



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 31 2018

Ben Berwick
Counsel
Protect Democracy
10 Ware Street
Cambridge, MA 02138

Faiza Patel
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271

Benjamin Wittes
Senior Fellow and Research Director in Public Law
The Brookings Institute
1775 Massachusetts Avenue, NW
Washington, DC 20036

Michael F. Crowley
P.O. Box 211
Belmont, MA 02478

Nora Ellingsen
1563 Massachusetts Avenue
Cambridge, MA 02138

Dear Mr. Berwick, Ms. Patel, Mr. Wittes, Mr. Crowley, and Ms. Ellingsen:

The Department of Justice (Department) writes in further response to your February 8, 2018, request for correction under the Information Quality Act (IQA) and the Department's implementing guidelines. *See* U.S. Dep't Justice, *Information Quality: Ensuring the Quality of the Information Disseminated by the Department* (Nov. 1, 2016) (the "IQA Guidelines"), available online at <https://www.justice.gov/iqpr/information-quality>. Your request seeks retraction and correction of information in Executive Order 13780: Protecting the Nation from Foreign Terrorist Entry Into the United States Initial Section 11 Report (Initial Section 11 Report or Report). The Department provided an interim response on June 19, 2018. As noted in that

Ben Berwick
Faiza Patel
Benjamin Wittes
Michael F. Crowley
Nora Ellingsen
Page Two

response, the Department required additional time to resolve your request given the number and complexity of issues raised in your request.

The Department has considered your IQA request reviewed against the Initial Section 11 Report. The IQA Guidelines require that Department components ensure the quality, objectivity, utility, and integrity of information disseminated. Consistent with the directive to ensure objectivity by using reliable data sources and documentation of methods and data sources, the Initial Section 11 Report outlines the scope and source of the data utilized and, where applicable, provides appropriate caveats, thereby meeting all applicable requirements.

In your objections to the Initial Section 11 Report, you first raise a concern about over-inclusivity. Your letter asserts that the Report violated the IQA by drawing “a distinction between those who are U.S. citizens by birth and those who are naturalized citizens.” As you acknowledge on page 7, however, the Report provided figures for *both* foreign-born individuals and foreign nationals. It is no violation to provide additional data, particularly when Executive Order 13780 requires “[a]ny other information relevant to public safety and security as determined by the Secretary of Homeland Security or the Attorney General.” The letter does not challenge the reliability or accuracy of this information.

Second, your letter alleges that the Report ignores instances of domestic terrorism. The Report, however, clarifies that the Report “does not include individuals convicted of offenses relating to domestic terrorism, nor does it include information related to terrorism-related convictions in state courts.” As you may be aware, the federal criminal code contains no statute specifically prohibiting “domestic terrorism,” which is often prosecuted at the state level, and the Department therefore does not possess comprehensive data on such activity, assuming such data would have been responsive to the Executive Order. In light of the accurate descriptions of the data used in the Report, and the relevant caveats and noted limitations, the data contained in the Report is not misleading.

Third, your letter alleges that the inclusion of individuals extradited to the United States for prosecution is misleading. Again, the data used was clearly stated and accurately described. The Report stated that the “information includes . . . defendants who were transported to the United States for prosecution.” *Id.* The accurate description of the data included allows the reader to draw his or her own conclusions.

Fourth, your letter alleges that the Report’s examples of foreign nationals perpetuate a “biased narrative” and are misleading. That charge is a subjective conclusion based on your interpretation of the Report and is premised on the alleged existence of a preexisting

Ben Berwick
Faiza Patel
Benjamin Wittes
Michael F. Crowley
Nora Ellingsen
Page Three

“narrative.” The Department disagrees with your subjective conclusion and its premise and, in any event, your conclusion presents no cognizable violation of the Department’s Guidelines.

Fifth, you have also noted a lack of data in the federal government regarding domestic violence and honor killings. The Report acknowledges that the “federal government lacks comprehensive data regarding incidents of such offenses,” as there is no federal statute specifically addressing honor killings and most domestic violence offenses are prosecuted at the state level. *Id.* at 8. In an effort to disseminate information about these crimes, which are of a complex and highly sensitive nature, the Office of Justice Programs (OJP) is conducting two independent reviews of relevant research pertaining to honor violence in the United States. The first is an internal review, led by social science analysts and research assistants at the National Institute of Justice who specialize in gender-based violence. This review will result in a report summarizing the current state of research with regards to scope, scale, methods, context, and the criminal justice response. The second review anticipates an externally commissioned report by a researcher who specializes in exploring and understanding honor crimes in the United States.

Finally, your letter takes issue with certain statements of the Attorney General in a press release announcing the Report. Such statements are, of course, not part of the Report that is the subject of your request. In any event, the IQA Guidelines do not apply to press releases announcing or supporting the release of information. U.S. Dep’t Justice, Information Quality: Ensuring the Quality of the Information Disseminated by the Department (Nov. 1, 2016), <https://www.justice.gov/iqpr/information-quality>. Any statements made by the Department as part of a press statement in advance of the release of this Report are outside the scope of the IQA. *Id.*

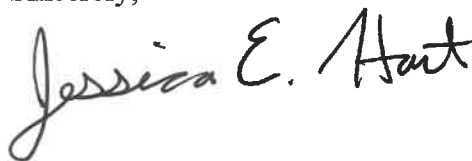
For the reasons above, the Department has determined that there is no inconsistency with the IQA Guidelines. The Department concludes that neither retraction nor correction of information in the Initial Section 11 Report is required under the IQA Guidelines.

Ben Berwick
Faiza Patel
Benjamin Wittes
Michael F. Crowley
Nora Ellingsen
Page Four

The Department's IQA guidelines provide petitioners with the right to request reconsideration of the Department's denial. Any request for reconsideration must be received within 45 calendar days from the date of this letter. Please direct such a request to:

Department of Justice
ATTN: Office of Legislative Affairs
950 Pennsylvania Avenue, NW
Washington, DC 20530

Sincerely,

A handwritten signature in black ink that reads "Jessica E. Hart". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jessica E. Hart
Intergovernmental and Public Liaison