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Diana Shaw <shawd@state.gov>
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Executive Director Douglas Holt <douglas.holt@cigie.gov>
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Dear Sirs / Madams,

June 20, 2023

To minimize confusion I am sending this request to the Secretary of State, the Inspector General (IG) of the Department of State (DoS), Office of Information Programs and Services (FOIA/DoS), the FOI officer of DoS OIG and Alan.Boehm the CIGIE Executive Director. As it is possible federal crimes may have been committed or may be committed concerning this matter, I am also copying the Attorney General.

First I will describe the problems in general terms and then there will a separate section for each recipient

with specific requests for action by the specific recipient. I ask that each recipient acknowledge receipt of this request within one week (preferably via email to carrbp@gmail.com) as well as an initial response within thirty days as to intended actions. Please note that with the federal crimes described, intention is an important element and the response made after notice can be a foundation of determining intent.

General Statement of Problem

It is apparent that the processing of non immigration visa requests by the Department of State, Bureau of Consular Affairs does not meet the requirements of Due Process as stated in the 5th Amendment of the U.S. Constitution (rights guaranteed for all persons including foreign nationals). Since the 70's the U.S. Supreme Court has expounded on the requirements of Due Process for administrative procedures but it is likely that the procedures for non immigration visa requests were established before these rulings and have not been revised to reflect the decisions of the Supreme Court. As such, with this notice of the illegal denial of the rights of foreign nationals, it becomes incumbent on respondents to make those corrections necessary to comply with Due Process requirements of the U.S. Constitution.

Of particular importance are the right to representation (having another person speak on their behalf if they so choose), the right of appeal, and the right to a written decision based on the evidence which they presented. The right to a written decision well founded on the evidence is particularly important (perhaps the foundation of due process) and 18 U.S. Code Section 1001 defines a federal crime (falsification of government records) as:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact;

This has been held to include the omission of required facts which would include the rationale for a particular visa denial. If there are administrative directives that the response be only the standard form letter without any reference to the evidence presented (or referenced in the video recordings) then the crime remains though intention can be deferred to the management which directed the illegal omission of required facts. Intention is questionable for long standing policies which could pre-date the Supreme Court guidance, but after this notice of the problem, the obvious solution is to consult with Assistant Attorney General for the Office of Legal Counsel, Christopher H. Schroeder, seeking guidance on how to revise administrative procedures so that they are lawful and provide due process to all persons.

As there are plausible federal crimes being alleged, the DoS Office of the Inspector General (OIG) is required to investigate the allegations and report all likely federal crimes, e.g. INSPECTOR GENERAL ACT OF 1978 which states in part that the 'Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law'. However, previous reports to the DoS OIG hotline simply resulted in the matters being forwarded to the Bureau of Consular Affairs with no meaningful response. A liberal interpretation of federal criminal law suggests that this itself is the crime of falsifying government records (failure to correct known false records) and obstruction of justice.

When the DoS OIG specifically refused to investigate these matters, I initiated Freedom of Information Act (FOIA) requests on May 10, 2023 to get more complete information to provide in the current complaint, but I have received no response. For your convenience I have attached those FOIA requests as they list the specific visa applications which were improperly denied and the DoS OIG complaints which include the resulting damages.

Specific Actions Requested
Antony Blinken, Secretary of State

I request that you confirm that the Bureau of Consular Affairs does not permit representation in non immigrant visa application interviews and negative responses are form letters with no specific reference to the actual evidence presented by the applicant. After this confirmation, I ask that you contact the DoJ via Christopher H. Schroeder and seek guidance on how to revise the administrative processes to be in compliance with Supreme Court decisions in these matters as well as being compatible with other federal agencies.

DoJ IG Diana Shaw

The DoS OIG hotline web page at <https://www.stateoig.gov/hotline> states 'Please note: OIG does not investigate complaints about the denial of U.S. visas.' which violates the IG act of 1978 by overlooking federal crimes relating to the denial of U.S. visas. I ask that you have the web page and other publication corrected to note that the DoS OIG investigates all malfeasance and federal crimes within the DoS. I also ask that you direct all members of DoS OIG to follow these policies. Further I request that you report this particular matter to the DoJ so that a proper investigation of the matter can be completed to determine whether prosecution is warranted under the circumstances.

Alan Boehm, Executive Director
Council of the Inspectors General on Integrity and Efficiency (CIGIE)

As there clear indications of malfeasance and plausible allegations of other crimes within the DoS OIG, I ask that you work with the DoJ in correcting these serious problems. I further ask that you insure that the USPS IG is recused from this matter as there are virtually identical allegations against her which have not been successfully resolved (see DoJ reference number NM301959635).

DoS FOIA Officer and DoS OIG FOIA Officer

I ask that you provide all the requested information cited in the attached FOIA requests, previously sent via email on May 10, 2023. Further, in your administrative decisions concerning use of 5 U.S.C. Section 552 (b)(5) and (b)(6) to redact or withhold documents, I ask that you also comply with the due process requirements for administrative procedures.

For example, if you cite the 'deliberative process privilege' of (b)(5) as a form of executive privilege I ask that you disclose the identity of the executive who is familiar matter and who is actually making the claim of executive privilege along with a summary of the policy which was being deliberated.

Further, if you are using (b)(5) as a form of attorney client privilege, I ask that you disclose the identities of the client and attorney and that each document which is withheld be identified with the general nature and circumstances of the material in the document. This is the evidence required for a determination to withhold each document under the facts and circumstances of each document and is necessary in order to appeal the determination in any meaningful fashion.

Please note that failure to include required information in your determination to withhold could constitute the federal crime of falsification of government records.

Conclusion

I ask that all responses to these requests be sent via email to myself at carrbp@gmail.com and that all other recipients be copied via email as well. I ask the DoJ assign a new reference number for this matter and send the reference number to all recipients. This will allow for complete documentation of when notice was provided to each recipient as well the facts and circumstances for each complaint. Representative Veasey is being included in the CC list as his office assisted in complaints against the USPS and OIG.

Your prompt attention to this matter is greatly appreciated.

Brian P. Carr

CC email only:

criminal.division@usdoj.gov
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