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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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November 3, 2010

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Nebraska Avenue Complex
245 Murray Lane, Mailstop 0150
Washington, DC 20528-0150

Dear Secretary Napolitano:

Pursuant to my authority under the Constitution and the Rules of the United States Senate, I am conducting a preliminary review of the immigration history and basis for naturalization of Farooque Ahmed, the suspected bomber of the Washington, D.C. metro.

According to news reports, the Federal Bureau of Investigation (FBI) conducted an undercover sting operation, and exposed Mr. Ahmed of plotting terrorist attacks against Americans. Some reports indicate that earlier this year, Mr. Ahmed "conducted surveillance and reconnaissance and suggested ways to generate the most casualties" on the DC metro. He reportedly wanted to battle U.S. troops in Afghanistan and Pakistan and trained himself in martial arts, use of firearms, and knife and gun tactics. Mr. Ahmed informed those whom he believed to be his co-conspirators that he also planned to wage jihad overseas.

Mr. Ahmed has been charged by the U.S. government of attempting to provide material support to a designated terrorist organization, collecting information to assist in planning a terrorist attack on a transit facility, and attempting to provide material support to help carry out multiple bombings to cause mass casualties at DC area Metrorail stations.

Media reports indicate that Mr. Ahmed obtained a degree in Computer Science from the College of Staten Island, part of the City University of New York. He later went to work for a telecommunications company in Northern Virginia. He was pursuing an online graduate degree from Aspen University in risk management and data security.

As a senior member of the Senate Judiciary Committee and a member of the Subcommittee on Immigration, Refugees, and Border Security, I would like to know how Mr. Ahmed entered the United States and through which immigration channels he was able to remain here. I therefore request that you provide me with copies of all documents and reports relating to the issuance of student visa(s), any adjustment of status and subsequent visas, and naturalization for Mr. Ahmed including, but not limited to the following:

- a. All immigrant and non-immigrant visa applications filed by Mr. Ahmed;
- b. All certificates of eligibility for immigrant and non-immigrant visas provided by Mr. Ahmed in support of his application(s) for legal status in the United States;

- c. All law enforcement reports that contained information on Mr. Ahmed's associations with al-Qaeda and which were available to homeland security official(s) who approved his visa application(s) and naturalization application.
- e. Any records on Mr. Ahmed included in the student tracking system, SEVIS, including but not limited to his degree program and classes taken at City University of New York and Aspen University.
- f. All documents related to the naturalization process for Mr. Ahmed.

I also want to bring to your attention the fact that my staff informally asked the Office of Legislative Affairs at U.S. Citizenship and Immigration Services (USCIS) for this information on November 1, 2010. My staff was informed that the Department of Homeland Security would not provide this information to a member of Congress without first obtaining a privacy release from the suspected terrorist in custody first. This response is unacceptable as a matter of accountability and is in clear conflict with the plain language of the Privacy Act exemption for members of Congress. As you are aware, section 552a(b)(9) of the Privacy Act states that disclosures are exempt from the Privacy Act if they are made, "to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee." Further, a request from any member of a congressional committee and/or subcommittee requesting the information in his or her official capacity falls "squarely within the ambit of §552a(b)(9)" *See Devine v. United States*, 202 F.3d 547, 551 (2nd Cir. 2000). I understand that the Office of Legislative Affairs at USCIS views the policy of obtaining a privacy waiver from a suspected terrorist in custody before disclosing information to Congress as consistent with this exemption based upon "longstanding Executive Branch policy that information protected under the Privacy Act may not be disclosed to ranking members of committees or individual members of Congress, absent a signed waiver from the individual in question." Accordingly, I request a copy of all legal opinions and a complete analysis of the "longstanding Executive Branch policy" that the Department utilizes to withhold information from members of Congress notwithstanding the Congressional exemption in section 552a(b)(9).

Should there be any questions about this matter, please have your staff contact Kathy Nuebel Kovarik or Nick Podsiadly at (202) 224-3744. I appreciate your attention to this issue, and look forward to your response.

Sincerely,


Charles E. Grassley
United States Senator

cc: Lamar Smith, Ranking Member, House Committee on the Judiciary
Darrell Issa, Ranking Member, House Committee on Oversight and Government Reform