

**United States Senate**  
WASHINGTON, DC 20510

September 10, 2010

**Via Electronic Transmission**

The Honorable Alejandro N. Mayorkas  
Director  
U.S. Citizenship and Immigration Services  
United States Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, DC 20529

Dear Director Mayorkas:

I write to you today regarding allegations of serious, systemic problems within the U.S. Citizenship and Immigration Services (USCIS). The Inspector General at the Department of Homeland Security is currently reviewing actions of officials within your agency in pressuring officials at the California Service Center to approve visa applications despite ineligibility or indicia of fraud. Senior USCIS officials allegedly ordered California Service Center staff to “find a way to get to ‘yes’” in processing visa applications, which, if true, signals a potentially serious problem that approval rates are deemed more important than rooting out fraud and abuse.

The Inspector General is also investigating claims of whistleblower retaliation against California Service Center officials who reported this misconduct. The retaliation allegedly took the form of involuntary transfers of the California Service Center officials who complained and official inquiries into allegations about their personal conduct away from the office and interactions with subordinates.

In essence, high-level officials in the USCIS are accused of creating an environment hostile to those who insist on following the law. For example, an email obtained by my office indicates that a high level USCIS official wrote of the California Service Center, “No question we need some serious head changes here... it’s like Whack A Petitioner here... whatever we do to instruct generosity the CSC [California Service Center] finds a way to tie them up in another little loop.” (Attached) After this email, USCIS involuntarily transferred the two or three service center officials and opened “investigations” into their conduct.

The desire to “instruct generosity” should not trump the legal requirements necessary for an alien to be eligible to remain in the United States, and it certainly should not be an excuse to ignore potential fraud. If this is occurring within the USCIS, it is unacceptable and not in the interest of national security.

Accordingly, in order to gain a further understanding of these issues involving the California Service Center, I request that your office respond to the following questions in writing:

- 1) What is your response to the alleged USCIS management retaliation in the form of involuntary transfers of senior California Service Center employees?
- 2) What is the USCIS Relocation Policy, to include both voluntary and involuntary transfers, for Senior Executive Service (SES) Level employees in USCIS? Please provide documentation.
- 3) How many SES level USCIS employees have been transferred voluntarily or involuntarily within the past three (3) years? Please provide supporting documentation for each transfer occurring in the past three (3) years.

Additionally, please provide copies of all documents, including internal email and memoranda, related to the transfer of the two or three California Service Center employees and any inquiry USCIS may have conducted in which they were subjects.

In order to gain a more complete understanding of the matters discussed in this letter, please make the following USCIS employees available to be interviewed by my staff:

1. Carolyn Nguyen,
2. Lynn Nguyen Ho,
3. Kurt Gooselaw,
4. Gerald McMahon, and
5. Sheila Fisher.

I would like to have these interviews conducted by no later than the week of September 27, 2010 and Brian Downey of my staff will coordinate this effort. In the event it becomes necessary to interview still more USCIS employees, I will let you know.

Please remind all USCIS officials that they are not to impede Congressional inquiries, conceal information from Congress, or threaten employees who might speak out. Interfering with Congressional oversight hurts not only the agency, but also the American public. It is important that senior officials assure their employees that it is both acceptable and within their rights to speak to Congress.

USCIS employees have a right to talk to Congress without direct or indirect interference or threats from the agency and its senior officials. Furthermore, they have a right to talk to Congress confidentially. Interfering with a Congressional inquiry is against the law. Below, I have included an excerpt of 18 U.S.C. § 1505 to this letter for your reference. That law states in pertinent part that:

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Additionally, denying or interfering with employees' rights to furnish information to Congress is also against the law. Below, I have included an excerpt of 5 U.S.C. § 7211 to this letter for your reference. That law states:

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

Finally, federal officials who deny or interfere with employees' rights to furnish information to Congress are not entitled to have their salaries paid by taxpayers' dollars. The Consolidated Appropriations Act of 2010, Pub. L. No. 111-117, § 714, 123 Stat. 3034, 3208. SEC. 717 states:

No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance or efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

I look forward to receiving your response to the above questions by no later than September 24, 2010. If you have any questions on this matter, or if you or a member of your staff would like to speak with a member of my staff regarding this matter please call Jason Foster or Kathy Nuebel Kovarik of my staff at (202) 224-4515. All written responses should be sent in electronic format to my attention at [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov).

Sincerely,



Charles E. Grassley  
United States Senator

Attachment

From: [REDACTED] [mailto:[REDACTED]@dhs.gov]

Sent: Thursday, January 21, 2010 5:46 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: O/P Policy Saga / FW: Incorrect Approval Dates

More. This is just awful and I am looking for ideas on how to cure short term as well as long term. I can bring [REDACTED] in but that seems a little nuclear at this point. No question we need some serious head changes here...it's like Whack A Petitioner here..whatever we do to instruct generosity the CSC finds a way to tie them up in another little loop. They are not supposed to be adversarial to the public.

From: [REDACTED]

Sent: Thursday, January 21, 2010 5:07 PM

To: [REDACTED]

Subject: FW: O/P Policy Saga / FW: Incorrect Approval Dates

Not that you need more on this...

[REDACTED]

From: [REDACTED] [mailto:[REDACTED]]

Sent: Thursday, January 21, 2010 4:46 PM

To: [REDACTED]

Subject: FW: O/P Policy Saga / FW: Incorrect Approval Dates

Hi, [REDACTED]-sorry to bug you, as I assume your silence is attributable to the craziness that doubtless surrounds you. Below are two emails relating to O/P petitions filed w/ CSC. In both, CSC approved a shorter itinerary than requested. In the P-3 case, CSC made reference to a "memo" that limits itinerary gaps to 45 days.

[REDACTED], if there is such a memo--which I doubt--it hasn't been released, and it's nonsense. No such rule. And, there's that little thing called the APA.

Will someone please explain to me what's going on here, and why all this is happening, and what good someone thinks will come out of this? I'm getting to the point that litigation looks to be the only way out, [REDACTED]

Hope all is well.

\*\*\*\*\*

[REDACTED]

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[REDACTED]