Advocates

*Counsel for Muslim Advocates*