

United States Senate

WASHINGTON, DC 20510

August 15, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Antony Blinken
Secretary
U.S. Department of State

Dear Secretary Blinken:

Since 2016, I've raised concerns regarding the Department of State's (State Department) interview waivers for nonimmigrant visas.¹ On June 25, 2024, the Department of Homeland Security (DHS) Office of Inspector General (OIG) released a Management Alert entitled, *CBP Has Limited Information to Assess Interview-Waived Nonimmigrant Visa Holders*.² That alert highlighted that during the COVID-19 pandemic, the State Department and DHS agreed to expand waivers for consular interviews and fingerprint collections for some nonimmigrant visa applicants to address staffing challenges and visa backlogs.³ As a result, from 2020 to 2023, the State Department granted approximately 7.1 million nonimmigrant visas to individuals without conducting in-person consular interviews.⁴ During that same period, the State Department also omitted fingerprint collection for an unknown number of nonimmigrant visa applicants.⁵ Alarmingly, in December 2023, the Biden-Harris DHS and State Department agreed to "expand

¹ Letter from Charles E. Grassley, Chairman, Senate Judiciary Committee, to the Honorable John Kerry, Secretary of State (Jan. 13, 2016), <https://www.grassley.senate.gov/news/news-releases/grassley-concerned-attempts-further-weaken-visa-applicant-interview-rules> (discussing concerns with the Visa Waiver Program, which watered down interview requirements for visa applicants between the ages of 14 and 79); Letter from Charles E. Grassley, Ranking Member, Senate Judiciary Committee, John Cornyn, Ted Cruz, Lindsey O. Graham, Mike Lee, Ben Sasse, Josh Hawley, Tom Cotton, John Kennedy, Thom Tillis, and Marsha Blackburn, to the Honorable Alejandro Mayorkas, Secretary of Homeland Security, and the Honorable Antony J. Blinken, Secretary of State (Jan. 25, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_to_homeland_security_dept.stemoptprogram.pdf (investigating State Department visa screening processes after a British national was admitted under the Visa Waiver Program and then held four people hostage at a Texas synagogue).

² Office of Inspector General of the Department of Homeland Security, Office of Inspector General, *Final Management Alert – CBP Has Limited Information to Access Interview-Waived Nonimmigrant Visa Holders* (OIG-24-33), (June 25, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-06/OIG-24-33-Jun24-mgmtalert-Redacted.pdf>. (This report is a redacted version)

³ *Id.*; see also 8 U.S.C. § 1101(a)(15) (Nonimmigrant visa holders are foreign nationals who enter the U.S. on a temporary basis for tourism, medical treatment, business, temporary work, study or other reasons); see also 8 U.S.C. § 1202(h)(1)(C)(i) (Authorizing the Secretary of State to waive the in-person interview requirement when such a waiver is in the national interest.)

⁴ *Supra* note 2 at 1.

⁵ *Id.*

the categories of visas and applicants whose consular interviews could be waived beginning on January 1, 2024.”⁶

DHS OIG’s alert found that Customs and Border Protection (CBP) was not made aware of “which visa holders had not been interviewed” until March 29, 2024, approximately three months after the Biden-Harris State Department and DHS agreed to expand the visa waivers.⁷ DHS OIG also found that CBP does not currently have the system capability to gather information on the 7.1 million individuals who were granted visa and interview waivers prior to March 2024.⁸ This means that since waiver expansions began, CBP can’t confirm whether individuals with waivers who arrived at U.S. ports of entry were identified for further screening.⁹

Additionally, the DHS OIG found that prior to March 2024, CBP did not formally notify its Field Offices and frontline officers of State Department’s interview and fingerprint waiver programs.¹⁰ Specifically, CBP officials “did not want to overload officers with information” and instead prioritized sharing other information with frontline officers.¹¹ Even more concerning, DHS OIG spoke with 16 CBP Office of Field Operations (OFO) port directors and found that none of them were aware that some visa holders had not received a consular interview.¹² According to DHS OIG, if CBP officers knew certain visa categories did not receive interviews, this “may have been beneficial in alerting CBP officers that an individual may require additional screening and vetting.”¹³

As a result of this Management Alert, DHS OIG made two recommendations, both of which DHS concurred with.¹⁴ It is crucial that DHS and its component agencies implement these recommendations to keep our homeland safe and ensure that all individuals who enter the United States are properly screened and accounted for. Likewise, the State Department has a duty to provide DHS with information on nonimmigrant visa applicants who were not interviewed or fingerprinted to allow CBP to thoroughly screen these individuals before they enter the United States.

Please provide information to the following requests no later than August 29, 2024:

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.* at 5.

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.*

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ *Id.* at 5-7. DHS OIG stated: “Recommendation 1: We recommend the Senior Official Performing the Duties of the Commissioner of CBP work with the National Targeting Center to establish other means to manage risks, if any, posed by visa holders who received interview waivers from the Department of State. Recommendation 2: We recommend the Senior Official Performing the Duties of the Commissioner of CBP develop and implement a comprehensive plan to perform trend analyses to analyze risks posed by individuals whose consular interviews were waived by the Department of State with data captured at [redacted information], and using the results, develop and implement mitigation plans.”

1. Since the national COVID-19 emergency ended on April 10, 2023, why did the State Department agree with DHS to waive interviews for nonimmigrant visa applicants starting in January 2024?¹⁵
2. Why did the State Department not provide DHS and CBP with information on individuals that did not receive a consular interview until March 29, 2024? Provide all records, including communications between State Department, DHS, and CBP regarding this delay.
3. Since expanding waivers for consular interviews in 2024, how many visa applicants were not subject to an interview? Of those:
 - a. How many visa applications were granted?
 - b. How many visa applications were denied? For each, what was the basis for denial?
4. Has the State Department informed DHS which visa applicants were not interviewed since expanding waivers for consular interviews in 2024? If not, why not?
5. Has the State Department implemented any alternative mechanisms to detect potential national security risks for nonimmigrant visa applicants that do not undergo a consular interview? Describe all processes in detail and provide all records.

Thank you for your prompt review and responses. If you have any questions, please contact Tucker Akin on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

¹⁵ See H.R. J.Res.7, 118th Cong. (2023) (terminating the national emergency concerning COVID-19 declared by the President on March 13, 2020); *supra* note 2 at 2-3 (“The most recent temporary authorities, which are reviewed on a yearly basis, expired on December 31, 2023. However, DoS argued that these temporary authorities should be renewed and expanded to address the growing worldwide demand for visas moving forward into 2024.”); *see also* 8 U.S.C. § 1202(h)(1)(C)(i); 22 CFR § 41.1-2(b)-(c) (authority for the Secretary to waive in-person consular interviews when it is in the “national interest”).