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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*

September 13, 2016

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson:

Last week, a 12 year-old girl named Lea Phann and several other relatives and friends were struck by Fernando Lopez Aguilar in Des Moines, Iowa. Lea Phann died this week as a result of the injuries sustained in the vehicle accident. According to the KCCI in Des Moines, Aguilar was arrested and charged with serious injury by reckless driving, operating without a driver's license, endangerment and no insurance.¹ According to the Des Moines Register, court records show that the driver knew that the brakes on the vehicle did not work.²

It has come to my attention that Fernando Lopez Aguilar had previously been approved for President Obama's Deferred Action for Childhood Arrivals (DACA) but has since fallen out of status and currently resides in the U.S. illegally. If true, Lea Phann died at the hands of someone who broke our laws and should not have been allowed to remain in the United States.

In order to better understand the circumstances that led to this tragic death, I would like more information about Fernando Lopez Aguilar's criminal and immigration history, and why he was allowed to remain in the country despite his unlawful status.

Please provide me as soon as possible, but no later than September 26, 2016, with the following information:

1. The alien registration number for Fernando Lopez Aguilar, his complete alien file (A-file), including any temporary files, working files, or Service Center files, and all documents and items contained in them, all reports or notifications generated by DHS or in its possession about him, whether currently in written or electronic form, including, but not limited to, the Enforcement and Removal Operations (ERO) Executive Summary, criminal history or immigration summaries, detainers or requests for notification, I-

¹ "Driver faces new charges after girl dies from crash injuries," KCCI Des Moines (September 12, 2016), available at <http://www.kcci.com/news/update-12yearold-girl-dies-from-injuries-in-crash/41628436>

² "Driver knew brakes didn't work before fatal crash, court records say," Des Moines Register (September 12, 2016), available at <http://www.desmoinesregister.com/story/news/crime-and-courts/2016/09/12/12-year-old-lea-phann-dies-after-thursday-crash-des-moines/90257984/>

213(s), and Notice(s) to Appear or other charging documents created to seek his removal from the United States.

2. Please identify each and every date on which Fernando Lopez Aguilar was encountered by a law enforcement agency in the United States, to include criminal and civil arrests, the nature of the charge, the jurisdiction where the arrest occurred, the disposition of that charge, the date(s) on which he was released from the custody of that law enforcement agency, and the reason(s) for the release. Please provide the arrest and disposition documentation for each encounter.
3. How and when did Fernando Lopez Aguilar enter the United States? Was he ever served with a Notice to Appear? Was it filed with an immigration court? Please explain.
4. Did Fernando Lopez Aguilar ever apply for any immigration benefits, including deferred action? If so, was any application approved? What are the details surrounding his potential renewal of deferred action? Please provide copies of any application that may have been submitted, whether or not adjudicated.
5. Had Fernando Lopez Aguilar ever been removed previously? If so, when?
6. Has ICE issued a detainer or request for notification to any entity regarding Fernando Lopez Aguilar? Please explain.
7. Was Fernando Lopez Aguilar a member of, or associated with any criminal gang? Please explain.
8. If Fernando Lopez Aguilar had been encountered by DHS enforcement officials prior to his arrest, would he have met the requirements to be considered a priority for removal under the Administration's Priority Enforcement Program? If so, please provide the exact reason for such consideration. If not, why not?
9. Have the victims, or their immediate family members, been contacted by officials at ICE? Please provide details.

Again, I appreciate your cooperation to provide me with details regarding this case as soon as possible. It is unfortunate that a young child's life may have been taken when the government could have done more to protect her and her family. I look forward to your response and urge you to contact Kathy Nuebel Kovarik of my staff at (202) 224-5225 if you have any questions.

Sincerely,



Charles E. Grassley
Chairman