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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 2, 2013

**VIA ELECTRONIC TRANSMISSION**

The Honorable Janet Napolitano  
Secretary  
Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20528

Dear Secretary Napolitano:

On April 15, 2013, the City of Boston suffered a catastrophic terrorist attack as two improvised explosive devices detonated in the area of the finish line of the Boston Marathon. Three days later, Boston and its surrounding suburbs became the scene of an intense manhunt which ultimately claimed the life of a police officer and one of the two individuals accused of coordinating the bombing earlier in the week. Tamerlan Tsarnaev died following a shootout with police officers. The next day, Dzhokhar Tsarnaev, Tamerlan's younger brother and the second individual accused in the attack, was apprehended after evading authorities in Watertown, Massachusetts for almost 24 hours.

Yesterday the FBI arrested Azamat Tazhayakov and Dias Kadyrbayev and charged them with conspiring to obstruct justice by concealing and destroying evidence.<sup>1</sup> In interviews with the FBI, they admitted to removing Dzhokhar's backpack, laptop, and fireworks from his dormitory room following the attack and agreeing to dispose of them after concluding from news reports that he was one of the Boston Marathon bombers.<sup>2</sup>

Law enforcement came into contact with Tazhayakov and Kadyrbayev through their association with Dzhokhar Tsarnaev. Nationals of Kazakhstan, the two entered the United States on student visas in 2011 and began attending classes at the University of

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<sup>1</sup> Matt Smith, "Bomb suspect's buddies covered for him, feds say," *CNN* (May 1, 2013), available at <http://www.cnn.com/2013/05/01/us/boston-attack/index.html>.

<sup>2</sup> *Id.*

Massachusetts, Dartmouth with Dzhokhar.<sup>3</sup> Early reports from the Associated Press indicated that the two were questioned on April 20, 2013, regarding their connection with Dzhokhar, then jailed by immigration authorities for violating their student visas by not regularly attending classes.<sup>4</sup> Other sources reported that the two had overstayed their student visas.<sup>5</sup>

Now, news sources are reporting that Tazhayakov's student visa status had been terminated on January 4, 2013, when he was academically dismissed from the University of Massachusetts, Dartmouth.<sup>6</sup> Nevertheless, although Tazhayakov left the United States in December 2012, he was allegedly allowed to return on January 20, 2013.<sup>7</sup> A spokesperson for the Department said that U.S. Customs and Border Protection (CBP) officials had not been notified that Tazhayakov was no longer considered an active student.<sup>8</sup> However, another law enforcement official speaking on the condition of anonymity stated that Tazhayakov's status was in the Department's Student and Exchange Visitor Information System (SEVIS) when he entered the United States.<sup>9</sup>

These clear gaps in our current immigration system are particularly troubling at a time when the Committee is considering a proposal for comprehensive immigration reform which does not address these gaps. Accordingly, please respond to the following questions:

1. When did Tazhayakov and Kadyrbayev apply for their student visas?
2. When were the student visas of Tazhayakov and Kadyrbayev granted? At that time, what expiration dates were set for the student visas?

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<sup>3</sup> Plaintiff's Affidavit, *United States of America v. Dias Kadyrbayev and Azamat Tazhayakov*, ¶ 19.

<sup>4</sup> David Caruso and Michael Kunzelman, "Azamat Tazhayakov, Dias Kadyrbayev, Classmates of Dzhokhar Tsarnaev, Deny Wrongdoing," *Associated Press* (Apr. 26, 2013), available at [http://www.washingtonpost.com/national/lawyer-jailed-students-shocked-by-boston-bombing-allegations-against-classmate-knew-nothing/2013/04/26/176ccaf6-aedc-11e2-b59e-adb43da03a8a\\_story.html](http://www.washingtonpost.com/national/lawyer-jailed-students-shocked-by-boston-bombing-allegations-against-classmate-knew-nothing/2013/04/26/176ccaf6-aedc-11e2-b59e-adb43da03a8a_story.html).

<sup>5</sup> John R. Ellement, et al., "Two Kazakh man, Cambridge man, face charges in disposal of backpack owned by Boston Marathon bombing suspect," *Boston Globe* (May 1, 2013), available at <http://www.boston.com/metrodesk/2013/05/01/three-additional-people-taken-into-custody-boston-marathon-bombings/dhLzU1e5vfbuhxyjWIBOSP/story.html>.

<sup>6</sup> Erin Smith and Richard Weir, "Kazakhs 'liked to attract attention,'" *Boston Herald* (May 2, 2013), available at [http://bostonherald.com/news\\_opinion/local\\_coverage/2013/05/kazakhs\\_liked\\_to\\_attract\\_attention](http://bostonherald.com/news_opinion/local_coverage/2013/05/kazakhs_liked_to_attract_attention).

<sup>7</sup> Alicia A. Caldwell, "Official: Student from Kazakhstan arrested in Boston bombing entered US without valid student visa," *Associated Press* (May 1, 2013), available at <http://www.startribune.com/nation/205644331.html>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

3. What was the basis for granting Tazhayakov and Kadyrbayev their student visas?
4. On what dates did Tazhayakov and Kadyrbayev first enter the United States?
5. Was Kadyrbayev in violation of the requirements of his student visa? If so, how and when was it determined that Kadyrbayev was in violation, and how long had he been in violation?
6. What safeguards are in place to ensure that individuals with student visas are not violating their requirements?
7. Had Tazhayakov's student visa status been terminated, as has been reported? If so, please describe the circumstances surrounding this termination.
8. Was this information recorded in SEVIS? On what date? If so, why was Tazhayakov permitted to enter the United States on January 20, 2013?
9. Did CBP officials check SEVIS when Tazhayakov entered the country on January 20, 2013? Do they have access to SEVIS?

Please respond to these questions by May 9, 2013 and provide any supporting documentation including the student visa applications of Tazhayakov and Kadyrbayev to the Committee. Please also reach out to Tristan Leavitt of my staff at (202) 224-5225 provide a briefing on these matters. I look forward to your prompt response.

Sincerely,



Charles E. Grassley  
Ranking Member

cc: The Honorable Patrick Leahy, Chairman  
U.S. Senate, Committee on the Judiciary