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23 **UNITED STATES DISTRICT COURT**
24 **NORTHERN DISTRICT OF CALIFORNIA**

25 *Oakland Division*

26 Muslim Advocates,
27 *Plaintiff,*

28 v.

U.S. Department of Justice; U.S. Department
of Homeland Security,
Defendants.

Case No. _____

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

Complaint for Declaratory and Injunctive Relief

1 Plaintiff Muslim Advocates hereby sues Defendants the U.S. Department of Justice
2 (“DOJ”) and the U.S. Department of Homeland Security (“DHS”) under the Administrative
3 Procedure Act, 5 U.S.C. §§ 701 *et seq.*, (“APA”) and for violation of the Information Quality
4 Act, 44 U.S.C. § 3516 note (“IQA”), and alleges as follows:

5
6 **Introduction**

7 1. President Trump campaigned on the promise of a “total and complete shutdown of
8 Muslims entering the United States.” Since taking office, he has sought to fulfill this overtly
9 discriminatory pledge by enacting three successive bans on nationals of several Muslim-majority
10 countries and a series of policies aimed at slowing the entry of refugees, particularly from
11 Muslim-majority countries, into the United States. He has also sought to reduce other
12 longstanding paths to lawful immigration.

13
14 2. As part of this anti-Muslim and anti-immigrant agenda, the President and members of his
15 Administration regularly overstate and misrepresent the threat that immigrants, especially
16 Muslim immigrants, pose to the United States. This bias infects a report recently published by
17 Defendants, the Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry Into
18 the United States Initial Section 11 Report (the “Report”).

19
20 3. Executive Order 13780, which required publication of the Report, incorporated President
21 Trump’s second attempt at a travel ban, and directed Defendants, in order to be “more
22 transparent with the American people and to implement more effective policies and practices that
23 serve the national interest,” to compile and disseminate information that purports to link
24 terrorism to immigration.

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26
27
28 *Complaint for Declaratory and Injunctive Relief*

1 4. The Report presents information on immigrants and foreign nationals in a manner that
2 misleadingly inflates the threat they pose to the United States. Its presentation of this
3 information also focuses exclusively and inaccurately on Muslims.

4 5. Among the ways the Report manipulates information to support its anti-immigrant and
5 anti-Muslim conclusions: it ignores domestic terrorism incidents; it departs from the directive of
6 EO 13780 and analyzes terrorism incidents involving foreign-born Americans rather than foreign
7 nationals; it includes individuals who committed terrorism acts overseas and whose only tie to
8 the United States is their extradition for prosecution; and it relies on irrelevant and debunked
9 studies in providing information regarding so-called “honor killings” and violence against
10 women.
11

12 6. In so doing, the Report perpetuates the ongoing stigmatization of immigrants and
13 Muslims by the Administration. For example, the Trump Administration has used the Report to
14 justify its sweeping ban on the entry of nationals from six Muslim-majority countries into the
15 United States. It has also specifically tied the Report’s findings to its calls for an end to the
16 issuance of diversity and family reunification visas, which would have a significant negative
17 impact on Muslim immigrants.
18

19 7. The Report has been used explicitly to stoke anti-Muslim and anti-immigrant sentiment
20 and is likely to continue to be used in this manner. It therefore not only contributes on its face to
21 their stigmatization, but it is also likely to contribute to increasing hate violence against these
22 communities.
23

24 8. Muslim Advocates sought a retraction and correction of the Report because its
25 presentation of information does not meet the level of quality required of federal agencies by the
26 IQA and its implementing Guidelines. Defendants have failed to comply with their obligation to
27

28 *Complaint for Declaratory and Injunctive Relief*

1 respond to this request for retraction, and accordingly, Plaintiff seeks judicial relief pursuant to
2 the APA.

3
4 **Parties**

5 9. **Muslim Advocates** is a civil rights organization that promotes freedom and justice for
6 Americans of all faiths, with a particular focus on issues impacting Muslim communities.
7 Muslim Advocates engages in civil rights litigation, policy advocacy, and public education to
8 fight inaccurate stereotypes about Muslims and other immigrants. In particular, Muslim
9 Advocates works to ensure that policies enacted under the banner of national security do not
10 wrongfully discriminate against Muslims and are not based on inaccurate or misleading
11 information. Muslim Advocates' headquarters are in Oakland, California.

12 10. **The Department of Justice** is a federal agency. Along with the Department of
13 Homeland Security, it disseminated the Report.

14 11. **The Department of Homeland Security** is a federal agency. Along with the
15 Department of Justice, it disseminated the Report.

16
17 **Jurisdiction, Venue, and Intradistrict Assignment**

18 12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331,
19 because this action arises under federal law, specifically the Information Quality Act, 44 U.S.C.
20 § 3516 note ("IQA"), and the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.* ("APA").

21 13. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e), because Plaintiff resides
22 in this district.

23 14. Plaintiff resides in Alameda County, making assignment to the Oakland Division
24 appropriate pursuant to Local Civil Rule 3-2(c), (d).

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26
27
28 *Complaint for Declaratory and Injunctive Relief*

The Information Quality Act

15. The IQA, together with its implementing Guidelines, requires that information disseminated to the public by federal agencies, including by DHS and DOJ, be of requisite quality, objectivity, utility, and integrity.¹

16. The IQA, an addendum to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 *et seq.* (“PRA”), directs the Office of Management and Budget (“OMB”) to issue guidelines under various PRA authorities by September 30, 2001.

17. The IQA provides that the guidelines issued by OMB should require each federal agency to which they apply to, in turn:

(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a); [and]

(B) establish 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 issued under subsection (a).

44 U.S.C. § 3516 note (B)(2).

18. OMB issued “final guidelines”, as directed, after a period of notice and comment, in 2002.²

19. In issuing its Guidelines, OMB explained, “[g]iven the administrative mechanisms required by [the IQA] as well as the standards set forth in the Paperwork Reduction Act, it is

¹ Consolidated Appropriations—FY 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2763A-153, 154 (2000) (codified at 44 U.S.C. § 3516 note).

² 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* (“OMB Guidelines”), 67 Fed. Reg. 8451, 8452 (Feb. 22, 2002), <https://www.gpo.gov/fdsys/pkg/FR-2002-02-22/pdf/R2-59.pdf>.

1 clear that agencies should not disseminate substantive information that does not meet a basic
2 level of quality.” 67 Fed. Reg. at 8452.

3 20. The OMB Guidelines elaborate on the directives set forth in the IQA itself. They define
4 “quality”, “utility”, “objectivity,” and “integrity”, among other relevant terms. These definitions
5 state, in part:

6 “Quality” is an encompassing term comprising utility, objectivity, and integrity.

7
8 “Utility” refers to the usefulness of the information to its intended users, including
9 the public. In assessing the usefulness of information that the agency disseminates
10 to the public, the agency needs to consider the uses of the information not only
11 from the perspective of the agency but also from the perspective of the public. As
12 a result, when transparency of information is relevant for assessing the
13 information’s usefulness from the public’s perspective, the agency must take care
14 to ensure that transparency has been addressed in its review of the information. ...

15 “Objectivity” includes whether disseminated information is being presented in an
16 accurate, clear, complete, and unbiased manner. This involves whether the
17 information is presented within a proper context. Sometimes, in disseminating
18 certain types of information to the public, other information must also be
19 disseminated in order to ensure an accurate, clear, complete, and unbiased
20 presentation.

21 21. The OMB Guidelines also require agencies to “establish administrative mechanisms
22 allowing affected persons to seek and obtain, where appropriate, timely correction of information
23 maintained and disseminated by the agency that does not comply with OMB or agency
24 guidelines.” *Id.* at 8459.

25 22. Defendants have each promulgated guidelines applicable to themselves.

26 23. The DOJ Guidelines set forth definitions of “utility”, “objectivity”, and “integrity”, which
27 “apply, consistent with the OMB Guidelines (paragraph V, definitions) which will also apply.”³
28

³ U.S. DOJ, *Information Quality: Ensuring the Quality of the Information Disseminated by the Department* (“DOJ Guidelines”), <https://www.justice.gov/iqpr/information-quality> (last updated Nov. 1, 2016).

1 24. The DOJ Guidelines also set forth a process for submitting a formal request for
2 correction, including a description of the information that requests for correction should include,
3 and a statement that the requester bears the burden of proof in seeking a correction.

4 25. The DOJ Guidelines state that:

5
6 Based on the explanation and evidence submitted with the request for correction,
7 a DOJ official who is knowledgeable of the subject matter will conduct a
8 thorough review of the information being challenged, the processes that were used
9 to create and disseminate the information, and the conformity of the information
10 and those processes with both OMB's and DOJ's Information Quality Guidelines.
11 After it has completed its review, DOJ will determine whether a correction is
12 warranted, and, if so, what corrective action it will take. ... After the responsible
13 DOJ component has made its final determination pertaining to a request for
14 correction of information, it will respond to the requestor by letter, e-mail, or fax.
15 The response will explain the findings and the actions to be taken (if any) in
16 response to the complaint.

17 26. DOJ Guidelines state that normally the agency will respond to a request for correction
18 within sixty calendar days of receipt, or will inform the requestor of any additional time needed
19 to resolve the request, the reason why, and an estimated decision date.

20 27. The DHS Guidelines, which are based on the OMB Guidelines, also state that the three
21 underlying requirements for quality information are utility, objectivity, and integrity of
22 information, and set forth accompanying definitions.⁴

23 28. The DHS Guidelines also provide for an administrative information correction process,
24 whereby "affected persons can seek, and obtain, where appropriate, timely correction of
25 information that does not comply with OMB Guidelines, DHS Guidelines, or [DHS] Component
26 standards."⁵

27 ⁴ U.S. Dep't Homeland Security, Information Quality Guidelines (last visited Jan. 18, 2018),
28 <https://www.dhs.gov/sites/default/files/publications/dhs-iq-guidelines-fy2011.pdf> ("DHS
Guidelines") at 2-5.

⁵ *Id.* at 6.

1 29. The DHS Guidelines also state that DHS Components should respond to requests for
2 correction in writing within sixty calendar days of receipt.

3 **Factual Allegations**

4 ***Executive Order 13780 and its reporting requirement.***

5 30. President Trump signed Executive Order 13780, Protecting the Nation from Foreign
6 Terrorist Entry into the United States (“EO 13780”) on March 6, 2017.

7 31. EO 13780 significantly restricts entry to the United States by individuals from six
8 Muslim-majority countries. The travel restrictions imposed by EO 13780 and its predecessor
9 and successor Executive Order and Proclamation⁶ are the subject of widespread and ongoing
10 litigation. Numerous individuals and organizations sued to challenge the legality of parts of the
11 Orders and Proclamation, obtaining injunctions against their restrictions on travel.

12 32. In addition to the travel restrictions, Section 11 of EO 13780 (“Section 11”) contains an
13 instruction to the Secretary of Homeland Security, in consultation with the Attorney General, to
14 collect and make publicly available certain information regarding foreign nationals and
15 terrorism. EO 13780, Sec. 11(a). This Section has not been the subject of litigation.

16 33. Section 11 requires in pertinent part that “[t]o be more transparent with the American
17 people and to implement more effectively policies and practices that serve the national interest,
18 the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent
19 with applicable law and national security, collect and make publicly available the following
20 information:
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26 ⁶ Exec. Order No. 13769, Proclamation No. 9645, Enhancing Vetting Capabilities and Processes
27 for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety
28 Threats (the “Proclamation”), 82 Fed. Reg. 45,161 (Sept. 27, 2017)..

1 (i) information regarding the number of foreign nationals in the United States who
2 have been charged with terrorism-related offenses while in the United States;
3 convicted of terrorism-related offenses while in the United States; or removed
4 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;

5 (ii) information regarding the number of foreign nationals in the United States
6 who have been radicalized after entry into the United States and who have
7 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;

8 (iii) information regarding the number and types of acts of gender-based violence
9 against women, including so-called “honor killings,” in the United States by
foreign nationals; and

10 (iv) any other information relevant to public safety and security as determined by
11 the Secretary of Homeland Security or the Attorney General, including
12 information on the immigration status of foreign nationals charged with major
offenses.

13 EO 13780, Sec. 11(a).

14 34. EO 13780 instructs that the Secretary of Homeland Security shall release the “initial
15 report” required by Section 11(a) within 180 days, and that the report shall include information
16 for the period from September 11, 2001, until the date of the initial report. EO 13780, Sec.
17 11(b).

18 35. On January 16, 2018, DOJ and DHS released a report titled: “Executive Order 13780:
19 Protecting the Nation From Foreign Terrorist Entry Into the United States Initial Section 11
20 Report”⁷, which is the initial report required by Section 11, and which purports to provide
21 information responsive to the four categories of information that Section 11 requires be made
22 available. Report at 1.
23

24
25 ⁷ U.S. DHS & U.S. DOJ, *Executive Order 13780: Protecting the Nation from Foreign Terrorist*
26 *Entry into the United States Initial Section 11 Report* (the “Report”) (Jan. 2018),
27 [https://www.dhs.gov/sites/default/files/publications/Executive%20Order%
2013780%20Section%2011%20Report%20-%20Final.pdf](https://www.dhs.gov/sites/default/files/publications/Executive%20Order%2013780%20Section%2011%20Report%20-%20Final.pdf).

1 36. The Report sets forth various information in response to the four subsections identified
2 by Section 11, including the misleading conclusion that three out of four individuals convicted of
3 international terrorism and terrorism-related offenses were foreign-born.

4 37. Defendants issued the Report with accompanying press releases highlighting the “three
5 out of four” conclusion and have disseminated the Report to the public on their respective
6 webpages.⁸

7
8 38. Despite the Administration’s ongoing dissemination of the Report, the information in the
9 Report is biased, misleading, and incomplete. It violates OMB’s IQA Guidelines, lacking utility
10 and objectivity, and Defendants’ respective IQA Guidelines, as set forth in detail, below.

11 ***The Report’s substitution of international terrorism for all terrorism misleadingly***
12 ***undercounts domestic terrorism, and artificially inflates the proportion of terrorist incidents***
13 ***committed by immigrants and foreign nationals.***

14 39. The government’s own studies show that native born citizens commit significant numbers
15 of terrorist attacks in the United States, and indeed are responsible for the overwhelming
16 majority of terrorism fatalities since 2002.⁹ An April 2017 Government Accountability Office
17 report concluded that “of the 85 violent extremist incidents that resulted in death since
18 September 12, 2001, far right wing violent extremist groups were responsible for 62 (73 percent)

19
20 ⁸ Press Release, U.S. DHS, *DHS, DOJ Report: Three Out of Four Individuals Convicted of*
21 *International Terrorism and Terrorism-Related Offenses Were Foreign-Born* (“DHS Press
22 Release”) (Jan. 16, 2018), [https://www.dhs.gov/news/2018/01/16/dhs-doj-report-three-out-four-](https://www.dhs.gov/news/2018/01/16/dhs-doj-report-three-out-four-individuals-convicted-international-terrorism-and)
23 *individuals-convicted-international-terrorism-and*; Press Release, U.S. DOJ, *DOJ, DHS Report:*
24 *Three Out of Four Individuals Convicted of International Terrorism and Terrorism-Related*
25 *Offenses Were Foreign-Born* (“DOJ Press Release”) (Jan. 16, 2018),
26 [https://www.justice.gov/opa/pr/doj-dhs-report-three-out-four-individuals-convicted-](https://www.justice.gov/opa/pr/doj-dhs-report-three-out-four-individuals-convicted-international-terrorism-and-terrorism)
27 *international-terrorism-and-terrorism.*

28 ⁹ See Alex Nowrasteh, *New Government Terrorism Report Provides Little Useful Information,*
Cato Inst. (Jan. 16, 2018), [https://www.cato.org/blog/new-government-terrorism-report-nearly-](https://www.cato.org/blog/new-government-terrorism-report-nearly-worthless)
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.”).

1 while radical Islamist violent extremists were responsible for 23 (27 percent).”¹⁰ Similarly, DHS
2 and the Federal Bureau of Investigation published an intelligence bulletin in May 2017 titled
3 “White Supremacist Extremism Poses Persistent Threat of Lethal Violence.” That bulletin states
4 that white supremacist extremists, who are very rarely immigrants, were responsible for “49
5 homicides in 26 attacks from 2000 to 2016 . . . more than any other domestic extremist
6 movement.”¹¹

7
8 40. Despite the prevalence of serious domestic terrorist threats, particularly the threat posed
9 by far-right wing violent extremist groups, the Report, which purports to address *all* terrorism-
10 related offenses, only provides data related to international terrorism-related offenses. Report at
11 2. This presentation of information runs contrary to EO 13780’s directive that Defendants
12 publish information regarding foreign nationals charged with or convicted of “terrorism-related
13 offenses” generally, not just international terrorism-related offenses. Through their manipulation
14 of data, Defendants have been able to artificially increase the proportion of immigrants and
15 foreign nationals presented as responsible for terrorist incidents—without making clear that the
16 scope of the data is much narrower than what EO 13780 requires.

17
18 41. The Report’s conclusions were drawn from data regarding only international terrorism-
19 related offenses, specifically: “public convictions in federal courts between September 11, 2001,
20 and December 31, 2016 resulting from international terrorism investigations, including
21

22 ¹⁰ See U.S. Gov’t Accountability Office, *Countering Violent Extremism: Actions Needed to*
23 *Define Strategy and Assess Progress of Federal Efforts* 4 (Apr. 2017),
24 <http://www.gao.gov/assets/690/683984.pdf>.

25 ¹¹ See FBI & DHS Joint Intelligence Bulletin, *White Supremacist Extremism Poses Persistent*
26 *Threat of Lethal Violence* 4 (May 10, 2017), available at
27 <https://www.documentcloud.org/documents/3924852-White-Supremacist-Extremism-JIB.html>;
28 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-](http://foreignpolicy.com/2017/08/14/fbi-and-dhs-warned-of-growing-threat-from-white-supremacists-months-ago/)
[of-growing-threat-from-white-supremacists-months-ago/](http://foreignpolicy.com/2017/08/14/fbi-and-dhs-warned-of-growing-threat-from-white-supremacists-months-ago/) (citing the Joint Intelligence Bulletin).

1 investigations of terrorist acts planned or committed outside the territorial jurisdiction of the
2 United States over which Federal criminal jurisdiction exists and those within the United States
3 involving international terrorists and terrorist groups.” Report at 2.

4 42. Defendants omitted data related to domestic terrorism without explanation.

5 43. The Report categorically excludes all terrorism-related offenses that occurred in the
6 United States which were planned and executed by individuals without international connections.
7 This exclusion dramatically misrepresents the actual terrorist threat posed by immigrants and
8 foreign nationals in the United States. By presenting data that omits completely information
9 about the documented threat posed by domestic terrorists without international ties, and framing
10 it as responsive to the directive to provide data regarding *all* terrorism-related offenses,
11 Defendants have disseminated information that lacks utility and is not objective.

12
13 ***The Report provides misleading and biased information by substituting data concerning
14 foreign-born individuals for data concerning foreign nationals.***

15 44. Section 11 directed Defendants to provide various information related to “foreign
16 nationals” and terrorism-related offenses. EO 13780, Sec. 11(a).

17 45. The Report instead disseminates information regarding *foreign-born* individuals, rather
18 than foreign nationals, stating that of at least 549 individuals who were convicted of international
19 (and only international) terrorism-related charges in U.S. federal courts between September 11,
20 2001, and December 31, 2016, “approximately 73 percent (402 of these 549 individuals) were
21 foreign-born.” Report at 2.

22 46. The Report does not provide any explanation for the substitution of foreign-born persons
23 for foreign nationals, although doing so results in the inaccurate conclusion that nearly three-
24 quarters of individuals who were convicted of international terrorism-related charges were
25 immigrants or non-citizens.

26
27 *Complaint for Declaratory and Injunctive Relief*

1 47. The Report further states that of these 549 individuals, 254 were not U.S. citizens, 148
2 were foreign-born, naturalized and received U.S. citizenship, and 147 were U.S. citizens by birth.
3 Report at 2. Had the Report followed EO 13780's directive to report on foreign nationals, even
4 based on its own flawed data, it would have concluded that fewer than half, or 46 percent, of
5 individuals charged or convicted of international terrorism-related offenses met this criterion.

6
7 48. Responding to a request for information that purports to be about the terrorist threat that
8 foreign national immigrants pose to the United States by disseminating information that includes
9 naturalized citizens perpetuates the Administration's discriminatory view that only native-born
10 individuals are actually American, and results in numbers that are artificially inflated. As such,
11 in substituting foreign-born for foreign national, Defendants disseminated information that does
12 not have utility and is not objective.

13
14 ***The Report's inclusion of individuals who committed terrorism overseas and whose***
15 ***only apparent tie to the United States is extradition to the United States for prosecution is***
misleading.

16 49. EO 13780 also directs Defendants to disseminate information regarding terrorist events
17 that took place in the United States, specifically data about individuals who were charged with or
18 convicted of terrorism-related offenses "while in the United States" or who have been removed
19 from the United States for various reasons. EO 13780, Sec. 11(a)(i).

20
21 50. In response, the Report instead disseminates information about individuals who
22 "committed offenses while located abroad, including [those] who were transported to the United
23 States for prosecution." Report at 2.

24 51. Although someone who has been extradited to the United States for trial may be charged
25 and convicted while in the United States, the offenses committed by that person overseas do not
26 necessarily reveal the actual terror threat to the United States, nor could they serve to inform the
27

28 *Complaint for Declaratory and Injunctive Relief*

1 United States’ immigration policy. Including information about offenses that occurred overseas
2 misleadingly inflates the number of foreign nationals Defendants can claim are responsible for
3 terrorism-related offenses, without having any bearing on terrorist threats that exist *within* the
4 United States, as Section 11 originally required. Defendants provide no explanation for the
5 inclusion of this information.

6
7 52. The Report also fails to provide access to readily available and nonconfidential
8 underlying aggregate data that would reveal the degree to which including overseas offenses
9 misrepresents the nexus between foreign nationals and the risk of terrorism in the United
10 States—namely the number of charges and convictions it counted for which the perpetrator’s
11 primary connection to the United States was extradition for trial.

12
13 53. Defendants’ manipulation of data misleadingly inflates the threat posed by foreign
14 nationals.

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

17 54. The Report disseminates eight purportedly “illustrative examples among the 402
18 convictions of foreign nationals or naturalized U.S. citizens.” Report at 3-7.

19 55. Each of these profiles is of a man who appears to be Muslim, either because he is from a
20 Muslim-majority country or has a Muslim-sounding name or both.

21
22 56. The individuals profiled arrived in the United States through the precise immigration
23 provisions the Administration has maligned and sought to eliminate: refugee resettlement,
24 migration preferences to support family reunification, and the visa diversity lottery.¹²

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26
27 ¹² See Faiza Patel, *Trump Administration’s Fuzzy Math on Terrorist Origins Is More than*
28 *Misleading -- It’s Dishonest*, Just Security (Jan. 16, 2018),
<https://www.justsecurity.org/51084/trump-administrations-fuzzy-math-terrorist-origins-Complaint-for-Declaratory-and-Injunctive-Relief>

1 57. Even though the underlying data—conviction records—is not confidential or otherwise
2 inaccessible, the Report provides no additional information or quantification for outside
3 observers to test the Departments’ doubtful assertion that these examples are “illustrative.”

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

6 58. Subsection (a)(iii) of Section 11 instructs Defendants to provide information regarding
7 the number and types of acts of gender-based violence against women, including so-called
8 “honor killings,” in the United States by foreign nationals.

9 59. The information provided by the Report, which purports to be responsive to this
10 directive, is inaccurate and misleading.

11 60. The federal government has not “recorded and tracked in an aggregated statistical manner
12 information pertaining to gender-based violence against women committed at the federal and
13 state level.”¹³ Nor does the federal government have reliable information regarding the
14 prevalence of so-called “honor killings.” Defendants appear not to possess any quality
15 information that is responsive to the directive of subsection (iii).

16 61. Instead, Defendants provide alternate data, which range from irrelevant to inaccurate.

17 62. The Report cites the average annual number of non-fatal domestic violence
18 victimizations. Although that number is significant, the data does not reveal the proportion
19 perpetuated by foreign nationals. Indeed, studies show that gender-based violence rates are
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21
22

23
24
25 misleading-its-dishonest/; see also Dan Merica & Tal Kopan, *Trump Demands Congress*
26 *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).

27 ¹³ Report at 7.

28 *Complaint for Declaratory and Injunctive Relief*

1 largely the same across all countries, a point which further casts doubt on the Report's attempt to
2 link gender-based violence and national origin.¹⁴

3 63. The Report also presents discredited data to perpetuate the stigmatization of Muslims
4 inherent in EO 13780's implication that "honor killings" are a significant problem in the United
5 States. The Report asserts that "a study commissioned and provided to the DOJ's Bureau of
6 Justice Statistics in 2014 estimated that an average of 23-27 honor killings occur every year in
7 the United States."¹⁵ The author of the study has, in fact, disclaimed the accuracy of its
8 conclusion, saying "it's not terribly scientific," a fact not disclosed by the Report. Moreover, the
9 study cited was not commissioned by the Department of Justice, but by a private organization.¹⁶

10 64. Finally, the Report also cites a study regarding the number of women and girls who may
11 be at risk for female genital mutilation, noting that the number was three times higher in 2012
12 than in 1990.¹⁷ The Report fails to explain that the study's methodology simply correlates the
13 risk of female genital mutilation in various countries to the number of women and girls living in
14 the United States who were born in that country or who lived with a parent born in that
15 country.¹⁸ In short, the study simply tracks immigration rates, and explicitly does not present
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19 ¹⁴ See, e.g., K.M. Devries et al., *The Global Prevalence of Intimate Partner Violence Against*
20 *Women*, 340 *Sci.* 1527, 1527, 1528 (June 28, 2013) (estimating that 30 percent of women aged
21 15 and over have experienced domestic violence and that though there are some slight regional
22 variations, the rates exceed 19 percent everywhere in the world except East Asia).

23 ¹⁵ Report at 8.

24 ¹⁶ Jesse Singal, *Here's What the Research Says About Honor Killings in the U.S.*, *N.Y. Magazine*
25 (Mar. 6, 2017), [http://nymag.com/daily/intelligencer/2017/03/heres-what-the-research-says-
26 about-american-honor-killings.html](http://nymag.com/daily/intelligencer/2017/03/heres-what-the-research-says-about-american-honor-killings.html).

27 ¹⁷ Report at 8.

28 ¹⁸ *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 *Public Health Reports* 340-47
(2016), available at [http://journals.sagepub.com/doi/pdf/10.1177/
003335491613100218](http://journals.sagepub.com/doi/pdf/10.1177/003335491613100218)).

1 “scientifically valid information” about the behavior of those immigrant populations in the
2 United States.

3 ***The Report’s role in the Administration’s larger campaign to target immigrant and Muslim***
4 ***communities.***

5 65. The Report’s misleading and biased presentation of the threat of violent extremism that
6 immigrants, especially Muslim immigrants, pose to the United States is consistent with the views
7 of the President and Defendants.

8 66. During his campaign, then-candidate Trump infamously called for “a total and complete
9 shutdown of Muslims entering the United States,” stating further “[i]t is obvious to anybody that
10 the hatred is beyond comprehension. . . . [O]ur country cannot be the victims of horrendous
11 attacks by people that believe only in Jihad, and have no sense of reason or respect for human
12 life.” He later stated that “Islam hates us,” and that “[w]e can’t allow people coming into the
13 country who have this hatred.”¹⁹

14 67. The Fourth Circuit later relied on these and other statements in concluding that there is a
15 compelling case that EO 13780’s primary purpose was to target Muslims, noting that “[t]hen-
16 candidate Trump’s campaign statements reveal that on numerous occasions, he expressed anti-
17 Muslim sentiment, as well as his intent, if elected, to ban Muslims from the United States.”²⁰

18 68. After becoming President, President Trump re-tweeted anti-Muslim videos from a far-
19 right British activist, which were titled: “Muslim migrant beats up Dutch boy on crutches!”;
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23 ¹⁹ *Int’l Refugee Assistance Project v. Trump*, 857 F.3d 554, 594 (4th Cir.), *as amended* (May 31,
24 2017), *as amended* (June 15, 2017), *cert. granted*, 137 S. Ct. 2080, and *vacated and remanded*
25 *sub nom. Trump v. Int’l Refugee Assistance*, 138 S. Ct. 353 (2017). *See also Washington v.*
26 *Trump*, 847 F.3d 1151, 1167 (9th Cir.), *reconsideration en banc denied*, 853 F.3d 933 (9th Cir.),
reconsideration en banc denied, 858 F.3d 1168 (9th Cir.), and *cert. denied sub nom. Golden v.*
Washington, 138 S. Ct. 448 (2017).

27 ²⁰ *Id.*

1 “Muslim destroys a statue of Virgin Mary!”; and “Islamist mob pushes teenage boy off roof and
2 beats him to death!”²¹ The videos were misleading and drew wide condemnation, but the White
3 House defended the President’s actions, with the Press Secretary saying, “[T]he threat is real,
4 and that is what the president is talking about.”²²

5
6 69. President Trump has also repeatedly argued, inaccurately, that immigrants pose a threat
7 to public safety.²³

8 70. Similarly, Attorney General Sessions recently relied on a single outlier study of
9 questionable methodology to claim that, despite the vast body of research showing that crime
10 tends to decrease in areas where immigrants settle²⁴, “illegal aliens are more than twice as likely
11 to be convicted of crimes as Arizonans,” and that “[t]ens of thousands of crimes have been
12 committed in this country that would never have happened if our immigration laws were
13 enforced and respected like they ought to be.”²⁵
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17 ²¹ Ashley Parker & John Wagner, *Trump Retweets Inflammatory and Unverified Anti-Muslim*
18 *Videos*, Wash. Post (Nov. 29, 2017), https://www.washingtonpost.com/news/post-politics/wp/2017/11/29/trump-retweets-inflammatory-and-unverified-anti-muslim-videos/?utm_term=.1a55596e88c1.

19 ²² *Id.*

20 ²³ Salvador Rizzo, *Trump’s Claim That Immigrants Bring ‘Tremendous Crime’ Is Still Wrong*,
21 Wash. Post (Jan. 18, 2018), https://www.washingtonpost.com/news/fact-checker/wp/2018/01/18/trumps-claim-that-immigrants-bring-tremendous-crime-is-still-wrong/?utm_term=.20ec4a0e8626.

22
23 ²⁴ Salvador Rizzo, *Questions Raised About Study That Links Undocumented Immigrants to*
24 *Higher Crime*, Wash. Post (Mar. 21, 2018), https://www.washingtonpost.com/news/fact-checker/wp/2018/03/21/questions-raised-about-a-study-that-links-undocumented-immigrants-to-higher-crime/?utm_term=.5b04d784c153.

25 ²⁵ Press Release, U.S. DOJ, *Attorney General Sessions Delivers Remarks on National Security*
26 *and Immigration Priorities of the Administration* (Jan. 26, 2018),
27 <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-national-security-and-immigration-priorities>.

28 *Complaint for Declaratory and Injunctive Relief*

1 71. And Homeland Security Secretary Nielsen recently stated that even though the number of
2 unlawful entries to the United States was at historically low levels, still it “is an unacceptable
3 risk to public safety and national security.”²⁶

4 72. Consistent with these views, the Administration is using the Report to support its
5 attempts to restrict lawful immigration and its ongoing stigmatization of Muslims.

6 73. For example, the White House issued a statement that the Report shows that “our current
7 immigration system jeopardizes American security” and used the Report to justify its calls to end
8 the visa lottery and migration preferences to support family reunification.²⁷

9 74. Similarly, Attorney General Sessions stated that the Report “reveals an indisputable
10 sobering reality—our immigration system has undermined our national security and public
11 safety.”²⁸

12 75. In her statement on the Report’s release, Homeland Security Secretary Nielsen said that it
13 “is a clear reminder of why we cannot continue to rely on immigration policy based on pre-9/11
14 thinking that leaves us woefully vulnerable to foreign-born terrorists, and why we must examine
15 our visa laws and continue to intensify screening and vetting of individuals traveling to the
16 United States to prevent terrorists, criminals, and other dangerous individuals from reaching our
17 country.”²⁹

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22 ²⁶ Written Testimony of DHS Secretary Nielsen Before the U.S. Senate Committee on the
23 Judiciary (Jan. 16, 2018), <https://www.judiciary.senate.gov/imo/media/doc/01-16-18%20Nielsen%20Testimony.pdf>.

24 ²⁷ Fact Sheet, White House, *Our Current Immigration System Jeopardizes American Security*
25 (Jan. 16, 2018), <https://www.whitehouse.gov/briefings-statements/current-immigration-system-jeopardizes-american-security/>.

26 ²⁸ DOJ Press Release, *supra* note 8.

27 ²⁹ *Id.*

1 76. She also warned the Senate Judiciary Committee that the Report was “just the tip of the
2 iceberg.” She then repeated the conclusion that supposedly three-fourths of individuals convicted
3 of international terrorism in U.S. federal courts were foreign-born in her testimony in January
4 2018 as part of her justification for the travel ban against nationals of six Muslim-majority
5 countries.³⁰

6
7 ***The Report’s use in public discourse and its harmful effects on Muslim communities.***

8 77. The Report has also—and predictably—been widely used to promote anti-Muslim, anti-
9 immigrant rhetoric by commentators in the public sphere. In the days following its publication, it
10 was described in news outlets as “linking terrorism with our broken immigration system, full of
11 holes.”³¹ On one of the most-watched television news programs in the country,³² the host
12 described the Report as showing that “America’s terror threat is clearly . . . an immigration
13

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15 ³⁰ Anna Giaritelli, *DHS Chief: Foreign-born Have Made Up 3 in 4 of International Terrorism*
16 *Convictions in US Courts Since Sept. 11 Attacks*, Wash. Examiner (Jan. 16, 2018),
17 [http://www.washingtonexaminer.com/dhs-chief-foreign-born-have-made-up-3-in-4-of-](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)
18 [international-terrorism-convictions-in-us-courts-since-sept-11-attacks/article/2646031](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*
19 *Testimony of Secretary Kirstjen Nielsen, Homeland Security Oversight, C-Span* (Jan. 16, 2018),
20 [https://www.c-span.org/video/?439257-1/homeland-security-secretary-kirstjen-nielsen-faces-](https://www.c-span.org/video/?439257-1/homeland-security-secretary-kirstjen-nielsen-faces-questions-daca)
21 [questions-daca](https://www.c-span.org/video/?439257-1/homeland-security-secretary-kirstjen-nielsen-faces-questions-daca).

22 ³¹ *Fox News @ Night – Shannon Bream – January 16, 2018 – Archive*, YouTube (Jan. 17, 2017),
23 <https://www.youtube.com/watch?v=OaJmY2WoEb8> (at 1:54); *see also Special Report with Bret*
24 *Baier 1/16/18 | Special Report Fox News Tuesday January 16, 2018*, YouTube (Jan. 16, 2018),
25 <https://www.youtube.com/watch?v=pa4jJOJ4xjw> (at 13:20); *Fox News @ Night – Shannon*
26 *Bream – January 16, 2018 – Archive*, YouTube (Jan. 17, 2017),
27 <https://www.youtube.com/watch?v=OaJmY2WoEb8> (at 1:54 and 6:40);

28 ³² A.J. Katz, *January 2018 Ratings: Fox News Is Cable News’ Most-Watched Network For 16*
29 *Years Straight*, TV Newser (Jan. 30, 2018), [http://www.adweek.com/tvnewser/january-2018-](http://www.adweek.com/tvnewser/january-2018-ratings-fox-news-is-now-cable-news-most-watched-network-for-16-straight-years/356285)
30 [ratings-fox-news-is-now-cable-news-most-watched-network-for-16-straight-years/356285](http://www.adweek.com/tvnewser/january-2018-ratings-fox-news-is-now-cable-news-most-watched-network-for-16-straight-years/356285);
31 Mark Joyella, *Is Tucker Carlson The New King Of Cable News?*, Forbes (May 31,
32 2017), [https://www.forbes.com/sites/markjoyella/2017/05/31/is-tucker-carlson-the-new-king-of-](https://www.forbes.com/sites/markjoyella/2017/05/31/is-tucker-carlson-the-new-king-of-cable-news/#7c7f84985370)
33 [cable-news/#7c7f84985370](https://www.forbes.com/sites/markjoyella/2017/05/31/is-tucker-carlson-the-new-king-of-cable-news/#7c7f84985370).

1 issue.”³³ And multiple think tanks and commentators seized upon the Report as an opportunity to
2 promote anti-Muslim, anti-immigrant rhetoric and policies.³⁴

3 78. The damaging stigma the Report has caused is further amplified by an entirely
4 foreseeable mischaracterization of its findings. The Report found (misleadingly) that 73 percent
5 of all individuals convicted of *international* terrorism-related offenses were foreign-born. But
6 numerous government officials and anti-immigrant outlets have stated that 73 percent of
7 individuals convicted of *all* terrorism-related offenses were foreign-born. For example, President
8 Trump tweeted on its release date that the report “shows that nearly 3 in 4 individuals convicted
9 of terrorism-related charges are foreign-born.”³⁵ On the same day, House Judiciary Chairman
10 Bob Goodlatte stated that “[o]f the 549 terror-related convictions since the attacks on September
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15 ³³ Attorney General Jeff Sessions and Tucker Carlson Discuss Immigration – MGTOW, YouTube
16 (Jan. 18, 2018), https://www.youtube.com/watch?v=o_244_Rf-Co (at 0:22).

17 ³⁴ See, e.g., David Horowitz, *Man up, DC! Immigrants are 73 percent of terrorism convictions*,
18 Conservative Review (Jan. 17, 2018), [https://www.conservativereview.com/articles/man-dc-](https://www.conservativereview.com/articles/man-dc-immigrants-73-percent-terrorism-convictions/)
19 [immigrants-73-percent-terrorism-convictions/](https://www.conservativereview.com/articles/man-dc-immigrants-73-percent-terrorism-convictions/); Hans A. von Spakovsky, *The importance of*
20 *public safety and national security in the immigration debate*, Fox News (Jan. 25, 2018),
21 [http://www.foxnews.com/opinion/2018/01/25/importance-public-safety-and-national-security-in-](http://www.foxnews.com/opinion/2018/01/25/importance-public-safety-and-national-security-in-immigration-debate.html)
22 [immigration-debate.html](http://www.foxnews.com/opinion/2018/01/25/importance-public-safety-and-national-security-in-immigration-debate.html); Andrew R. Arthur, *We Need Better Vetting, Better Screening, and*
23 *Better Laws*, Center for Immigration Studies (Jan. 16, 2018), [https://cis.org/Arthur/We-Need-](https://cis.org/Arthur/We-Need-Better-Vetting-Better-Screening-and-Better-Laws)
24 [Better-Vetting-Better-Screening-and-Better-Laws](https://cis.org/Arthur/We-Need-Better-Vetting-Better-Screening-and-Better-Laws); Kevin Daley, *Defending The Travel Ban Just*
25 *Got A Little Easier*, The Daily Caller (Jan. 16, 2018), [http://dailycaller.com/2018/01/16/dhs-](http://dailycaller.com/2018/01/16/dhs-report-may-help-travel-ban-defense/)
26 [report-may-help-travel-ban-defense/](http://dailycaller.com/2018/01/16/dhs-report-may-help-travel-ban-defense/).

27 ³⁵ Donald J. Trump, Twitter (Jan. 16, 2018),
28 [https://twitter.com/realDonaldTrump/status/953406423177859073?ref_src=twsrc%5Etfw&ref_u](https://twitter.com/realDonaldTrump/status/953406423177859073?ref_src=twsrc%5Etfw&ref_url=http%3A%2F%2Fnymag.com%2Fdaily%2Fintelligencer%2F2018%2F01%2Ftrumps-plan-to-end-chain-migration-isnt-populist.html&tfw_creator=ericlevitz&tfw_site=intelligencer)
29 [rl=http%3A%2F%2Fnymag.com%2Fdaily%2Fintelligencer%2F2018%2F01%2Ftrumps-plan-to-](https://twitter.com/realDonaldTrump/status/953406423177859073?ref_src=twsrc%5Etfw&ref_url=http%3A%2F%2Fnymag.com%2Fdaily%2Fintelligencer%2F2018%2F01%2Ftrumps-plan-to-end-chain-migration-isnt-populist.html&tfw_creator=ericlevitz&tfw_site=intelligencer)
30 [end-chain-migration-isnt-populist.html&tfw_creator=ericlevitz&tfw_site=intelligencer](https://twitter.com/realDonaldTrump/status/953406423177859073?ref_src=twsrc%5Etfw&ref_url=http%3A%2F%2Fnymag.com%2Fdaily%2Fintelligencer%2F2018%2F01%2Ftrumps-plan-to-end-chain-migration-isnt-populist.html&tfw_creator=ericlevitz&tfw_site=intelligencer); see also
31 Salvador Rizzo, *President Trump’s claim that ‘nearly 3 in 4’ convicted of terrorism are foreign-*
32 *born*, Washington Post (Jan. 22, 2018), [https://www.washingtonpost.com/news/fact-](https://www.washingtonpost.com/news/fact-checker/wp/2018/01/22/president-trumps-claim-that-nearly-3-in-4-convicted-of-terrorism-are-foreign-born/?utm_term=.2df7ec64132c)
33 [checker/wp/2018/01/22/president-trumps-claim-that-nearly-3-in-4-convicted-of-terrorism-are-](https://www.washingtonpost.com/news/fact-checker/wp/2018/01/22/president-trumps-claim-that-nearly-3-in-4-convicted-of-terrorism-are-foreign-born/?utm_term=.2df7ec64132c)
34 [foreign-born/?utm_term=.2df7ec64132c](https://www.washingtonpost.com/news/fact-checker/wp/2018/01/22/president-trumps-claim-that-nearly-3-in-4-convicted-of-terrorism-are-foreign-born/?utm_term=.2df7ec64132c).
35 *Complaint for Declaratory and Injunctive Relief*

1 11, 2011, 75% of those convicted were foreign born.”³⁶ And Attorney General Sessions stated in
2 an appearance on a television news program: “we know that . . . 73% of the people who’ve been
3 arrested for terrorism came here—were born abroad.”³⁷ This was repeated in articles published
4 by numerous media outlets and think tanks, which ran headlines such as: “3 out of 4 convicted of
5 terrorism are immigrants”³⁸ and “DHS and DOJ Report: 73 percent of Convicted Terrorists Were
6 Foreign-born.”³⁹ Because the Report was presented as purportedly responsive to the
7 requirements of Section 11 of EO 13780—which requires an analysis of *all* terrorism-related
8 offenses—that mischaracterization was a predictable outcome of the Report and the agencies’
9 statements about it.
10

11 79. By contributing to the stigmatization of Muslims, the Report is also likely to contribute to
12 increases in associated hate speech and violence. As many experts have noted, public rhetoric
13 and policies targeting a disfavored group correlate with increases in violence targeting those
14 groups.⁴⁰ And in fact, multiple reports have found significant increases in hate incidents against
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17 ³⁶ Press Release, Congressman Bob Goodlatte, Goodlatte Statement on DOJ/DHS Report on
18 Immigration and National Security, Jan. 16, 2018, [https://judiciary.house.gov/press-
release/goodlatte-statement-doj-dhs-report-immigration-national-security/](https://judiciary.house.gov/press-release/goodlatte-statement-doj-dhs-report-immigration-national-security/).

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20 ³⁷ *Attorney General Jeff Sessions and Tucker Carlson Discuss Immigration – MGTOW*, YouTube
(Jan. 18, 2018), https://www.youtube.com/watch?v=o_244_Rf-Co (at 5:26).

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22 ³⁸ Daniel Greenfield, *3 out of 4 convicted of terrorism are immigrants*, FrontPage Mag (Jan. 16,
2018), [https://www.frontpagemag.com/point/269046/3-out-4-convicted-terrorism-are-
immigrants-daniel-greenfield](https://www.frontpagemag.com/point/269046/3-out-4-convicted-terrorism-are-immigrants-daniel-greenfield).

23
24 ³⁹ *DHS and DOJ Report: 73 percent of Convicted Terrorists Were Foreign-born*, NumbersUSA
25 (Jan. 16, 2018), [https://www.numbersusa.com/news/dhs-and-doj-report-73-percent-convicted-
terrorists-were-foreign-born](https://www.numbersusa.com/news/dhs-and-doj-report-73-percent-convicted-terrorists-were-foreign-born).

26
27 ⁴⁰ See Brian Levin, *Explaining the rise in hate crimes against Muslims in the US*, The
28 Conversation (July 19, 2017), [https://theconversation.com/explaining-the-rise-in-hate-crimes-
against-muslims-in-the-us-80304](https://theconversation.com/explaining-the-rise-in-hate-crimes-against-muslims-in-the-us-80304) (“the rhetoric politicians use after terrorist attacks is correlated
closely to sharp increases...in hate crimes”); *Responses to the Increase in Religious Hate
Complaint for Declaratory and Injunctive Relief*

1 Muslims and persons perceived to be Muslim since the beginning of Trump’s presidential
 2 campaign and especially since the beginning of his presidency,⁴¹ and one report found an explicit
 3 correlation to this administration’s anti-Muslim policies or slogans.⁴² If left uncorrected, the
 4 Report is likely to contribute to this increase in violence and stigmatization experienced by
 5 Muslim communities.

Plaintiff’s Petition

80. On January 29, 2018, Plaintiff sent a petition to DOJ and DHS setting forth the ways in
 9 which the Report violates IQA Guidelines on information quality, as set forth in the preceding
 10 paragraphs, and requesting a retraction of the Report. *See* Att. A.

13 *Crimes; Hearing Before the S. Comm. On the Judiciary*, 115th Cong. 5 (2017) (statement of
 14 Vanita Gupta, President, Leadership Conference on Civil and Human Rights),
<http://bit.ly/2xa29Bp> (“Policies singling out protected groups can normalize hate and legitimize
 15 hate-motivated violence directed at Muslims or people perceived to be Muslim.”).

16 ⁴¹ *See, e.g., CAIR Report Shows 2017 on Track to Becoming One of Worst Years Ever for Anti-*
Muslim Hate Crimes, Council On Am.–Islamic Relations (July 17, 2017), <http://bit.ly/2uCpFqR>
 17 (reporting a 91 percent increase in the number of anti-Muslim hate crimes during the first half of
 18 2017); Christopher Ingraham, *American Mosques—and American Muslims—Are Being Targeted*
for Hate Like Never Before, Wash. Post (Aug. 8, 2017), <http://wapo.st/2x3nCty> (documenting at
 19 least 85 anti-Muslim incidents at mosques during the first half of 2017); Katayoun Kishi,
Assaults against Muslims in U.S. surpass 2001 level, Pew Research Center (Nov. 15, 2017),
 20 [http://www.pewresearch.org/fact-tank/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-](http://www.pewresearch.org/fact-tank/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-level/)
 21 [level/](http://www.pewresearch.org/fact-tank/2017/11/15/assaults-against-muslims-in-u-s-surpass-2001-level/); Chris Fuchs, *Reported anti-Muslim hate incidents, rhetoric rose in year after election,*
report finds, NBC News (Feb. 1, 2018), [https://www.nbcnews.com/news/asian-america/reported-](https://www.nbcnews.com/news/asian-america/reported-anti-muslim-hate-incidents-rhetoric-rose-year-after-election-n843671)
 22 [anti-muslim-hate-incidents-rhetoric-rose-year-after-election-n843671](https://www.nbcnews.com/news/asian-america/reported-anti-muslim-hate-incidents-rhetoric-rose-year-after-election-n843671); Laura Pitter, *Hate Crimes*
Against Muslims in US Continue to Rise in 2016, Human Rights Watch (May 11, 2017),
 23 <https://www.hrw.org/news/2017/05/11/hate-crimes-against-muslims-us-continue-rise-2016>.

24 ⁴² *See Report: Communities on Fire: Confronting Hate Violence and Xenophobic Political*
Rhetoric, South Asian Americans Leading Together (SAALT), <https://tinyurl.com/ycllxzd2>
 25 (documenting 302 incidents of hate incidents directed at Muslim, Arab, and South Asian
 26 individuals between November 2016 and November 2017, an over 45 percent increase from the
 27 previous year; finding that 82 percent of those incidents were motivated by anti-Muslim
 28 sentiment, that more than 213 involved actual violence (a 64 percent increase over the preceding
 year); and reporting that almost 1 in 5 of these incidents involved perpetrators who specifically
 invoked President Trump’s name, policies, or campaign slogans.

Complaint for Declaratory and Injunctive Relief

1 81. In the Petition, Plaintiff also explained that it is an “affected person” within the meaning
2 of the IQA and its implementing Guidelines because, among other reasons,

3 Muslim Advocates works to ensure that policies enacted under the banner of
4 national security do not wrongfully discriminate against Muslims and are not
5 based on inaccurate or misleading information.

6 Muslim Advocates uses reliable information concerning the American
7 immigration population in its work, and it, as well as its clients, is also “harmed”
8 by the dissemination of the Report, which seeks to portray immigrants, and
9 particularly Muslim immigrants, as inherently violent and likely to commit acts of
10 terror. Moreover, the Report serves as a mechanism to justify the travel and
11 refugee bans, which the Administration has attempted to justify, at least in part,
12 by reference to the kinds of inaccurate data and biased findings contained in the
13 Report. The Report serves as further post hoc justification for those efforts,
14 which directly harm Muslim Advocates and its clients.

15 82. The petition was sent via email and Federal Express. The Federal Express delivery
16 arrived on January 30, 2018.

17 83. Under both DOJ and DHS Guidelines, Defendants have 60 calendar days to respond for a
18 request for correction or to notify the requestor that additional time is needed.

19 84. As of the date of filing, Plaintiff has not received any communication from either
20 Defendant.

21 **Claim for Relief: Violation of the Administrative Procedure Act**

22 85. Plaintiff hereby incorporates all allegations in the above paragraphs as if fully set forth
23 herein.

24 86. The IQA, OMB’s IQA Guidelines, and DOJ and DHS’s IQA Guidelines require that
25 information disseminated by agencies meet a requisite level of quality.

26 87. The Report is information disseminated by Defendants within the meaning of the IQA
27 and its implementing Guidelines.

28 *Complaint for Declaratory and Injunctive Relief*

1 88. The Report fails the objectivity and utility requirements of information quality; instead, it
2 presents information in a deceptive, misleading, and incomplete manner to artificially inflate the
3 threat that immigrants and Muslims pose to the United States.

4 89. Defendants were required to respond to Plaintiff's Petition setting forth the ways in
5 which the Report does not meet the IQA and its implementing Guidelines' requirements as to
6 information quality.

7 90. Defendants have failed to respond to Plaintiff's Petition within the required timeframe.

8 91. Defendants' failure to respond to Plaintiff's Petition violates the IQA and its
9 implementing Guidelines, and is therefore arbitrary, capricious, an abuse of discretion, not in
10 accordance with law, without observance of procedure required by law, and otherwise violative
11 of the APA, 5 U.S.C. § 706(2).

12 92. Defendants' ongoing dissemination of the Report violates the IQA and its implementing
13 Guidelines, and is therefore arbitrary, capricious, an abuse of discretion, not in accordance with
14 law, and otherwise violative of the APA, 5 U.S.C. § 706(2).

15
16
17 **Prayer for Relief**

18 WHEREFORE, Plaintiff prays that this Court grant the following relief:

- 19 1. Declare that the Report disseminates information that fails the standard of quality
20 required of federal agencies;
21 2. Declare that Defendants violated the IQA, its implementing Guidelines, and the APA;
22 3. Enjoin Defendants to cease dissemination of the Report;
23 4. Enjoin Defendants to respond to Plaintiff's Petition;
24 5. Award Plaintiff its costs, reasonable attorneys' fees, and other disbursements incurred in
25 this action; and
26

27
28 *Complaint for Declaratory and Injunctive Relief*

6. Grant such other relief as the Court may deem just and proper.

Date: April 9, 2018

Respectfully submitted,

/s/ Matthew Callahan

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**pro hac vice application forthcoming*