

Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Committee on the Judiciary
Hearing on
“Oversight of U.S. Citizenship and Immigration Services:
Ensuring Agency Priorities Comply with the Law”
Tuesday, March 3, 2014

In 2010, an internal memorandum written by senior officials within U.S. Citizenship and Immigration Services (USCIS) was leaked to the public. This memo had a stated purpose: “To offer administrative relief options to reduce the threat of removal for certain individuals present in the United States without authorization.” The authors of the memo laid out a plan on how to extend benefits and/or protections to individuals and groups who were illegally present in the country. This memo, though at the time dismissed by USCIS as only an internal “draft” memo, has now essentially been implemented and has been the guiding force behind many of the executive actions taken by President Obama.

Soon after the “amnesty memo” was leaked in 2010, I along with several other senators wrote to the President and the Secretary of Homeland Security demanding answers and urging them not to move forward without Congress. Then Secretary Napolitano wrote to me in September 2010 that the administration was “strongly committed to enforcing immigration laws with an emphasis on ensuring criminal aliens and those who pose a danger to national security are apprehended, arrested and removed from our country.”

Now, over four years later, we have seen the opposite of that commitment. In fact, the administration has no rationale, not even excuses, for why they released from detention over 36,000 criminal aliens in fiscal year 2013. In that year alone, instead of being removed from the country, numerous murderers, drunk drivers, sex offenders, and domestic abusers were released into communities across the country.

And just last week, we learned that the Department may have released and provided immigration benefits to a known gang member. Incredibly, USCIS allegedly approved his application for deferred action under DACA *knowing* that he was affiliated with a gang. This individual appears to have received DACA, and then continued to ignore our laws. Last week, he was arrested on first-degree murder charges for the death of four people in North Carolina.

USCIS admitted in a letter to me and House Judiciary Chairman Goodlatte that it does not routinely terminate DACA for individuals subsequently found to be members of a gang. Instead, USCIS said it “will evaluate the case based on the totality of evidence available to determine whether the individual poses a threat to public safety.”

Because of this misguided and foolish policy, four people have been murdered by an individual with known gang affiliations who was not legally present in the country. He should have been removed long ago, but was allowed to stay in the United States and receive work authorization through the President’s DACA program.

How many others are there? How many other people with criminal backgrounds have used DACA to remain in the country and continue to flout our laws?

Since its inception, I have been concerned about the administration of the President's 2012 DACA program. In addition to my concerns about DACA benefits being granted to individuals with criminal backgrounds, I have been concerned about how the agency detects fraud and prevents abuse. According to documents provided to the public, USCIS admitted it was not going to actually verify the validity of all evidentiary documents submitted in support of applications. Not proactively verifying documents is irresponsible and dangerous given the very real threat of attack we are facing today, but even worse, it lets future applicants know that we have no intention of checking the documents they provide.

I have also been concerned about how the agency will fund the program while not burdening taxpayers and legal immigrants. I have been concerned about the lack of information sharing with other agencies related to DACA applicants and beneficiaries, including Immigration and Customs Enforcement, the law enforcement arm of the Department. And, I have been concerned about how the administration is allowing – even encouraging – people here illegally to obtain advanced parole, leave the country, and return to adjust their status and be put on a path to citizenship.

I'm also very frustrated that the administration has weakened the already weak eligibility requirements for the 2012 DACA program. When setting up the renewal process last summer, the Department did away with the educational requirement. Initial DACA applicants must prove that either they are currently enrolled in school, or have obtained a high school diploma or GED. However, that barrier is very easy to overcome. In fact, applicants can attend a class for a week or enroll in an undefined "alternative" program for a day. But since DACA renewal applicants don't need to demonstrate continuing compliance with the education requirement, it doesn't matter if they abandoned the schooling they used to get their initial DACA grant. Plain and simple: there is no educational requirement. Moreover, USCIS admitted that it does not keep track of cases where applicants have been discovered to be enrolled in illegitimate schools, or have diplomas from diploma mills. Even more troubling, USCIS admitted that it does not routinely terminate such DACA applications when discovered.

In addition to the administrative problems I have outlined above, there's a huge concern that the agency is losing sight of its core mission to help *legal* immigrants. According to press reports, many U.S. citizens with family-based immigrant petitions (e.g. for a foreign spouse) are being pushed to the side while the agency focuses its attention and resources on the undocumented population.

We can learn a lot about the poor implementation of the DACA program. We know that the department has very low standards, and very poor anti-fraud and abuse controls. We know they have a philosophy to get to a "yes" and ensure that every alien has an opportunity to apply and win their case. We know the program is a haven for loopholes and mischief. And, based on how resources had to be diverted from existing programs to handle 800,000 DACA cases, we know that piling 5 million more people onto their workload is a recipe for disaster that jeopardizes the safety of the homeland and the public.

The American people have lost faith in our government's ability to enforce the laws. Despite concerns from Congress and the public, the President has proceeded to authorize hundreds of thousands of illegally-present individuals to live and work in the country, in flagrant disregard of the law and the Constitution.

Today's hearing is an opportunity to examine the issues I have discussed and learn how the agency in charge of immigration benefits will fulfill its mission while protecting the homeland. I look forward to hearing from our witnesses, including in particular one individual who helped author the 2010 amnesty memo. I expect transparency and forthright answers so that we can learn from the mistakes made and understand where the Obama administration is headed from here.

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