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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 16, 2016

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

Dear Secretary Johnson:

Yesterday, the Committee held a hearing on the security of U.S. visa programs. During the hearing I questioned U.S. Citizenship and Immigration Services (USCIS) Director Leon Rodriguez and Immigration and Customs Enforcement (ICE) Director Sarah Saldaña about an incident that was brought to my attention concerning the San Bernardino terrorist attack on December 2, 2015 that killed 14 people and injured 22 others.¹ According to information provided to the Committee by whistleblowers, on December 3, 2015—the day after the attack—USCIS denied entry at its San Bernardino office to Homeland Security Investigations (HSI) agents who sought to intercept and detain Enrique Marquez, an individual sought in connection with the attack.

I am further concerned by subsequent reports to my office that, following the hearing, ICE management has been seeking to identify which individual(s) furnished information to the Committee about this incident. I worry that management is seeking this information to retaliate against those employees. Federal employees have an absolute “right . . . to furnish information to either House of Congress, or to a committee of Member thereof, [which] may not be interfered with or denied.”² In addition, under federal law, any officials that interfere with an employee’s right to furnish information to Congress may not have their salaries paid by taxpayer dollars.³

I will not tolerate, nor should DHS tolerate, any effort to retaliate against federal employees for communicating with the Committee or any Member of Congress. The individual(s) who disclosed information about this incident to the Committee did so with full protection under federal law. Any attempt to retaliate against any individual for providing this information to the Committee must be promptly and strongly deterred. As you address this serious matter, I urge you to remember your commitment to Senator Coburn to uphold “the importance of transparency with Congress and our Inspector General.”⁴

¹ *The Security of U.S. Visa Programs: Hearing Before the S. Comm. on Homeland Security and Governmental Affairs* (114th Cong.)

² 5 U.S.C. § 7211.

³ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 713 (2015).

⁴ August 5, 2014 Letter from Jeh Johnson, Secretary, Dep’t of Homeland Security, to Senator Tom Coburn, Ranking Member, S. Comm. on Homeland Security and Governmental Affairs.

The Honorable Jeh Johnson

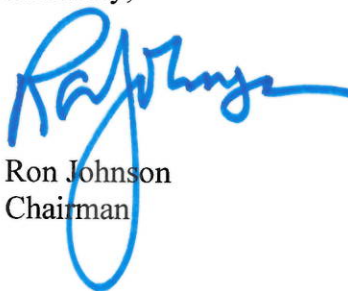
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I respectfully request that you immediately direct ICE to cease all efforts of retaliation for communications with the Committee and strongly discipline any employees who have taken such actions. I also request that you remind the leadership and managers of all DHS components of the importance of federal employees' communications with Congress and of whistleblower protections. I ask that your staff keep my staff fully apprised of this serious matter.

Thank you for your prompt attention to this request.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Thomas R. Carper
Ranking Member

The Honorable Sarah Saldaña
Director
U.S. Immigration and Customs Enforcement

The Honorable John Roth
Inspector General
Department of Homeland Security

The Honorable Carolyn Lerner
Special Counsel
U.S. Office of Special Counsel