



**STATEMENT**

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**REGARDING A HEARING ON**

***“FROM THE 9/11 HIJACKERS TO AMINE EL-KHALIFI: TERRORISTS AND THE VISA  
OVERSTAY PROBLEM”***

**BEFORE THE**

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY**

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## **INTRODUCTION**

Chairman Miller, Ranking Member Cuellar, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to discuss the efforts of the Department of Homeland Security (DHS) to prevent the exploitation of our visa system by terrorists and criminals. Visa overstays and other forms of immigration status violation bring together critical areas of DHS's mission—national security and immigration enforcement, and the determination of whom to allow entry into the United States.

### **Joint Anti-Fraud Strategy**

We recognize that those who pose national security threats may seek to commit immigration benefit fraud in order to enter or remain in the United States. For that reason, we work hard to detect and deter immigration fraud and to continually enhance our anti-fraud efforts. ICE exercises criminal authority in the detection and deterrence of immigration fraud, while USCIS exercises administrative authority. This strategy allows ICE to concentrate its efforts on major fraud conspiracies and other cases of national security or public safety interest, while allowing USCIS to address the bulk of immigration benefit fraud cases administratively.

Through ICE Document and Benefit Fraud Task Forces (DBFTFs), we focus our efforts on detecting, deterring, and disrupting document and benefit fraud. DBFTFs bring together the joint expertise of federal, state, and local law enforcement partners to formulate a comprehensive approach in targeting the criminal organizations and the beneficiaries committing immigration fraud.

## **The Visa Security Program**

The Homeland Security Act of 2002 directs the Department of Homeland Security (DHS) to assist in the identification of visa applicants who seek to enter the United States for illegitimate purposes, including criminal offenses and terrorism-related activities. The visa adjudication process often presents the first opportunity to assess whether a potential nonimmigrant visitor or immigrant poses a threat to the United States. The Visa Security Program (VSP) is one of several ICE programs focused on minimizing global risks.

Through the Visa Security Program (VSP), ICE deploys trained special agents overseas to high-risk visa activity posts in order to identify potential terrorist and criminal threats before they reach the United States. ICE special agents conduct targeted, in-depth reviews of individual visa applications and applicants prior to issuance, and recommend to consular officers refusal or revocation of applications when warranted. DHS actions complement the consular officers' initial screenings, applicant interviews, and reviews of applications and supporting documentation.

ICE now conducts visa security investigations at 19 high-risk visa adjudication posts in 15 countries. In FY 2012 to date, VSP has screened 452,352 visa applicants and, in collaboration with DOS colleagues, determined that 121,139 required further review. Following the review of these 121,139 applications, ICE identified derogatory information on more than 4,777 applicants.

In March 2010, the National Targeting Center (NTC) within U.S. Customs and Border Protection (CBP) implemented a program to conduct continuous vetting of U.S. non-immigrant visas that have been recently issued. Recurrent vetting ensures that changes in a traveler's visa status are identified in near real-time, allowing CBP to immediately determine whether to provide a "no board recommendation" to a carrier, to recommend revocation of the visa to DOS,

or to notify ICE regarding individuals determined to be within the United States. Since the program's inception, DOS has revoked more than 900 visas based on requests from CBP on information uncovered after a visa was issued.

ICE, CBP, and DOS have partnered to modernize DHS visa screening efforts. These efforts automate the flow of online visa information to DHS systems and provide the ability to send information back to DOS using an automated interface. ICE personnel currently deployed to the NTC will partner with CBP officers to expand current VSP efforts to enhance screening of visa applicants against DHS data worldwide. This screening will be conducted prior to the visa interview and complements DHS efforts to streamline the Security Advisory Opinion process of third agency checks on the highest risk visa applicants worldwide, which has resulted in significant delays in visa issuance for some individuals.

### **The Counterterrorism and Criminal Exploitation Unit**

The Counterterrorism and Criminal Exploitation Unit (CTCEU) is the first national program dedicated to the enforcement of nonimmigrant visa violations. Today, through the CTCEU, ICE proactively develops cases for investigation in cooperation with the Student and Exchange Visitor Program (SEVP) and the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program. These programs enable ICE to access information about the millions of students, tourists, and temporary workers present in the United States at any given time, and to identify those who have overstayed or otherwise violated the terms and conditions of their admission.

Each year, the CTCEU analyzes records of hundreds of thousands of potential status violators after preliminary analysis of data from the Student and Exchange Visitor Information

System (SEVIS) and US-VISIT, along with other information. After this analysis, CTCEU determines potential violations that warrant field investigations and/or establishes compliance or departure dates from the United States. Between 15,000 and 20,000 of these records are analyzed in-house each month. Since the creation of the CTCEU in 2003, nearly 2 million such records using automated and manual review techniques have been analyzed. On average, ICE initiates approximately 6,000 investigative cases annually and assigns them to our special agents in the field for further investigation, resulting in over 1,800 administrative arrests per year.

ICE special agents and analysts monitor the latest threat reports and proactively address emergent issues. This practice has contributed to ICE's counterterrorism mission by initiating or supporting high-priority national security initiatives based on specific intelligence. The practice is designed to detect and identify individuals exhibiting specific risk factors based on intelligence reporting, including travel patterns, and in-depth criminal research and analysis.

In order to ensure that the potential violators who pose the greatest threats to national security are given priority, ICE uses intelligence-based criteria, developed in close consultation with the intelligence and law enforcement communities. ICE assembles the Compliance Enforcement Advisory Panel (CEAP), which is comprised of subject matter experts from other law enforcement agencies and members of the Intelligence Community, who assist the CTCEU in keeping targeting methods in line with the most current threat information. The CEAP is convened on a tri-annual basis to discuss recent intelligence developments and update the CTCEU's targeting framework, in order to ensure that the nonimmigrant overstays and status violators who pose the gravest threats to national security are targeted.

A recent ICE investigation in Los Angeles, California exemplifies how the CTCEU operates. In March 2011, the CTCEU received an INTERPOL blue notice concerning a person

who traveled to the United States as a tourist. The person had an arrest warrant in connection to child pornography charges in Colombia. A week later, ICE special agents arrested the person who was admitted as a visitor and violated their terms of admission by working in the adult film industry. A similar example occurred in July 2011, when the CTCEU received an INTERPOL red notice for an El Salvadorian national wanted for murder. As a result of CTCEU data analysis and field investigation, ICE special agents arrested the subject in Baltimore, Maryland.

More recently in January 2012, ICE Special Agents from the Washington, D.C. office arrested a Saudi Arabian national who was admitted as an F-1 nonimmigrant student and violated the terms and conditions of his admission. The individual was referred for investigation after his status was terminated in SEVIS for failure to maintain student status, as well as for possessing several indicators of national security concerns, including threatening to blow up the White House and the Saudi Arabian Cultural Mission to the United States.

Likewise, in May 2010, ICE's Counterterrorism and Criminal Exploitation Group in San Francisco, initiated an investigation into Tri-Valley University (TVU) in Pleasanton, California. The criminal investigation led to the indictment and arrest of the organization's owner and four workers for visa fraud violations. The owner and employees were issuing immigration documents containing false statements and forged signatures, which falsely certified that the school's students were attending a full course of study. ICE Special Agents effected five criminal arrests and over 300 student violators were administratively arrested, consisting mostly of Indian nationals. In addition, ICE Special Agents seized one vehicle, filed *lis pendens* on five properties valued at approximately \$3.2 million, and seized numerous bank accounts totaling almost \$2 million that represented proceeds derived related to the illicit scheme.

Similarly, in November 2011, the CTCEU Group in Los Angeles arrested Karena Chuang of Wright Aviation Academy (formerly Blue Diamond aviation) for encouraging the illegal entry of aliens for private financial gain. Wright Aviation Academy/Blue Diamond Aviation (BDA), a non-SEVP accredited flight school, was suspected by ICE's Visa Security Program of fraudulently recruiting and training foreign flight students from Egypt. The investigation revealed that Chuang applied to SEVP accredited schools, often without the student's knowledge, for the sole purpose of obtaining valid Forms I-20 (student visas). The students, in turn, used the Forms I-20 to get M-1 (vocational) visas to enter the United States to attend BDA. This investigation successfully upheld the integrity of the SEVP program through ICE's layered enforcement approach – identifying and disrupting visa fraud overseas, dismantling the transnational organization, and prosecuting the perpetrators in the United States.

### **Coordination with US-VISIT and Other DHS Components**

CTCEU also works in close collaboration with US-VISIT. US-VISIT supports DHS's mission to protect our nation by providing biometric identification services to federal, state, and local government decision makers to help them accurately identify the people they encounter, and determine whether those people pose a risk to the United States. DHS's use of biometrics under the US-VISIT program is a powerful tool in preventing identity fraud and ensuring that DHS is able to rapidly identify criminals and immigration violators who apply for visas, try to enter the United States, or apply for immigration benefits.

Biometric information sharing between the Federal Bureau of Investigation's Criminal Justice Information Services (FBI-CJIS) and US-VISIT is the foundation of Secure

Communities' use of Automated Biometric Identification System (IDENT)/Integrated Automated Fingerprint Identification System (IAFIS) interoperability.

Through Secure Communities' use of IDENT/IAFIS interoperability, aliens—including those who have overstayed or otherwise violated their immigration status—who are encountered by law enforcement may be identified as immigration violators when fingerprints are submitted to the FBI-CJIS's biometric database, IAFIS, and then to DHS/US-VISIT's biometric database, IDENT. Once individuals are identified, ICE officials determine what enforcement action is appropriate, consistent with ICE's enforcement priorities. Currently, Secure Communities' use of this technology is deployed in over 2,300 jurisdictions in 46 states and territories.

US-VISIT also analyzes biographical entry and exit records stored in its Arrival and Departure Information System to further support DHS's ability to identify international travelers who have remained in the United States beyond their periods of admission.

ICE receives or coordinates nonimmigrant overstay and status violation referrals from US-VISIT Mission Support Services from three unique sources, which include: the typical overstay violation; a biometric watch list notification; and a CTCEU Visa Waiver Enforcement Program (VWEP) nomination. The first type, Nonimmigrant Overstay Leads, is used by the CTCEU to generate field investigations by identifying foreign visitors who violate the terms of their admission by remaining in the United States past the date of their required departure.

A second type of lead is generated from biometric data collected by US-VISIT. US-VISIT routinely receives fingerprint records from a variety of governmental sources and adds them to a biometric watch list of individuals of national security concern. These new watch list records are checked against all fingerprints in IDENT to determine if DHS has previously encountered the individual. If US-VISIT identifies a prior encounter, such as admission to the

United States, the information is forwarded to ICE for review and possible field assignment. Similarly, US-VISIT monitors records for individuals who, at the time of admission to the United States, were the subject of watch list records that did not render the individuals inadmissible to the United States. Therefore, if such individuals overstay their terms of admission, information on the subjects is forwarded to ICE for review and possible referral to investigative field offices for follow-up.

The third type of lead pertains to the CTCEU's Visa Waiver Enforcement Program (VWEP). The VWP currently allows eligible nationals of 36 countries to travel to the United States without a visa and, if admitted, to remain in our country for a maximum of 90 days for tourist or business purposes. The Visa Waiver Program (VWP) is the primary source of nonimmigrant visitors from countries other than Canada and Mexico. Visa-free travel to the United States builds on our close bilateral relationships and fosters commercial and personal ties among tourist and business travelers in the United States and abroad.

Although the overstay rate from this population is less than one percent, ICE created a program dedicated to overstays arising from this VWP population, given the large number of individuals in this category. Prior to the implementation of the VWEP in 2008, there was no national program dedicated to addressing overstays within this population. CTCEU provides a refined weekly list of individuals to US-VISIT for additional scrutiny, who have been identified as potential overstays who entered the United States under the VWP. In accord with its intelligence-based criteria, a relevant portion of this report is then imported into the CTCEU's internal lead tracking system for review and possible field assignment. One of the goals of this program is to identify those subjects that attempt to circumvent the U.S. immigration system by obtaining travel documents from Visa Waiver Countries.

## **Enhanced Biographic Exit**

In May 2011, at the direction of Secretary Napolitano, DHS's CT Coordinator organized an effort to ensure that all overstays, regardless of priority, receive enhanced national security and public safety vetting by the National Counterterrorism Center (NCTC) and CBP. As part of Phase 1 of this effort, Department components reviewed a backlog of 1.6 million unvetted potential overstay records based on national security and public safety priorities.

As of last summer, DHS had a backlog of "unreviewed overstays," comprised of system-identified overstay leads that did not meet criteria set by ICE for expedited high-priority review. Before this summer, these records would not have been examined, except in instances when the workload allowed it.

The DHS "overstay initiative", begun over the summer of 2011 at the direction of the Secretary, reformed this effort. By leveraging capabilities within Customs and Border Protection's Automated Targeting System (ATS-P), as well as DHS's relationship with NCTC, DHS was able to conduct richer, more thorough vetting for national security and public safety concerns. This generated new leads for ICE, which previously would not have been uncovered.

A beneficial by-product of this effort was the identification of efficiencies and cost savings gained through automation. Through this new automated approach, we can match and integrate relevant information from multiple systems in order to quickly and accurately identify overstays.

Today, DHS has integrated these enhancements to its process for reviewing system-identified overstay leads and prioritizing them for review and targeted enforcement. Now, ALL overstay records are reviewed for national security and public safety concerns, and DHS is also

leveraging existing automated capabilities to conduct automated reviews of all overstays (both normal priority and high-priority). All of this is done on a recurrent basis.

Overall, what I have described constitutes the first phase of DHS's enhanced biographic exit capability. This "enhanced exit" plan improves DHS's ability to calculate overstays and reduce their occurrence in the future. It uses resources from a variety of DHS Components and will provide benefits to several of these Components, as well the DOS, as adjudicators of visa applications. When fully implemented, this enhanced exit program will eliminate any future backlog of unreviewed overstays, and allow DHS to prioritize and take action on overstays, focusing on national security and public safety.

We have identified carry-over funding, and allocated it toward Phase II of this effort, which includes automating connections between data sources, and refining ICE's ability to more effectively target and prioritize overstay leads of concern. We expect to see these enhancements come on line this summer.

DHS has also identified its top priorities within Phase III of the enhanced biographic exit plan. This includes database modernization, further investments in targeting and prioritization capabilities, increased functionality between biometric and biographic repositories, as well as document validation. As investments in the future phases of this capability come on line, DHS will have increased its ability to "close out" overstay records using automated means.

The Department will have also increased its data quality and expanded its data sources, both of which will increase its ability to "close" records before they are referred to an investigator.

And finally, these upgrades will have enhanced DHS's ability to draw on capabilities across the Department for further manual review and targeting for enforcement action.

DHS also remains committed to introducing a biometric component to the exit process. The enhanced exit plan also incorporates biometric elements, allowing DHS personnel to more efficiently connect biometric identifiers (fingerprints and photographs) with biographic information residing within Intelligence Community and Law Enforcement databases. DHS has directed the Science and Technology Directorate to establish criteria and promote research for emerging technologies that would provide the ability to capture biometrics at a significantly lower operational cost.

In the meantime, the Department is taking action to secure our borders today, by making strategic security investment decisions that prioritize those capabilities needed for the implementation of a future biometric exit system while providing security value now.

This entire process has illustrated something fundamental, which is that dealing with the overstay population is a challenge that confronts all of DHS, not just any one component. US-VISIT tracks the overstay population through ADIS. CBP, as the custodian of our borders, taps into information about traveler movements, and is increasingly at the center of DHS's vetting and targeting activities. And ICE bears the burden of taking enforcement action.

Left up to any one component, DHS action would be incomplete, but by harmonizing efforts across the department and by taking advantage of unique skills and capabilities, we are able to put together a plan that enhances the integrity of our immigration system.

### **ICE's Presence Overseas and Coordination with DOS**

Stopping a threat before it reaches our shores is an important priority that ICE supports internationally. Through our Office of International Affairs, we have personnel in 70 offices in 47 countries. ICE personnel in these offices collaborate with our foreign counterparts and

federal partner agencies in joint efforts to disrupt and dismantle transnational criminal organizations engaged in money laundering, non-drug contraband smuggling, weapons proliferation, forced child labor, human rights violations, intellectual property rights violations, child exploitation, human smuggling and trafficking, and many other violations. Additionally, ICE facilitates the repatriation of individuals with final orders of removal, returning violators to their home countries.

Effective border security requires broad information sharing and cooperation among U.S. agencies. On January 11, 2011, ICE signed a memorandum of understanding (MOU) outlining roles, responsibilities, and collaboration between ICE and the DOS Bureaus of Consular Affairs and Diplomatic Security. The MOU governs the day-to-day operations of ICE agents conducting visa security operations at U.S. embassies and consulates abroad. To facilitate information sharing and reduce duplication of efforts, ICE and DOS conduct collaborative training and orientation prior to overseas deployments. Once they are deployed to overseas posts, ICE and DOS personnel work closely together in working groups, meetings, training, and briefings, and engage in regular and timely information sharing. The VSP's presence at U.S. embassies and consulates brings an important law enforcement element to the visa review process. Additionally, this relationship serves as an avenue for VSP personnel to assist Consular Officers and other U.S. Government personnel in recognizing potential security threats in the visa process.

We are engaged with our counterparts at DOS in determining a common strategic approach to the broader question of how best to collectively secure the visa issuance process. We look forward to continuing to report back to you with updates on this process.

## **CONCLUSION**

DHS has made significant progress in preventing terrorists from exploiting the visa process. We will continue to work closely with our international, federal, state, local, and tribal partners to combat visa fraud and protect the integrity of our visa security system.

Thank you again for the opportunity to testify today and for your continued support of DHS and its law enforcement mission.

We would be pleased to answer any questions at this time.