



U.S. Immigration and Customs Enforcement

WRITTEN TESTIMONY

OF

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REGARDING A HEARING ON

“The Security of U.S Visa Programs”

BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS**

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Introduction

Chairman Johnson, Ranking Member Carper, and distinguished members of the Committee:

Thank you for the opportunity to discuss the role of U.S. Immigration and Customs Enforcement (ICE) in the visa screening and vetting process. At ICE, we strive to uphold our homeland security mission by confronting dangerous challenges on a global stage, including threats emanating from beyond America's physical borders. I am proud and honored to serve alongside the dedicated men and women of ICE who work tirelessly to enforce our immigration and customs laws and keep this nation safe. Today, I welcome the opportunity to provide an overview of our international operations and highlight ICE's security programs that guard the nation against diverse and global threats.

One of ICE's three operational components – Homeland Security Investigations (HSI) – is responsible for the agency's work in vetting visa applications and working with our partners at the U.S. Department of State (DOS) and U.S. Citizenship and Immigration Services (USCIS). HSI's three operational priorities are border security, public safety, and counterterrorism/homeland security. HSI has extremely broad authorities and jurisdiction over the investigation of crimes with a nexus to U.S. borders and ports of entry. It investigates transnational crime by conducting a wide range of domestic and international criminal investigations, often in coordination with other local, state, federal, and international partners, targeting the illegal movement of people and merchandise into, within, and out of the United States. HSI investigates offenses that stem from our traditional customs and immigration authorities, including smuggling of illicit goods and people, and illicit finance associated with

global criminal organizations. These efforts provide a crucial layer of security vetting of individuals hoping to come to the United States.

The Visa Security Program and Pre-Adjudicated Threat Recognition Intelligence Operations Team

ICE strives to protect our nation's homeland security wherever threats confront us. One of our most important priorities is to detect and deter threats before they reach our nation's borders. To achieve this goal, ICE currently deploys approximately 250 Special Agents, 17 Deportation Officers, and 176 support staff to 62 offices in 46 countries. ICE's international staff works in conjunction with international law enforcement counterparts to detect, disrupt, and dismantle transnational criminal groups and individuals who seek to cause harm to the security of the United States.

The Homeland Security Act of 2002 authorizes the deployment of DHS officers to diplomatic posts to perform visa security activities and provide advice and training to DOS consular officers. This critical mission is accomplished by the Visa Security Program (VSP). VSP's primary purpose is to identify terrorists, criminals, and other individuals who are ineligible for visas prior to their travel or application for admission to the United States.

VSP is our first line of defense in the visa process against terrorists and criminal organizations by preventing foreign nationals who pose a threat to national security from entering the United States. The visa adjudication process is often the first opportunity to assess whether a potential visitor or immigrant poses a threat. Furthermore, the visa adjudication process is an ongoing and continuous vetting process that searches for derogatory information on applicants. No visa recipient is granted admittance based on a single review point.

Visa security is an important and collaborative function, shared by both DOS and DHS, including the component offices of ICE, U.S. Customs and Border Protection (CBP), and USCIS. Our components constantly seek to enhance our systems and processes to improve visa security efforts. Through the Pre-Adjudicated Threat Recognition Intelligence Operations Team (PATRIOT) initiative, we conduct automated screening of visa application information against DHS holdings, as well as holdings of other U.S. agencies, prior to the applicant's interview and visa adjudication. The process includes in-depth vetting of applicants identified as potentially having derogatory information who may be of investigative interest, or ineligible to receive U.S. visas. PATRIOT takes a risk-based approach and uses interagency resources from ICE, CBP, DOS, and the Intelligence Community to identify national security and public safety threats.

VSP differs from most other U.S. Government screening efforts in that it leverages its capabilities, such as in-person interviews, and works collaboratively with U.S. agencies at post to investigate suspect travelers, enhance existing information, and identify previously unknown threats instead of simply denying visas and any potential travel. In Fiscal Year (FY) 2015, VSP reviewed over two million visa applications, contributing input to approximately 8,600 cases in which visas were refused. Of these refusals, over 2,200 applicants had some known or suspected connection to terrorism or terrorist organizations.

In addition, VSP enhances visa vetting by increasing automated data exchange between DOS and the CBP National Targeting Center (NTC), which provides tactical targeting and analytical research to prevent terrorists from entering the United States. The flow of online visa information to DHS systems is now automated and information is sent back to DOS using an automated interface.

ICE also deploys personnel to the NTC to augment and expand current operations, and the co-location of personnel helps increase both communication and information sharing. The NTC conducts pre-departure vetting of all travelers on flights bound for the United States. This vetting identifies high-risk passengers who should be the subject of no-board recommendations to carriers, including those whose visas are later revoked.

Within VSP's international footprint, we deploy specially trained agents overseas to screen and vet visa applications at 26 high-risk locations in 20 countries, augmenting vetting mechanisms in place worldwide in order to enhance efforts at these critical posts to identify potential terrorist and criminal threats before they enter the United States. ICE accomplishes this crucial function by conducting targeted, in-depth reviews of individual visa applications and applicants prior to visa issuance, and making recommendations to consular officers to refuse or revoke visas when warranted. ICE actions complement the consular officers' screening, applicant interviews, and reviews of applications and supporting documentation. As a result of additional congressional funding in FY 2015, HSI expanded VSP operations to six new visa issuing posts.

Coordination with the U.S. Department of State

Effective border security requires broad information sharing and cooperation among U.S. government agencies. In October 2006, ICE entered into a memorandum of understanding (MOU) with the DOS Bureau of Consular Affairs in order to exchange visa and immigration data. The agreement allows ICE and DOS to exchange information contained in each agency's respective electronic databases pertaining to foreign persons seeking entry into the United States. This exchange of information allows DOS Consular Affairs personnel to query and access ICE

and CBP records. Consular Affairs personnel can then consider prior violations when adjudicating visa applications for persons who have applied to enter the United States.

Similarly, the exchange of information allows ICE personnel to query the DOS Consular Consolidated Database and to access passport and visa application information of persons under investigation by ICE. This information sharing also allows ICE to alert Consular Affairs personnel of ongoing criminal investigations for the purpose of visa adjudication.

In January 2011, ICE signed an MOU outlining roles, responsibilities, and collaboration between ICE, DOS Consular Affairs, and DOS's Diplomatic Security Service. To facilitate information sharing and reduce duplication of efforts, ICE and DOS conduct collaborative training and orientation prior to overseas deployments. At overseas posts, ICE and DOS personnel work closely together in working groups, meetings, trainings and briefings, and engage in regular and timely information sharing. Additionally, ICE and DOS personnel work side by side to identify embassies for potential future expansion of the VSP and routinely travel together and provide briefings to U.S. embassy personnel prior to commencement of operations.

Additional ICE Responsibilities in the Visa Process

ICE's role in the visa screening process does not end at the visa screening units. Rather, government screening efforts continue to examine visa holders before and during their authorized travel to the United States. For example, should a visa traveler match derogatory information within government holdings, DHS and DOS work collaboratively to determine if the information warrants DOS revocation of his/her visa regardless of whether the individual is outside or inside the United States, thereby, denying him/her any further travel access to our country. DHS also strives to ensure that only authorized visitors are entering the country, and

DHS components actively share with each other information gathered about admissibility indicators, intelligence records and additional information retrieved from travelers interviewed at secondary inspections stations at the ports of entry.

Overstay Enforcement in the United States

ICE actively identifies and initiates action against overstay violators who are enforcement priorities. ICE's primary objective is to vet system-generated leads in order to identify true overstay violators, match any criminal conviction history or other priority basis, and take appropriate enforcement actions. Within ICE, there are dedicated units, special agents, analysts, and systems in place to address nonimmigrant overstays. Through investigative efforts, ICE analyzes and determines which overstay leads may be suitable for further national security investigation.

From a DHS processing standpoint, ICE analyzes system-generated leads initially created by, or matched against, the data feed for biographical entry and exit records stored in CBP's Arrival and Departure Information System (ADIS). ADIS supports DHS's ability to identify nonimmigrants who have remained in the United States beyond their authorized periods of admission or have violated the terms and conditions of their visas. Once the leads are received, ICE conducts both batch and manual vetting against government databases, social media, and public indices. This vetting helps determine if an individual who overstayed has departed the United States, adjusted to a lawful status, or would be appropriate for an enforcement action.

As part of a tiered review, ICE prioritizes nonimmigrant overstay cases through risk-based analysis. HSI's Counterterrorism and Criminal Exploitation Unit (CTCEU) oversees the national program dedicated to the investigation of nonimmigrant visa violators who may pose a

national security risk and/or public safety concern. Each year, CTCEU analyzes records of hundreds of thousands of potential status violators after preliminary analysis of data from the various systems, including Student and Exchange Visitor Information System (SEVIS) and ADIS, along with other information. After this analysis, CTCEU establishes compliance or departure dates from the United States and/or determines potential violations that warrant field investigations.

CTCEU proactively develops cases for investigation in furtherance of the overstay mission, monitors the latest threat reports, and proactively addresses emergent issues. This practice, which is designed to detect and identify individuals exhibiting specific risk factors based on intelligence reporting, travel patterns, and in-depth criminal research and analysis, has contributed to DHS's counterterrorism mission by initiating and supporting high-priority national security initiatives based on specific intelligence.

In order to ensure that those who may pose the greatest threats to national security are given top priority, ICE uses intelligence-based criteria developed in close consultation with the intelligence and law enforcement communities. ICE chairs 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 maintaining targeting methods in line with the most current threat information. The CEAP is convened on a quarterly 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 greatest threats to national security are targeted.

Another source for overstay and status violation referrals is CTCEU's Visa Waiver Enforcement Program (VWEP). Visa-free travel to the United States builds upon our close

bilateral relationships and fosters commercial and individual ties among tourist and business travelers in the United States and abroad. The Visa Waiver Program (VWP) currently allows eligible nationals of 38 countries to travel to the United States without a visa and, if admitted, to remain in the country for a maximum of 90 days for tourism or business purposes. The VWEP, implemented in 2008, addresses overstays within the VWP population.

Today, CTCEU regularly scrutinizes a refined list of individuals who have been identified as potential overstays who entered the United States under the VWP. A primary goal of VWEP is to identify those subjects who attempt to circumvent the U.S. immigration system by seeking to exploit VWP travel.

Enforcement Priorities

Each year, the CTCEU receives approximately one million leads on nonimmigrants that have potentially violated the terms of their admission. Over half of these leads are closed due to the vetting conducted by analysts, which eliminates false matches and accounts for departures and pending immigration benefits. To better manage investigative resources, CTCEU relies on a prioritization framework established in consultation with interagency partners within the national intelligence and federal law enforcement communities through CEAP. On November 20, 2014, the Secretary of Homeland Security established priorities to focus enforcement and removal policies on individuals convicted of serious criminal offenses or who otherwise pose a threat to national security, border security, or public safety. To better manage its investigative resources, CTCEU has aligned its policy on sending leads to the field with the Secretary's priorities.

ICE's prioritization framework begins with a review and analysis to determine which immigration violators pose the greatest risks to our national security. CTCEU conducts an initial

review, dividing leads into 10 CTCEU priority levels. Priority Level 1, which focuses on the greatest risks, is based on special projects and initiatives to address national security concerns, public safety, and applying certain targeting rules. These projects and initiatives include: the Recurrent Student Vetting Program; DHS's Overstay Projects; Absent Without Leave (AWOL) Program; INTERPOL Leads; and individuals who have been watchlisted.

In FY 2015, CTCEU reviewed 971,305 leads regarding potential overstays. Numerous leads were able to be closed through an automated vetting process. The most common reasons for closure were subsequent departure from the United States or pending immigration benefits. A total of 9,968 leads were sent to HSI field offices for investigation – an average of 40 leads per working day. Of the 9,968 leads sent to the field, 3,083 are currently under investigation, 4,148 were closed as being in compliance (pending immigration benefit, granted asylum, approved adjustment of status application, or have departed the United States) and the remaining leads were returned to CTCEU for continuous monitoring and further investigation. In FY 2015 alone, HSI made 1,910 arrests, including 133 criminal arrests that resulted in 86 indictments and 80 convictions.

The remaining leads that cannot be closed by the automated vetting process and are not sent to HSI field offices for investigation are shared with one of ICE's other operational components – Enforcement and Removal Operations (ERO). When ERO receives this information, it forwards it to one of its three targeting centers, where the cases are once again vetted against criminal and national security databases, and additional leads may be generated. Those leads are then provided to ERO field offices for civil immigration enforcement action consistent with the priorities identified by the Secretary on November 20, 2014.

Conclusion

VSP is crucial to ICE's mission to protect the homeland. ICE is proud to work collaboratively with our DHS partners and our colleagues at DOS. Furthermore, ICE is committed to working with its U.S. Government and international partners and, especially, with the members of this Committee to forge a strong and productive relationship to help prevent and combat threats to our nation.

Finally, as ICE's operations continue to expand and evolve, we are constantly evaluating how best to accomplish our mission. Since ICE's establishment in 2003, ERO has experienced substantial growth and evolution in its mission. In addition, the ERO enforcement strategy has shifted heavily towards the investigation, identification, location, arrest, prosecution, and removal of individuals who present a danger to national security or threaten public safety, which may include some visa or Visa Waiver Program overstays.

Given these augmenting responsibilities, Secretary Johnson has directed ICE to work with the Department's Chief Human Capital Officer to review and determine whether changes need to be made to the agency's overtime compensation system for ICE officers. I am committed to working with the Department, the Office of Management and Budget, our employees, and Congress on any necessary next steps.

Thank you for the opportunity to testify about these important issues. I would be pleased to answer any questions you may have.