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United States Senate Washington, DC 20510-1304

COMMITTEE ON THE JUDICIARY

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February 8, 2017

The Honorable John Cornyn Chairman Subcommittee on Immigration Senate Committee on the Judiciary United States Senate Washington, DC 20510

Dear Chairman Cornyn:

Congratulations on your appointment as Chairman of the Immigration Subcommittee. As the new Ranking Member of this Subcommittee, I look forward to working with you.

I write to request that the Immigration Subcommittee hold a series of hearings on President Trump's recent immigration and refugee executive orders. These executive orders, which have dramatic implications for our immigration system, are inconsistent with America's heritage as a nation of immigrants and a safe haven for those fleeing persecution. The Subcommittee has an urgent responsibility to address the serious questions that have been raised about the legality, efficacy, and morality of these orders.

On January 25, President Trump signed "Enhancing Public Safety in the Interior of the United States," an executive order that makes up to eight million immigrants priorities for deportation and seeks to create a mass deportation force by tripling the number of immigration agents. This executive order also aims to deprive cities of billions of dollars in critical federal funding if they refuse to take part in this mass deportation plan. The President, who during the campaign railed against the use of executive power and preaches about an overreaching federal government, is trying to bypass Congress to impose this one-size-fits-all federal mandate on hundreds of local communities. This scheme ignores the reality that the vast majority of immigrants in our country are law-abiding individuals with strong family values and deep roots in our country.

Also on January 25, President Trump signed "Border Security and Immigration Enforcement Improvements," an executive order intended to, among other things, keep the President's campaign promise to build a wall on the Mexican border. The Mexican government has made it clear it has no intention of paying for this wall, so American taxpayers will be stuck with the bill, which even Majority Leader McConnell acknowledges could be up to \$15 billion. It is hard to understand how the Trump Administration could consider spending this much on a wall that Texas Republican Congressman Will Hurd, whose district covers 800 miles of the Southwest border, described as, "the most expensive and least effective way to secure the border."

Finally, on January 27, President Trump signed, "Protecting the Nation From Foreign Terrorist Entry Into The United States," an executive order banning refugees, as well as immigrants and visitors from seven Muslim-majority countries. This order, which has led the United States to turn away innocent children fleeing persecution, genocide, and terror, is an un-American attack on religious freedom that is alienating critical American allies and 1.6 billion Muslims around the world. At the request of Senator Duckworth and myself, the Department of Homeland Security Inspector General has opened an investigation into the poorly planned and chaotic implementation of this executive order. Several federal courts have now blocked the order in whole or in part, including, most recently, a nationwide temporary restraining order issued by Judge James Robart of Federal District Court for the Western District of Washington, an appointee of President George W. Bush.

In keeping with his practice of attacking anyone who disagrees with him, President Trump personally disparaged Judge Robart, writing, "The opinion of this so-called judge, which essentially takes law-enforcement away from our country, is ridiculous and will be overturned!" This follows the President's disturbing and unprecedented decision to fire Acting Attorney General Sally Yates for refusing to defend the January 27th Executive Order because she was not convinced that the order is lawful.

We must show President Trump that Congress is an independent branch of the federal government that will not be intimidated by his bullying behavior and immediately begin hearings on his immigration and refugee executive orders. These executive orders fall squarely under the jurisdiction of this Subcommittee and there is ample precedent for the Subcommittee holding hearings to examine executive actions on immigration.

During the Obama Administration, the Republican majority brought a relentless focus to oversight of the Executive Branch's immigration policies that must be maintained under the Trump Administration. During the 114th Congress, the Judiciary Committee, the Immigration Subcommittee, and other Judiciary Subcommittees held several hearings on President Obama's immigration executive actions, including an entire hearing, with the misleading title "Reining in Amnesty: Texas v. United States and its implications," focused on a preliminary injunction issued by one district court judge in Texas.

At one of this Subcommittee's hearings, you urged then Subcommittee Chairman Jeff Sessions to hold additional hearings:

I thank you for having this hearing, but I hope that as part of our additional oversight responsibilities we'll continue to delve more deeply to the consequences of the president's executive action. ... The Obama administration's executive actions I believe are illegal. And we must — and we'll continue to fight them at every step.

I hope that you will be just as committed to vigorous oversight now that the Subcommittee's former Chairman has been nominated to be Attorney General and the legality of the Trump Administration's immigration policies is in question.

When Democrats last held the majority in the Senate, I served as Chairman of the Constitution, Civil Rights, and Human Rights Subcommittee. In that capacity, I received a number of requests from Republican members of this Committee to hold hearings that I accommodated. For example, on June 9, 2011, I received a letter authored by you and signed by seven other Republican Senators requesting a hearing on the Balanced Budget Amendment. This letter was released to the press two days before I received it, but nonetheless I agreed to your request and held a hearing on the Balanced Budget Amendment. I hope that you will extend a similar courtesy to me.

Thank you for your time and consideration. I look forward to your prompt response and to working with you to plan a series of hearings on this critical issue.

Sincerely,

Richard J. Durbin

U.S. Senate