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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*

June 27, 2016

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

Dear Secretary Johnson:

On December 2, 2015, Syed Farook and Tasfheen Malik shot and killed 14 people, wounding another 22, in a targeted attack on the San Bernardino County Department of Public Health. The following day, USCIS had an interview scheduled with the wife of a friend of Farook, Enrique Marquez, who was believed to have provided the guns utilized during the attack.¹ The Joint Terrorism Task Force believed Marquez might accompany his wife to the interview.² Upon learning of this, the FBI asked that U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) detain Marquez so he could be interviewed. When HSI agents, dressed in tactical gear, arrived to carry out the request, Irene Martin, the Field Office Director of the San Bernardino USCIS Headquarters, refused to grant entry, forcing agents to wait 15 to 20 minutes in a lobby before being escorted to a conference room, where the agents were forced to wait another 10 minutes before Ms. Martin arrived to meet with them.³ It was still more than an hour before the HSI agents were given access to the USCIS file on Marquez's wife for review.⁴

Since these events, I along with Chairman Johnson requested a review by the Department of Homeland Security Inspector General's Office (DHS OIG) of the incident at the USCIS office in San Bernardino. A few months later, the DHS OIG found that Martin acted "improperly" and lacked candor with DHS OIG investigators by giving false and/or inconsistent statements to investigators.⁵

¹ Memorandum: December 3, 2015 – San Bernardino Incident, Office of Inspector General Department of Homeland Security, (Jun. 1, 2016), at 2 (available at <https://www.oig.dhs.gov/assets/Mga/OIG-mga-060116.pdf>).

² *Id.* at 2-3.

³ *Id.* at 2-4.

⁴ *Id.* at 5, 7.

⁵ *Id.* at 1-2.

Following these troubling findings, your Department has reportedly nominated Martin for the Secretary's Award for Valor.⁶ In the past, this award has been bestowed on "those who have demonstrated extraordinary courage in a highly dangerous, life-threatening situation or emergency under extreme stress," often involving saving a life or property.⁷ Past recipients of this prestigious award have included government employees that risked their lives to save others from life or death situations.⁸ Despite requests, the Department of Homeland Security has refused to divulge what Martin did to warrant this nomination.

The report of Martin's award nomination comes just days after the publication of Inspector General's disquieting report. The specific allegations include improper delay of agents "conducting a lawful and routine law enforcement action" as well as lying to the Inspector General during the interviews that occurred during the subsequent investigation.⁹ The OIG found that the delay in permitting entrance was both unwarranted and created a dangerous situation. It has been verified that Martin did not have authority to restrict entrance to a federal building, but even absent this reality, agents provided identification and information that justified their concern that Marquez may have posed a deadly threat to those within the USCIS facility.¹⁰ The falsehoods perpetuated by Martin included but were not limited to denials that she halted the agents because of what was later determined to be a fabricated USCIS policy, as well as inconsistent statements regarding when she learned the HSI agents were investigating the shooting.¹¹ Each of Martin's claims were repudiated not only by the testimony of HSI agents, but also colleagues who were present on December 3.

In light of the foregoing, please confirm by June 30, 2016, whether the Field Office Director of the San Bernardino USCIS office, Irene Martin, is indeed being considered for the Secretary's Award for Valor. Please also send me a copy of the Memorandum of Agreement regarding coordination of ICE operational visits to USCIS facilities that I understand was recently concluded between the two agencies.

Should you have questions, please contact Katherine Nikas of my Committee staff at (202) 224-5225. Thank you.

⁶ Zimmerman, Malia, *Immigration boss who barred feds from terror suspect up for award, but agency won't say why*; Fox News (Jun. 23, 2016) available at <http://www.foxnews.com/us/2016/06/23/immigration-boss-who-barred-feds-from-terror-suspect-up-for-award-but-agency-wont-say-why.html>

⁷ *Id.*

⁸ See U.S. Department of Homeland Security, Secretary's Award for Valor, available at <https://www.dhs.gov/secretarys-award-valor>

⁹ Memorandum at 1-2.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 4, 7.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a prominent "C" and "G".

Charles E. Grassley
Chairman
Committee on the Judiciary

cc:

The Honorable Patrick Leahy
Ranking Member
Senate Committee on the Judiciary