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## Trump administration's latest rationale for travel ban: National security officials asked for it

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Just hours before President Trump's second travel ban is set to go into effect, Justice Department lawyers headed to court to fight attempts to halt the executive order.

A key part of the Trump administration's argument for why this ban is both necessary and different from the last one: This time, top national security officials asked Trump for the order.

In a letter written to Trump and dated March 6, the day the president signed the revised travel ban, Attorney General Jeff Sessions and Homeland Security Secretary John F. Kelly argued that the new order is needed to help address "a risk to our nation's security." The letter appeared to highlight a key difference between Trump's earlier ban — which was signed in late January, met by intense protests and then quickly frozen by the courts — and his second order, which laid out more national security-related justifications for why it is necessary.

The first ban remained suspended after a three-judge panel from the U.S. Court of Appeals for the 9th Circuit unanimously rejected the Trump administration's argument that the suspension should be lifted for national security reasons. In their opinion, the judges noted that the government had not provided "any evidence or even an explanation of how the national security concerns" justified temporarily barring citizens from seven Muslim-majority countries.

President Trump signed a new executive order on March 6, banning travelers from six majority-Muslim countries seeking new visas from entering the U.S. for 90 days and halting the refugee program for 120 days. Here's how it stacks up with the old travel ban. (Jenny Starrs, Danielle Kunitz/The Washington Post)

Under the new ban, which would block the issuance of new visas to citizens from six countries from traveling to the United States after Iraq was dropped from the list, the government delves into more detail to back up its decision, as well as another to temporarily block refugees from entering the country.

Much of that argument is echoed in the letter Sessions and Kelly wrote, which was included among court filings Monday submitted by Justice Department officials seeking to defend the new ban against a lawsuit filed by the state of Hawaii. In its own filings, Hawaii asked a federal judge to block the new order, which they described as tantamount to a Muslim ban and, therefore, unconstitutional. The six nations affected by President Trump's executive action on

immigration are not actually countries where terrorists who have carried out fatal attacks the United States came from. (Daron Taylor/The Washington Post)

The letter from Sessions and Kelly, which was also cited in other governmental filings as part of an overall defense of the order, lends their support for the new ban by requesting “a temporary pause on the entry of nationals from certain countries” — specifically, Iran, Sudan, Somalia, Libya, Syria and Yemen.

They illustrate this need by invoking the Sept. 11, 2001, terrorist attacks and warning that “foreign nationals” could enter the country as refugees and “commit acts of terrorism,” saying it would be a mammoth undertaking to determine who has entered the country and become a danger.

“Preventing and responding to terrorism at home encompasses thousands of national security personnel across the federal government — in effect, we admit individuals at risk for terrorism and then try to identify and stop them from carrying out their terrorist activities,” Sessions and Kelly wrote. “This places unacceptable stress on our law enforcement resources, which could be better spent on other efforts to weaken those terrorist organizations, protect the homeland, and safeguard our national security.”

The revised order says that “heightened concerns about terrorism” warranted barring people from the six countries listed. Yet the new ban, much like the old one, would not have kept out anyone responsible for any deadly U.S. terrorist attack since 2001. Every deadly jihadist attack inside the United States since Sept. 11, 2001, has been carried out by a U.S. citizen or legal resident, according to data collected by New America, a Washington-based nonprofit group.

*[Trump’s new travel ban still wouldn’t have kept out anyone behind deadly U.S. terror attacks]*

This is also something the three-judge appellate panel noted last month, writing that the Trump administration provided “no evidence” that anyone from a banned country “perpetrated a terrorist attack in the United States.”

The Sept. 11, 2001, attacks — cited by Sessions and Kelly in their letter — were carried out by hijackers from Saudi Arabia, Egypt, Lebanon and the United Arab Emirates. Other attacks that Trump cited days before he signed the new ban — the Boston Marathon bombing and the San Bernardino, Calif., shooting rampage — also were not carried out by people from countries affected by the ban. (The Department of Homeland Security, in a report assessing the terror threat posed by people from the seven countries covered by the first order, said citizenship is an “unreliable” indicator of terrorism.)

In revising its ban, the Trump administration has shifted gears, pointing not to deadly attacks but instead to cases they say involved people investigated for or convicted of terrorism-related cases. These cases, they say, argue in particular for a temporary halt in refugee admissions.

“At present, more than 300 persons who came to the United States as refugees are under FBI investigation for potential terrorism-related activities,” Sessions and Kelly wrote, mentioning that some drew inspiration from the Islamic State. “There are currently approximately 1,000

pending domestic terrorism-related investigations, and it is believed that a majority of those subjects are inspired, at least in part, by ISIS.”

However, the Trump administration has declined to provide any context or explanation for these figures, including what countries the “more than 300” refugees came from and their current citizenship statuses.

The “more than 300” refugees figure may seem large, but dating back to the Refugee Act of 1980, about 3 million refugees have resettled in the United States. As my colleague Michelle Ye Hee Lee noted, since Sept. 11, 2001, about 190,000 refugees have come to the United States from the six banned countries.

It is also not known whether the Trump administration believes any of these people were radicalized in the United States long after entering the country. A Trump administration official speaking under the condition of anonymity at a background briefing suggested that at least some of these people “infiltrated with hostile intent.” But without further details, it is impossible to know if this is accurate.

An FBI spokesman referred questions about the “more than 300” figure to the Justice Department, which has declined to comment beyond the court filings because “the matter is subject of active litigation.”

Some other numbers involving refugees are known. Refugees from the six countries targeted in the revised travel ban have been responsible for no successful attacks in the United States between 1975 and 2015, according to a report published by the Cato Institute, a libertarian think tank. In November, a year after that report came out, Abdul Razak Ali Artan, a refugee from Somalia, drove his car into a crowd on the Ohio State University campus, injuring 11 people. The only person killed during the incident was Artan, who was shot by a university police officer within a minute of the attack.