

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TED CRUZ, TEXAS  
JEFF FLAKE, ARIZONA  
DAVID VITTER, LOUISIANA  
DAVID A. PERDUE, GEORGIA  
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

July 30, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Jeh Johnson  
Secretary  
Department of Homeland Security  
Washington, DC 20528

Dear Secretary Johnson:

On July 23, 2015, I received a response from Director Rodriguez on your behalf. My initial letter, sent to you May 20, 2015, inquired into the current status of Edgar Covarrubias-Padilla, a man recently arrested and charged with child molestation, and distribution and possession of hundreds of images of child pornography while a recipient of the President's Deferred Action for Childhood Arrivals (DACA) benefit. Because Covarrubias-Padilla was granted DACA, he was able to receive an Employment Authorization Document (EAD) and work as a camp counselor at the Walden West Science Camp in California. It was at the camp that he allegedly molested and victimized children.

It is now clear that U.S. Immigration and Customs Enforcement (ICE) had begun investigating Covarrubias-Padilla for child exploitation as early as November of 2014, yet he was allowed to maintain his DACA status for another six months. The Committee has documentation of a TECS record in Covarrubias-Padilla's A-file that reads, "Suspect of Ongoing Criminal Investigations Relating to Child Exploitation" placed November 11, 2014. Covarrubias-Padilla was arrested on May 7, 2015.

Although the Director's response letter states that "ICE field offices typically apprise USCIS when a recipient of DACA or an immigration benefit is an investigative target," in this case, USCIS failed to learn of the investigation until months later on March 31, 2015. Despite both components' knowledge of Covarrubias-Padilla's investigation by March of 2015, and a referral to the Background Check Unit (BCU) as a

“potentially egregious public safety case,” the revocation of DACA did not occur until May, 13, 2015, several days after his arrest.

To help the Committee understand the circumstances surrounding the criminal investigation of Covarrubias-Padilla prior to his arrest, and the decision to revoke DACA, please provide responses to the following questions no later than August 13, 2015. Please number your answers in accordance with these questions:

1. Which agency or law enforcement entity conducted the criminal investigation relating to child exploitation referenced as a TECS hit in Covarrubias-Padilla’s A-file? Please provide all documents related to this investigation.
2. What, specifically, was Covarrubias-Padilla under investigation for related to child exploitation? Please provide all documentation relating to this investigation.
3. Because DACA is a discretionary program, USCIS could have exercised its discretion and revoked Covarrubias-Padilla’s DACA benefit when it became aware of the criminal investigation for child exploitation. Revocation of DACA in the months prior to the arrest could have prevented Covarrubias-Padilla from working as a camp counselor and victimizing children. Why was DACA not revoked at any time before his arrest? Please provide any policies in place detailing why a revocation was not warranted.
4. If DACA is not revoked for a recipient who is under a criminal investigation of child exploitation, are there criminal investigations that would warrant an immediate termination of DACA once USCIS determined the identity of the DACA recipient? Please list the types of investigations that would result in revocation.
5. How much and what type of information would have been deemed sufficient to make a determination prior to rendering a final adjudication on revocation of DACA in this case?
6. What happened to the information once USCIS forwarded it to the BCU? When did the BCU resolve the hit?
7. On April 28, 2015, the ICE Homeland Security Investigations (HIS) office in San Jose, California alerted the Santa Clara Sheriff’s Office of the “suspicious activities” involving Covarrubias-Padilla. However, DACA was not revoked until a few days after his arrest in May of 2015. Why was DACA not revoked when the sheriff’s office was notified?

8. Why was DACA ultimately revoked on May 13, 2015? What factors were assessed in this decision?
9. Why did it take four months for both components to be apprised of the criminal investigation of Covarrubias-Padilla? What policies are in place to ensure both ICE and USCIS are informed of a criminal investigation of a DACA recipient to ensure swift revocation when appropriate? Please provide the relevant policies.
10. Why does USCIS not require periodic TECS checks before the two year renewal date?

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

Sincerely,



Charles E. Grassley  
Chairman,  
Senate Committee on the Judiciary