

**STATEMENT OF FORMER UNITED STATES ATTORNEYS AND
ASSISTANT UNITED STATES ATTORNEYS IN OPPOSITION TO
ENFORCEMENT OF THE EXECUTIVE ORDER TITLED
“PROTECTING THE NATION FROM FOREIGN TERRORIST
ENTRY INTO THE UNITED STATES”**

We are former United States Attorneys and Assistant United States Attorneys from the Southern District of Florida as well as other United States Attorneys' Offices. Many of us held supervisory positions during our tenure with the Department of Justice, which collectively spanned more than 50 years. Representing the United States of America was a privilege and an honor. In that job our highest duty as government lawyers was not to win, but to seek justice. It was to make our case based on the law and the evidence, fairly, without favor or prejudice. It was to speak with candor to the courts that questioned the positions taken in the name of the United States. And always, it was to follow the law and the fundamental tenets upon which our nation was founded, embodied in our Constitution.

Now the Justice Department is called upon to defend an Executive Order signed by President Trump on January 27, “Protecting the Nation from Foreign Terrorist Entry into the United States.” Acting Attorney General Sally Yates, a career government lawyer, declined to enforce it because she was not convinced that it was lawful—and for that was summarily fired by the President. Like many other former federal prosecutors who have served in U.S. Attorneys' Offices across the country, we have been considering a fundamental question over the last few days in light of these extraordinary recent events. If we were called upon to defend the Executive Order, could we do it within the guidelines we learned and lived by as lawyers for the United States? We could not.

We could not candidly tell a court, consistent with these principles, that the Executive Order is not, in fact, a thinly veiled attempt to exclude Muslims from certain countries based on their religion. We could not candidly tell a court that the United States has the right to turn away refugees fleeing grave danger, even though they have already been fully vetted and approved for admission. We could not candidly tell a court, consistent with these principles, that the United States has the right to bar admission to people who are otherwise lawfully permitted to enter the United States, based solely on the fact that others of their religion are perceived to be potential security threats. We could not candidly tell a court that the United States has the right to detain or forcibly return people who have lawfully traveled here, based solely on their religion and country of origin. If asked whether the language of the Executive Order would permit the President to give preference to Christians over Muslims for admission to the United States, a position the President has publicly expressed, we would have to say, yes, the language would allow that. If asked whether such a religious preference comports with our Constitution, we would have to say we do not believe so.

In short, the Executive Order is inimical to the values of the Justice Department and the United States, most significantly, that individuals may not be treated more harshly under the law solely on account of their religion. In our view that is exactly what the Executive Order does, and is intended to do. It would be our job, if we were representing the United States today, to say, no, this Executive Order is wrong and should not be defended.

SIGNATORIES

Sandra R. Acosta
Trial Attorney, Dept. of Justice 1992-2000

Jacqueline M. Arango
Asst. U.S. Attorney, S.D. Fla., 1995-2011
Deputy Chief, Narcotics, Public Corruption

Ana Barnett
Asst. U.S. Attorney, S.D. Fla., 1978-88
Chief, Civil Division 1982-85
Chief, Asset Forfeiture & Money
Laundering 1993-99

Mark N. Bartlett
First Assistant U.S. Attorney,
W.D. Wa., 2001-10
Asst. U.S. Attorney, W.D. Wa., 1985-2001

Jacqueline Becerra
Trial Attorney, Dept. of Justice 1994-97
Asst. U.S. Attorney, D.D.C., 1997-98
Asst. U.S. Attorney, S.D. Fla., 1999-2004
Counsel to the U.S. Attorney

Stephen James Binhak
Asst. U.S. Attorney, S.D. Fla., 1994-99
Tax Division Trial Attorney 1992-94

David M. Buckner
Asst. U.S. Attorney, S.D. Fla., 1998-2006

Matthew Dates
Asst. U.S. Attorney, S.D. Fla., 1999-2006
Special Counsel to the U.S. Attorney

Jed Dwyer
Asst. U.S. Attorney, S.D. Fla., 2008-14
Trial Attorney, Dept. of Justice, 2004-08

Dan Gelber
Asst. U.S. Attorney, S.D. Fla., 1986-94
Counselor to the U.S. Attorney

Martin B. Goldberg
Asst. U.S. Attorney, S.D. Fla., 1989-96

Gerald E. Greenberg
Asst. U.S. Attorney, S.D. Fla., 2002-06

Eric A. Hernandez
Asst. U.S. Attorney, S.D. Fla., 2008-12

Marcos Daniel Jimenez
U.S. Attorney, S.D. Fla. 2002-05
Asst. U.S. Attorney, S.D. Fla., 1989-92

Bob Josefsberg
Asst. U.S. Attorney, S.D. Fla., 1963-65

Markenzy Lapointe
Asst. U.S. Attorney, S.D. Fla., 2002-06

David S. Leibowitz
Asst. U.S. Attorney, S.D.N.Y., 2003-12

Thomas E. Loeser
Asst. U.S. Attorney, C.D. Cal., 2002-06

Lauren Louis
Asst. U.S. Attorney, S.D. Fla., 2001-06

David S. Mandel
Asst. U.S. Attorney, S.D. Fla., 1989-95

Nina Stillman Mandel
Asst. U.S. Attorney, S.D. Fla., 1990-99

Jeffrey Marcus
Asst. U.S. Attorney, S.D. Fla.,

Roberto Martinez
U.S. Attorney, S.D. Fla., 1992-93
Asst. U.S. Attorney, S.D. Fla., 1982-87

Seth Miles
Asst. U.S. Attorney, S.D. Fla., 2002-05

Curtis Miner
Asst. U.S. Attorney, S.D. Fla., 1999-2004

Jane W. Moscovitz
Asst. U.S. Attorney, S.D. Fla., 1982-87
Asst. U.S. Attorney, D. Maryland, 1978-82
Trial Attorney, Dept. of Justice, 1977-78

Norman A. Moscovitz
Asst. U.S. Attorney, S.D. Fla., 1982-93

Peter Prieto
Asst. U.S. Attorney, S.D. Fla., 1987-93
Deputy Chief, Economic Crimes, 1993-95

Andres Rivero
Asst. U.S. Attorney, S.D. Fla., 1989-94

Mark P. Schnapp
U.S. Attorney's Office, S.D. Fla.
Chief, Criminal Division 1982-89

Adam L. Schwartz
Asst. U.S. Attorney, S.D. Fla., 2007-11

Jeffrey H. Sloman
U.S. Attorney, S.D. Fla., 2009-10
First Assistant U.S. Attorney 2007-09
Chief, Criminal Division 2006-07
Asst. U.S. Attorney, S.D. Fla., 1990-2006

Jeffrey T. Sprung
Asst. U.S. Attorney, D.D.C., 1989-94

Bruce Udolf
Asst. U.S. Attorney, S.D. Fla., 1987-97
Chief, Public Corruption Section 1992-97
Associate Independent Counsel (Whitewater
Investigation) 1997-98

Theresa Van Vliet
Asst. U.S. Attorney, S.D. Fla., 1985-94
Narcotics Chief, Crim. Division, USDOJ
1994-1998
Senior Lit. Counsel, S.D. Fla., 1998-2000

David Weinstein
Asst. U.S. Attorney, S.D. of Fla., 1998-2009
Chief, OCDETF/Narcotics Section, 2005-07
Chief, Public Corruption/National Security
Section 2007-09