

Congress of the United States
Washington, DC 20515

September 29, 2016

The Honorable Jeh Johnson
U.S. Secretary of Homeland Security
U.S. Department of Homeland Security
800 7th St. SW
Washington, D.C. 20024

Dear Secretary Johnson:

We write to learn about the recently revised Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) and to urge that the procedures be further reviewed and revised to prevent the deprivation of the due process rights of individuals seeking redress. We understand that DHS is faced with the difficult task of balancing the rights of those who wish to travel with the safety of travelers. At the same time, the liberty interests of United States citizens and permanent residents on the No Fly List must also be protected.

The No Fly List and DHS TRIP implicate several 5th Amendment due process rights concerns. Courts have recognized that the right to travel is a constitutionally protected liberty interest that cannot be deprived without the due process of law.¹ Courts have also noted that an individual's status on the No Fly List can effectively bar them from traveling internationally.² In addition to seeking responses to the inquiries below, we write to express our concern regarding the due process afforded to those on the No Fly List. We have heard too many stories of individuals wrongly listed or mistaken for others listed, which can have a large impact on affected families as well.

We understand the interest of DHS in making sure that redress procedures comport with national security concerns. And, we also recognize that DHS TRIP has been revised in response to court challenges. However, there still are constitutional questions and there remains room for improvement in these procedures to protect the due process rights of individuals seeking redress. While pre-deprivation hearings may raise different challenges in the case of No Fly List redress procedures, those seeking redress after the fact should be afforded full due process, including meaningful notice of the reasons for placement on the list and the opportunity to be heard in front a neutral party.

Please provide responses to the inquiries below with as much detail as possible, to help us better understand DHS TRIP and its effectiveness, especially under the newly revised procedure.

¹ Kent v. Dulles, 357 U.S. 116, 125 (1958)

² Latif v. Holder, 28 F. Supp. 3d 1134, 1149 (D. Or. 2014)

1. What is the average number of days between an individual's redress request through DHS TRIP and the issuance of an official response regarding the individual's status under the most recently revised DHS TRIP procedures? In 2014, TSA stated the average time for resolving a case was 75 days, and 17 days for aviation cases.
2. How many redress applications were submitted in FY2015? How many cases are pending?
3. Have any cases been reopened and reevaluated since the revised redress procedures were implemented?
4. Please provide detailed information on the TSA Cleared List and how it is used. Will individuals who were added to this list prior to the latest revisions of the redress procedures be notified that they are on the TSA Cleared List?
5. How many individuals have been placed on the TSA Cleared List in FY2015?
6. After the TSA Administrator's determination (either removing the individual from the No Fly list, maintaining him or her on the list, or remanding the case to TSC for further information) is communicated to the petitioner, what options are presented to the petitioner if they are not satisfied with the final decision as it relates to 49 U.S.C. § 46110? And how are these options communicated to the petitioner?
7. In its April 2015 Notice Regarding Revisions to DHS TRIP Procedure in *Latif v. Holder*, the Department of Justice stated that the government would be "closely monitoring the initial implementation of these newly revised procedures on an interagency basis, and will, as circumstances warrant, consider whether further revisions to the process are necessary". What interagency reviews, if any, of the implementation of the new process has taken place? Have any further revisions been recommended by the Department of Justice or any other agency?

Thank you for your continued work securing and defending our homeland, and we look forward to working with you to improve the DHS TRIP redress process for all while balancing our national security interests.

Sincerely,


Zoe Lofgren
Member of Congress


Debbie Dingell
Member of Congress



Ted Poe
Member of Congress



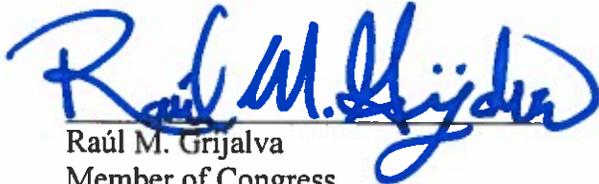
Brenda Lawrence
Member of Congress



Paul Tonko
Member of Congress



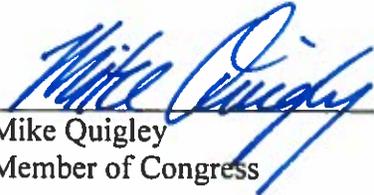
André Carson
Member of Congress



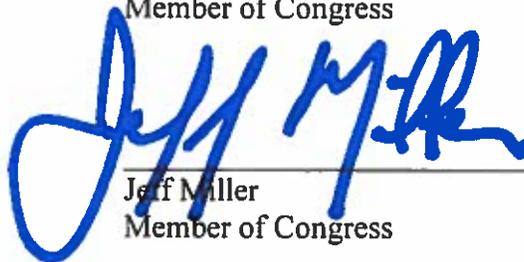
Raúl M. Grijalva
Member of Congress



Mike Honda
Member of Congress



Mike Quigley
Member of Congress



Jeff Miller
Member of Congress



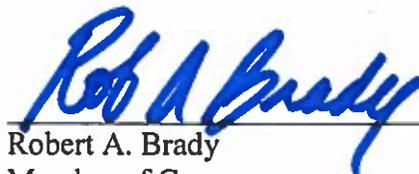
Bill Pascrell, Jr.
Member of Congress



Thomas Massie
Member of Congress



Jim McDermott
Member of Congress



Robert A. Brady
Member of Congress



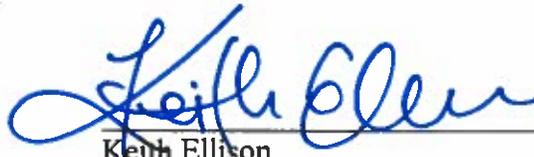
Donald S. Beyer, Jr.
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Judy Chu
Member of Congress



Donna F. Edwards
Member of Congress



Keith Ellison
Member of Congress

Loretta Sanchez

Loretta Sanchez
Member of Congress