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Feinstein Statement on Trump Administration Unilateral Rewrite of Asylum Law (/public/index.cfm/press-releases? ID=0E42ED44-CE8F-47D2-9591-A21436B63509)

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Washington—Senate Judiciary Committee Ranking Member Dianne Feinstein (D-Calif.) today released the following statement on the administration's unilateral rewrite of asylum law:

"People seeking refuge and asylum in the United States are among the most vulnerable in the world. They have endured war, domestic and sexual violence, persecution and torture—trauma that's difficult for most to comprehend. They are people like the Jewish refugees on the St. Louis who were turned away in 1939.

"The Trump administration last night announced a new policy memorandum in a blatant attempt to unilaterally rewrite asylum law and flout Congress's constitutional authority. This memorandum clearly demonstrates that the administration has no respect for laws passed by Congress. It also reiterates the president's hostility toward immigrants and those seeking to save their lives by applying for asylum, including victims of domestic violence.

"Congress has explicitly stated who is eligible to apply for and receive asylum in at least two sections of the Immigration & Nationality Act (INA). Through this policy memorandum, the administration is denying victims of domestic violence and those who do not enter the country at a point of entry from applying for asylum. Denying victims of domestic violence an opportunity to apply for asylum is immoral and denying those do not arrive at a port of entry appears to violate the law.

“The Trump administration appears to further flout the law by attempting to apply the same exclusions to the refugee program, which it has worked tirelessly to cripple. The administration laughably cited as authority a section of the INA that requires the administration make changes to the refugee program through the proper notice and comment process of issuing a regulation, not a policy memorandum. It leads a reasonable person to doubt whether administration officials read the law before writing this memorandum.

“The Trump administration is not above the law. The lack of respect for the rule of law and apparent vendetta against domestic violence victims should alarm members of Congress and the American people.”

Background

- Section 208(a)(1) of the INA states that, “any alien who is physically present in the United States (whether or not at a designated port of arrival...)” is eligible to apply for asylum. The administration’s attempt to deny the rights of those physically present in the United States to apply for asylum, by categorically denying credible fear applicants based on their manner of entry, appears to be a violation the law. The relevant exceptions to this general rule are enumerated in Section 208(a)(2), and do not include whether the individual entered the United States unlawfully.
- Section 208(b)(2) states who is categorically ineligible to receive asylum, even if they are eligible to apply. The administration’s attempt to categorically deny asylum to individuals who entered unlawfully appears to be a violation of the law as Congress specifically enumerated those categorically ineligible.
- Section 207(c)(1) states, “Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.” The administration’s attempts to apply these policy memorandum to the refugee program appear to be a violation of the law (See footnote 1 in the Policy Memorandum).

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