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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KELANE L. DAVIS, Chief Counsel and Staff Director  
KRISTINE J. LUCAS, Democratic Chief Counsel and Staff Director

September 20, 2016

**VIA ELECTRONIC TRANSMISSION**

The Honorable Jeh Johnson  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

The Honorable Loretta Lynch  
Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Dear Secretary Johnson and Attorney General Lynch:

We write today regarding a disturbing Department of Homeland Security Inspector General (DHS OIG) report that found U.S. Citizenship and Immigration Services (USCIS) granted citizenship to at least 858 individuals from special interest countries or countries with high rates of immigration fraud, who had final deportation orders under another identity.<sup>1</sup>

According to the report, USCIS granted citizenship despite not having digital fingerprint records to aid with the necessary identity verification. Thus, these applicants, many of whom lied on their applications, may not have been eligible for citizenship. This is particularly troubling given these new citizens' ability to obtain security clearances, serve in law enforcement, sponsor other aliens' entry into the United States, and hold positions of public trust. In fact, the report found that one citizen is now a law enforcement official and at least three obtained licenses to conduct security sensitive work.

Although USCIS's procedures require checking applicant's fingerprints against DHS and Federal Bureau of Investigation (FBI) digital fingerprint repositories, many older fingerprints taken on paper cards had not yet been digitized and therefore, were not subsequently added to the

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<sup>1</sup> Department of Homeland Security, Office of the Inspector General, *Potentially Ineligible Individuals Have Been Granted U.S. Citizenship Because of Incomplete Fingerprint Records*, OIG-16-130 (Sept. 19, 2016).

DHS database (IDENT). When USCIS queried the database for these applicants, fingerprint records for the 858 were unavailable and officials were unable to find all potentially derogatory information, including outstanding removal orders and evidence of fraud. Further, the report found that the FBI fingerprint database (NGI) was also missing records because DHS officials did not always forward fingerprints to the FBI after an immigration encounter. Therefore, these 858 were naturalized without being fully vetted. In fact, DHS has yet to review files for 148,000 aliens with final removal orders who were criminals or fugitives in order to retrieve and digitize old fingerprint cards. Unfortunately, these concerns are not new. The Department has had problems with digitizing its records and effectively communicating and streamlining information sharing since 2008, and we have continually called on the Department to ensure adequate protections and safeguards.

The Immigration and Nationality Act (INA) sets forth criteria that individuals must meet in order to be eligible for citizenship.<sup>2</sup> Lying under oath about identity or immigration history as well as having a final deportation order may render an applicant ineligible. Additionally, under the INA, naturalization can be revoked if citizenship was obtained through fraud or misrepresentation. According to the IG report, however, only 122 cases have been investigated, and the US Attorney's Office (USAO) has accepted only two cases for prosecution.

Citizenship is a privilege that cannot be obtained through fraud, accident, or oversight. Yet, according to this IG report, that is precisely what has happened. Accordingly, to better understand the circumstances surrounding this report and what actions are being taken to mitigate the damage, please answer the following questions no later than October 3, 2016. Please also provide knowledgeable staff to brief our staff as soon as possible.

1. Please provide the names, countries of origin, and current immigration status of all 858 individuals included in this report. If an individual comes from a special interest country, please include that designation in the response.
2. Please provide a list of the countries designated as those with high risk of immigration fraud.
3. Under the INA, an individual may be denaturalized administratively, as a result of revocation proceedings brought by a U.S. Attorney, or as a result of a criminal conviction for unlawful procurement of citizenship.<sup>3</sup> According to the IG Report, ICE did not pursue investigation of individuals because the relevant U.S. Attorneys would "not accept immigration benefit fraud cases for criminal prosecution" and ICE needed to "focus their resources on investigating cases the USAO will prosecute."

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<sup>2</sup> 8 U.S.C.1101 et seq.

<sup>3</sup> Immigration and Nationality Act, 8 U.S.C. sec. 1451(e)(h), (1952).



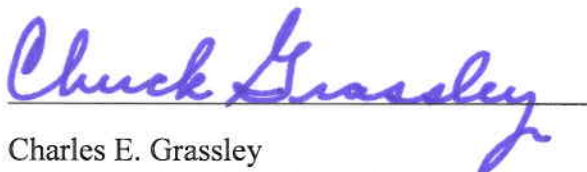
- a. Is it accurate that the Department of Justice will generally not accept revocation cases under INA 340(a) for individuals in this group if brought by Immigration and Customs Enforcement (ICE)? If not, how many of the cases is the Department of Justice (DOJ) considering taking for revocation action under INA 340(a)?
  - b. Is DHS considering administrative revocation under INA 340(h) for any of these cases? Please explain.
  - c. Is DOJ considering criminal prosecution under 18 U.S.C. 1425 for unlawful procurement of citizenship for any of these cases? Please explain.
  - d. Please provide a detailed summary of all 90 investigations closed by ICE in March 2015 and an update on the 32 investigations ICE opened in March 2015.
4. According to the IG report, most, if not all, of the individuals who were granted citizenship, lied or misrepresented their immigration status on their application forms. This means most, if not all, fraudulently obtained citizenship, and should be denaturalized, and potentially also criminally prosecuted under 18 U.S.C. 1425. Why are ICE and DOJ only focusing on persons with Transportation Security Administration credentials, security clearances, positions of public trust, or criminal histories? Once those individuals are investigated, will ICE investigate the remaining individuals who should not have been granted naturalization?
  - a. Please provide information on the number of individuals who erroneously received U.S. citizenship and obtained a security clearances, served in a position of public trust, and/or petitioned for immigration status for a foreign national.
5. ICE intends to grant a contract by the end of FY 2016 for placing the remaining 148,000 fingerprints into IDENT. Please provide a detailed timeline for contract completion.
6. What actions are ICE and USCIS taking now to prevent others who do not qualify for naturalization, but whose fingerprints may not yet be in IDENT or NGI, from mistakenly being granted naturalization?
7. In 2016, DHS eliminated Operation Janus. What, if anything, does DHS plan to deploy to take the place of Operation Janus so that the important work of the Operation may still be conducted? Please explain.

8. What, if anything, has DHS done to increase communication with the FBI after encountering an individual and taking prints? Please explain.

We anticipate that your written reply and any responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of Judiciary Committee staff at (202) 224- 5225.

Sincerely,



Charles E. Grassley  
Chairman, Senate Judiciary Committee



Orrin G. Hatch  
United States Senator



Jeff Sessions  
United States Senator



Lindsey O. Graham  
United States Senator



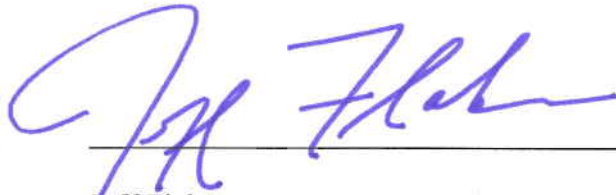
John Cornyn  
United States Senator



Michael S. Lee  
United States Senator



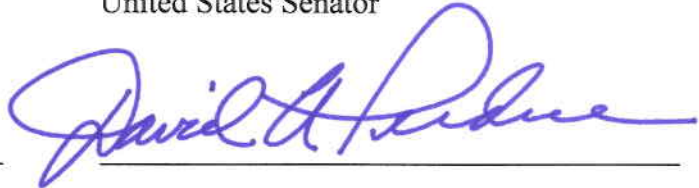
Ted Cruz  
United States Senator



Jeff Flake  
United States Senator



David Vitter  
United States Senator



David A. Perdue  
United States Senator



Thom Tillis  
United States Senator