December 10, 2015

Via Electronic Mail

United States Senate

Re: Visa Waiver Program Improvement and Terrorist Travel Prevention Act

Dear Senator:

On behalf of the American-Arab Anti-Discrimination Committee (ADC), I write to strongly urge you to Vote No to an omnibus spending bill that includes the Visa Waiver Program Improvement and Terrorist Travel Prevention Act, H.R. 158. We have serious concerns on the application and enforcement of H.R. 158 if it were to become law, specifically Section 3 which 1) imposes a mandatory and categorical bar to the Visa Waiver Program (VWP) on any individual who is a dual citizen of Syria, Iraq, Sudan, and Iran; and 2) prohibits any person whom has traveled to Syria, Iraq, Iran, and Sudan since March 1, 2011.

We strongly request you to Vote No on to the omnibus spending bill, and oppose this H.R. 158 inclusion in an omnibus package because this bill is: 1) ineffective to actually secure safety; and 2) intentionally discriminates and profiles persons based on their national origin.

ADC makes the following recommendations on how the bill can be amended to help address discrimination and profiling, while still upholding national security:

1. Remove Section 3’s bar on entry under VWP based on dual citizenship (national origin) of a person (dual citizenship alone does not predicate a national security threat – especially where dual citizenship is automatic based on paternal blood line not based on place of birth or residence);
2. Amend Section 3 to include exemptions for persons whom travelled to designated countries for business related travel, health and human aid work among other humanitarian activities including but not limited to doctors and nurses, journalists and news reporters, translators and interpreters, teachers and students, clergymen;
3. Amend bill to allow persons denied entry under the bill to be allowed to request an exemption and/or waiver under Section 3 for future travel, upon their return to their country of national origin at the U.S. Embassy if they are able to meet specified criteria set by the Secretary of the Department of State (important because many traveled to designated countries to help get their family, relatives and friends out of these countries, among other legitimate reasons such as attending an wedding or funeral, caring for sick relative); and
4. Amend bill to include a 2 year sunset provision, and require appropriate agencies to review of the efficacy, feasibility, and continued need of the limits placed on the VWP.
Section 3’s blanket exclusion of visitors to Iraq and Syria would not be an effective security measure as it relies on self-reporting accurate tracking of who visits those countries that could be circumvented by someone intending to do harm -- the persons who are intent on engaging in terror activities are not getting their passports stamped, they are sneaking into Syria and Iraq. The provision is more likely to screen out health and aid workers, clergymen, journalists, teachers, military personnel, translators, family visitors and others who are helping protect Americans or have legitimate or completely innocent reasons to visit Syria or Iraq -- essentially penalizing them for their honesty and performing humanitarian work.

It is not black and white, nor simple to suggest that the bill just requires individuals to get a visa. The bill is not just a visa requirement, it is discriminatory. Section 3 imposes a mandatory bar to all persons whom are dual citizens of Syria, Iraq, Sudan, and Iran is blatant profiling on its face. Only nationals of particular countries regardless of whether they have traveled to a terrorist support country or not, have to meet additional requirements they would not otherwise have to go through if they were not Arab. It is premised on the unreliable assumption that Arabs are more prone to terrorism and to commit terrorist acts, and further perpetuates stereotypes that Arabs are terrorists. There is no separate assessment and/or security review done that determines that specific person on a case by case basis is a security threat, non-related to their identity, place of birth, or country of national origin. The fact is that terrorism is not limited to one particular race, country of national origin, or religion, nor bound by country borders. However, this bill paints Arabs as the enemy, and makes VWP Arab nationals second class citizens in their own country – they are not afforded the same benefits as their fellow nationals. Many VWP nationals will be arbitrarily denied entry by Customs and Border Patrol with little to no notice of change in VWP requirements and no review if that person actually presents a threat to national security. Currently, Arabs face enormous scrutiny and security checks to enter the U.S. and many have been denied entry even with valid non-immigrant and immigrant visas, based on no other reason but their national origin. You should not support the further arbitrary exclusion of a group of people based on nothing but that person’s national origin.

Historically programs with sweeping powers to exclude people based on nationality, race, ethnic origin or religion have proven to be ineffective. In 2002, the U.S. government established the special-registration program under National Security Entry-Exit Registration System (NSEERS) requiring heightened registration and scrutiny of people in the U.S. who came from mostly Arab and Muslim countries. NSEERS was initially portrayed as an anti-terrorism measure which required male visitors to the US from 25 Arab and Muslim countries to be fingerprinted, photographed, and questioned by immigration officers. Many whom complied with registration were arbitrarily detained and deported. NSEERS proved to be an ineffective counter-terrorism tool, and has not resulted in a single known terrorism-related conviction. We also should not forget the detrimental ramifications of blanket immigration exclusion and discrimination against Asians with the Chinese Exclusion Act.
Rather than imposing an ineffective ban from VWP on people who set foot in Syria and Iraq, and excluding groups of people based on their national origin, Congress should consider other security measures that would more effectively enhance the Department of Homeland Security’s screening process overall. We must also be weary of how VWP countries will treat Americans of Arab and Middle Eastern background, and may single out and exclude our citizens from entry under their visa waiver program and respective immigration processes.

ADC strongly urges you to Vote No to the omnibus spending bill with the inclusion of H.R. 158 and stand up against profiling. The automatic exclusion of dual citizens of VWP countries and the designated Arab countries, and recent visitors to Iraq and Syria is discriminatory. The reactionary government actions following the Pearl Harbor attack – Japanese Internment camps and 9/11 – arbitrary detention and surveillance of Arabs – are cautionary tales that we must heed to now and remember that we cannot let fear erode respect and protection of civil and human rights.

Respectfully Submitted,

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ADC National President