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June 10, 2015

VIA ELECTRONIC TRANSMISSION

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

Dear Secretary Johnson:

Since February of this year, I've written to you on three occasions about Deferred Action for Childhood Arrivals (DACA) recipients retaining their DACA privileges after convictions for violent or predatory crimes. The Department has failed to respond to *any* of these letters. The DACA recipients referenced in those letters are charged with various crimes including: four counts of first-degree murder, suspicion of second-degree murder, possession of child pornography, and child molestation.

Today I write to you about yet another alien who was granted DACA after an arrest, this one for statutory rape. He retained DACA even after he was *convicted* of the crime and served prison time. According to whistleblowers, Mr. Abarca Torres Alvaro was arrested on the charge of statutory rape in February of 2013. Two months later in April of 2013, Torres was granted DACA. In October of 2013, Mr. Torres was convicted of statutory rape, and sentenced to two years in prison. While in prison, U.S. Immigration and Customs Enforcement (ICE) allegedly served Mr. Torres with an I-851 Form, a Notice of Intent to Issue a Final Administrative Deportation Order.¹

Mr. Torres was released from prison two years after his conviction. At that time, he was not transferred to federal custody, and both ICE and the local Georgia police attempted to locate him unsuccessfully. Evidence obtained by the Committee indicates that neither ICE nor the local police contacted United States Citizenship and Immigration Services (USCIS) regarding their inability to account for Mr. Torres' whereabouts, and ICE failed to inform USCIS that Mr. Torres had been served with an I-851 Form—a form that is presumed to automatically terminate DACA.

¹8 C.F.R. § 238.1(d).

Records submitted to the Committee suggest that Mr. Torres' maintained his DACA status after the I-851 form was served, as he was sent a DACA renewal notice in early 2015. This renewal notice was sent two years after Mr. Torres was reportedly served with an I-851 form. This recent example once again highlights the inability of Department of Homeland Security (DHS) components to properly communicate and coordinate, raising significant concerns about the agency's ability to effectively administer the DACA program.

In this case, it appears that ICE failed to place a detainer on Mr. Torres or notify the state law enforcement agency to transfer him to federal custody. ICE also failed to update USCIS on Mr. Torres' immigration status at any time during his administrative removal proceeding and USCIS failed to check the Executive Office of Immigration Review records it has access to via its own Central Indexing System. Information obtained by the Committee suggests that Mr. Torres maintained, at a minimum, the privileges of a DACA recipient long after his aggravated offense conviction became final.

Concerns about DHS's ability to communicate and coordinate internally (between ICE and USCIS) and externally (with local law enforcement agencies) have been raised with increased frequency by various news outlets.² These reports are quite alarming and suggest a widespread coordination breakdown within DHS. The growing number of allegations relating to failed collaboration between ICE and USCIS raise several public safety concerns with the DACA program's administration.

To better assist the Committee with its investigation of this matter, please provide responses to the following inquiries, numbering your answers in accordance with these questions:

1. On what date did Mr. Torres initially apply for DACA? When was his initial DACA application approved? Please provide copies of his DACA applications and his A-file.
2. Did USCIS know or have reason to know that Mr. Torres was arrested for an aggravated offense? Was ICE investigating Mr. Torres at the time of his arrest?
3. Did ICE notify USCIS that Mr. Torres was convicted of an aggravated offense? If so, when and how? If not, when did USCIS learn of Mr. Torres' conviction?

² Redmon, Jeremy. Convicted but Free to Roam. The Atlanta Journal-Constitution. Available at: <http://specialprojects.myajc.com/immigration-detainees-released/>.

4. Was Mr. Torres served with a notice of expedited removal proceedings in the form of an I-851 Form? Did Mr. Torres respond to the I-851? What administrative proceedings occurred after the form was served on Mr. Torres? If no proceedings occurred, why not?
5. Does service of the I-851 form automatically revoke an individual's DACA grant? Did it automatically revoke DACA for Mr. Torres? If ICE is serving the document, how does USCIS know?
6. Has USCIS taken any action regarding Mr. Torres's DACA renewal (i.e. has it been terminated)? When did USCIS take this action?
7. What measures are in place to alert USCIS of DACA grantees that commit criminal offenses after they are initially granted DACA or it is renewed?
8. Are DACA grantees continuously vetted against new or evolving derogatory information in the same way that non-immigrants on temporary visas are under the Kingfisher program? If not, why not?

Please respond to this letter no later than June 24, 2015. Should you have any questions, please contact Katherine Nikas of my Committee staff at (202)224-5225. Thank you.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary