

February 14, 2019



**Homeland
Security**

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

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Mr. Benjamin Wittes
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Mr. Michael F. Crowley
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Dear Mr. Berwick, Ms. Patel, Mr. Wittes, and Mr. Crowley:

The Department of Homeland Security (“Department” or “DHS”) writes in response to your September 13, 2018, Request for Reconsideration of your Request for Correction under the Department’s Information Quality Act (“IQA”) guidelines.

On February 8, 2018, you requested that the Departments of Homeland Security and Justice retract and correct the January 2018 joint report issued pursuant to Section 11 of Executive Order 13780 (“Section 11 Report”). On August 1, 2018, DHS issued its response to the Request for Correction, declining to retract or correct information contained in the Section 11 Report, and noted that it would take those points raised in your IQA request into consideration in drafting future Section 11 Reports. On September 13, 2018, you requested that DHS reconsider its decision (“Request for Reconsideration”).

The Department has conducted an independent review of your Request for Reconsideration and concludes that, while it will take into consideration in future Section 11 Reports those points raised in both your Requests for Correction and Reconsideration, the Section 11 Report was sufficiently transparent in its presentation of the information and meets the IQA guidelines. It therefore declines to withdraw or correct it.

The IQA Guidelines are used to ensure and maximize the quality, objectivity, utility, and integrity of disseminated information. Your Request for Reconsideration raises several issues, each of which is discussed in turn.

You contend that the Section 11 Report inappropriately excluded instances of domestic terrorism, which, in your view, leaves the reader with the impression that foreign born individuals are more likely to commit acts of terrorism. However, the Section 11 Report specifically explains that the Department does not possess comprehensive data related to domestic terrorism, but endeavored to provide other information relevant to Section 11's requirements. In so doing, this information met the IQA's objectivity and utility requirements.

Next, Executive Order 13780 directed the Department and DOJ to report the number of foreign nationals in the United States who have been charged with or convicted of terrorism-related offenses while in the United States. The Section 11 Report included information related to foreign-born individuals and incidents of international terrorism. You contend that the inclusion of foreign-born individuals lacked objectivity and that this inclusion may leave consumers of this information with an inaccurate impression of who commits acts of terrorism.

The Section 11 Report, however, was transparent in its language, explaining that of the 549 individuals convicted of international terrorism-related charges in the relevant time frame, 254 were not U.S. citizens, 148 were foreign-born, naturalized citizens, and 147 were U.S. citizens by birth. It did not contend that all 549 individuals were foreign nationals. Indeed, there is nothing in the IQA that prohibits the agencies from providing more information than is required, especially where, as here, Executive Order 13780 requires the Department to compile "any other information relevant to the safety and security as determined by the Secretary of Homeland Security and the Attorney General." The description of the information presented is apparent on the face of the Section 11 Report.

Third, you contend that the Section 11 Report inappropriately failed to disclose data underlying the information from the National Security Division regarding charges and convictions for terrorism-related offenses. In the Department's view, the DHS data stands for itself. However, your point is well-taken, and DHS will work with the Department of Justice to discuss disclosing the relevant underlying data in future Section 11 Reports to the extent that such disclosures do not implicate national security, law enforcement sensitive, or privacy concerns.

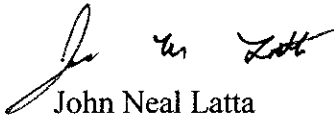
Similarly, you contend that the Section 11 Report failed to provide underlying information and context about the terror watchlist, and failed to define the term "encounter." This data, however, is compiled for law enforcement purposes, and nothing in the IQA requires further extrapolation of this information.

Next, you believe that the Section 11 Report demonstrated a bias in the selection of examples of those charged with or convicted of terrorism-related offenses. The Department explained in the Section 11 Report, however, that the examples it chose were illustrative; it did not state that they were *representative*. The Section 11 Report also explained that the federal government did not have complete, final information regarding this subject. Your stated concern, however, is well-taken, and DHS will continue to work with the Department of Justice to provide information that meets the dictates of Section 11 of Executive Order 13780 while also meeting the guidelines established by the IQA.

Finally, you contend that the data regarding gender-based violence in a Government Accountability Office (“GAO”) report was misrepresented in the Section 11 Report and that the information in the Section 11 Report regarding “honor-killings” was biased. With respect to your allegation that the data stemming from the GAO report was misrepresented, we appreciate your pointing this out but conclude that these were merely editorial errors. The IQA does not require the correction of the Section 11 Report based on such errors, though we will take your stated concern into consideration to avoid similar issues in the future. As for the information regarding “honor killings,” the agencies cited sufficient information about the source of the data so that readers could draw their own conclusions, and also was transparent in explaining that there is no federal statute specifically prohibiting “honor killings” and the federal government lacks comprehensive data regarding incidents of such offenses at the state and local levels. Consequently, DHS declines to withdraw or correct the Section 11 Report on that basis.

In sum, the Department declines to correct or retract the Section 11 Report. However, the Department also acknowledges the points you have raised. In its continued effort to meet the guidelines of the IQA, the Department will take those into consideration in its future Section 11 Reports.

Respectfully,

A handwritten signature in black ink, appearing to read "John Neal Latta". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

John Neal Latta
Director
Office of Strategy, Policy, and Plans
Department of Homeland Security