

Congress of the United States

Washington, DC 20510

October 2, 2012

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

Since the announcement of President Obama's Deferred Action for Childhood Arrivals (DACA) directive on June 15, 2012, we have made several requests to your department to be transparent and forthcoming about the program. We remain concerned about the lack of detail provided to Congress, and today, we seek answers with regard to background checks on applicants and beneficiaries.

As of September 14, your department had received nearly 83,000 applications for deferred action. Some experts suggest that 1.76 million individuals will apply for the program, putting strain on the U.S. Citizenship and Immigration Service and the adjudicators who process all other immigration benefits.

Congress has been told that any application made for benefits under DACA, which include deferred action and work authorization, will require extensive and verifiable documentation that all criteria are met. Because this is a discretionary decision not to pursue enforcement against a person for a specified period of time, we would ask the Department to be transparent and forthcoming about the details, criteria and process of the deferred action directive. It is still unclear to us what level of documentation will be required and what level of background checks are being conducted on the documents and the applicants.

According to USCIS' website, all applicants of the DACA process will undergo biographic and biometric background checks.¹ The agency, however, has not explained what checks would be executed and who will be conducting them, only stating that the applicant's information would be checked "against a variety of databases maintained by DHS and other federal government agencies."

In keeping with President Obama's promise that his administration would be "the most open and transparent ever," we request that the department answer the following questions to help us better understand what background checks are being conducted for DACA applicants:

- 1) Describe what databases are queried as part of the applicant's background check and what government agency maintains the database. Does the database have audit qualities to determine date, location, and name of official performing the query?

¹ *Consideration of Deferred Action for Childhood Arrivals Process – Frequently Asked Questions*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=3a4dbc4b04499310VgnVCM100000082ca60aRCRD&vgnnextchannel=3a4dbc4b04499310VgnVCM100000082ca60aRCRD> (last visited Sept. 26, 2012).

- 2) Describe what type of queries are being conducted and the information that is provided as a result of the search (i.e. NCIC queries provide a description of the applicant's criminal history).
- 3) Does USCIS receive assistance from any other government agencies when conducting background checks on applicants? If so, what is the extent of this assistance?
- 4) Is the Intelligence Community provided the names of the applicant's to cross check with their databases? If not, why not?
- 5) At what stage of the background check is the Fraud Detection and National Security (FDNS) unit at USCIS consulted?
- 6) If an applicant does not provide the designated background documents are they allowed to submit additional documents in their place?
- 7) Are the applicants allowed to present a character reference to verify their identity? If so, are these references verified?
- 8) Is FDNS reviewing approved applications for quality assurance? If not, why not?
- 9) Will the Department require in-person interviews? If so, under what circumstances? If not, why not?
- 10) Does USCIS have a sufficient number of employees to process the background checks for the large volume of applicants? Is USCIS currently hiring employees or have any vacancies for these positions? If so, how many?

Please provide the answers to the above questions by October 12, 2012.

Sincerely,

Charles E. Grassley
Ranking Member
Senate Committee on the Judiciary


Lamar Smith
Chairman
House Committee on the Judiciary

cc: Alejandro Mayorkas, Director,
U.S. Citizenship and Immigration Service

John Morton, Director
U.S. Immigration and Customs Enforcement