



U.S. Immigration and Customs Enforcement

STATEMENT

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**“ELEVEN YEARS LATER: PREVENTING TERRORISTS FROM
COMING TO AMERICA”**

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:

Thank you for the opportunity to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to prevent terrorist travel and the exploitation of our immigration system. Visa overstays and other forms of status violation bring together two critical areas of ICE's mission—national security and immigration enforcement—and the importance of determining whom to allow to enter the United States and ensuring compliance with the conditions of such entry cannot be overstated.

The Visa Security Program (VSP)

The Visa Security Program (VSP) interdicts criminals, terrorists and others who would exploit the legal visa process to enter the United States and serves as ICE's frontline in protecting the United States against terrorist and criminal organizations. The VSP integrates DHS law enforcement equities into the visa process to advance the nation's border security initiatives. Under VSP, ICE agents are assigned to Visa Security Units (VSU) at high-priority diplomatic posts worldwide to conduct visa security activities and help identify potential criminal and/or terrorist threats before they reach a United States port of entry.

The ICE VSP currently screens and vets selected non-immigrant and immigrant visa applications prior to visa issuance. In support of ICE VSP efforts to enhance visa security measures, representatives from DHS, ICE, U.S. Customs and Border Protection (CBP), the U.S. Department of State (DOS), and the U.S. intelligence community are developing an automated visa screening process that will enable DHS entities to identify derogatory information relating

to all non-immigrant visa applicants prior to adjudication of their visa application by DOS consular officers. This process may be used as a precursor to, and in conjunction with, the current DOS Security Advisory Opinion and Advisory Opinion programs.

When an alien files a non-immigrant visa application electronically, it goes to the DOS Consular Electronic Application Center (CEAC) and is transmitted to DHS for screening against CBP and other DHS and intelligence community data. Through the automated visa screening process, currently under development, the information identified through this process will provide DOS consular officers information they can use in their interviews to address concerns raised by the VSP findings, adding another layer of security to our border protection efforts, in turn denying *mala fide* travelers access to the United States.

For the automated visa screening process under development, a proposed coordinated review process will be conducted by ICE and CBP. This process will include the capability to utilize CBP vetting methodologies, to address specific threats identified by the intelligence community, to provide detailed case notes and justifications for any recommendations for consular officers related to visa issuance, and to recommend applicants for targeted interviews, and incorporate feedback from DOS consular officers. DHS will work cooperatively with DOS to refine the review process to ensure the information provided is relevant, supported by immigration law, and efficient. A future expansion of this system will incorporate pre-adjudicative screening and vetting of immigrant visa applications.

Additionally, ICE has deployed Homeland Security Investigations (HSI) special agents assigned to the VSP to the National Targeting Center (NTC) and the National Counterterrorism Center (NCTC) to augment and expand current operations. The NTC provides tactical targeting and analytical research in support of preventing terrorists and terrorist weapons from entering the

United States. The co-location of HSI special agents at the NTC and NCTC have helped to increase both communication and information sharing.

The Student and Exchange Visitor Program (SEVP)

The Student and Exchange Visitor Program (SEVP) is a part of the National Security Investigations Division and facilitates information sharing among relevant government partners on nonimmigrants whose primary reason for coming to the United States is to be students. On behalf of DHS, SEVP covers schools, nonimmigrant students in the F and M visa classifications and their dependents. The Student Exchange Visitor Information System (SEVIS) is the database that SEVP manages that monitors schools that have been certified by DHS to enroll foreign students, and the exchange visitor programs designated by the DOS to sponsor exchange visitors. SEVIS contains the records of more than 1.1 million active nonimmigrant students, exchange visitors, and their dependents, as well as nearly 10,000 SEVP-certified institutions.

SEVP regulates schools' eligibility to enroll foreign individuals for academic and vocational training purposes and manages the participation of SEVP-certified schools in the student and exchange visitor program, and nonimmigrant students in the F (academic) and M (vocational) visa classifications and their dependents. DOS manages the Exchange Visitor Program for nonimmigrants in the J (exchange visitor) visa classification.

SEVP is responsible both for certifying schools and for withdrawing certification from non-compliant schools. The certification process assists in the important functions of furthering national security and the integrity of our nation's borders, by providing consistent, comprehensive oversight while preserving the rich tradition of welcoming nonimmigrant students and exchange visitors.

SEVP collects, maintains, and provides information to interagency partners so that only legitimate foreign students and exchange visitors gain entry to, and remain in, the United States. The result is an easily accessible system that provides timely information to support ICE's law enforcement mission, as well as to our DHS partner agencies, CBP and U.S. Citizenship and Immigration Services, and other federal agencies. Additionally, the data maintained by SEVP in SEVIS support the DOS's Bureau of Consular Affairs visa process by providing advanced electronic data on nonimmigrant visa applicants prior to visa issuance.

The student and exchange visitor programs that bring F, J, and M visa holders to the United States are of immense value to all countries involved, as they serve to strengthen international relations and foster intercultural understanding. These programs produce economic benefits as well; the U.S. Department of Commerce estimates that foreign students and exchange visitors contributed more than \$21 billion to the U.S. economy through their expenditures on tuition and living expenses during the 2010-2011 academic year.

The Counterterrorism and Criminal Exploitation Unit (CTCEU)

Created in 2003, the Counterterrorism and Criminal Exploitation Unit is ICE's national program dedicated to the enforcement of nonimmigrant visa violations. Today, through the CTCEU, ICE proactively develops cases for investigation in cooperation with the 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 identify those who have overstayed or otherwise violated the terms and conditions of their admission.

Each year, the CTCEU analyzes records on hundreds of thousands of potential status violators from SEVIS and US-VISIT, along with other information. These records are reviewed for potential violations that would warrant field investigations, such as establishing compliance or confirming departure from the United States, or determining if additional derogatory information is available for analysis. Between 15,000 and 20,000 of these records are resolved by in-house analysts each month. Since its creation, analysts have resolved more than 2 million such records using automated and manual review techniques. On average, ICE opens approximately 6,000 investigative cases annually, and assigns them to our special agents in the field for further investigation.

Agents and analysts in ICE monitor the latest threat reports and proactively address emergent issues. This practice has contributed to ICE's counterterrorism mission by supporting high-priority national security initiatives based upon specific intelligence. The practice is designed to identify individuals exhibiting specific risk factors based on intelligence reporting, including international travel from specific geographic locations to the United States, and in-depth criminal research and analysis of dynamic social networks. This person-centric approach to nonimmigrant prioritization moves away from the traditional methods of identification, thereby enhancing the way threats are identified and resolved.

In order to ensure that the potential violators who pose the greatest threats to national security are given priority attention, ICE uses intelligence-based criteria, developed in close consultation with the intelligence and law enforcement communities. ICE assembles the Compliance Enforcement Advisory Panel (CEAP) on a tri-annual basis to ensure that it uses the latest threat intelligence to target nonimmigrant overstays and status violators who pose the greatest threats to national security and to discuss possible changes based on current threat

trends. The CEAP is composed of members from the Federal Bureau of Investigation (FBI), the NCTC, DHS Office of Intelligence and Analysis, and other Intelligence Community members.

An 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. A blue notice seeks information (e.g., identity, criminal record) on subjects who have committed criminal offenses, and is used to trace and locate a subject where extradition may be sought (i.e., offenders, witnesses). The individual at issue in the Los Angeles investigation had an arrest warrant in connection with child pornography charges in Colombia. A week later, ICE special agents arrested the person who was admitted as a visitor and violated the terms of admission by working in the adult film industry.

Likewise, in March 2010, ICE's Counterterrorism and Criminal Exploitation Group in Miami, Florida, initiated "Operation Class Dismissed," a criminal investigation that led to the indictment of the owner/operator of a Miami-based foreign language school and one of its employees on four counts of conspiring to commit a criminal offense against the United States. The owner and employee were suspected of fraudulently sponsoring foreign students by certifying students as nonimmigrants, without requiring them to maintain full courses of study to comply with the terms of their admission. ICE's primary focus in these types of investigations is the criminal violations of the business owner/operators and administrative violations of the students. This ICE investigation revealed that only approximately five percent of the school's students attended class on any given day. In addition to the indictment, follow-up investigation resulted in the administrative arrests of 116 student visa violators purported to be attending the school from multiple countries.

The CTCEU tracks 75 active criminal investigations each year. Since June 2010, HSI special agents have criminally arrested 39 school owners or officials related to fraud or and misuse of student visas. Additionally, 10 foreign nationals residing outside of the United States have been arrested for various student visa fraud schemes. During fiscal year 2012, HSI special agents have conducted 760 school outreaches nationwide, which represents a 400 percent increase over the previous fiscal year. CTCEU has reviewed 476 schools for fraud or national security anomalies that have resulted in 11 criminal investigations. All of this is being completed in concert with SEVP's on-going efforts to effectively build our nation's population of well qualified international students to a number that is as robust as that of pre-9/11. SEVP continues to work to close vulnerabilities within the program.

As we move forward, it is imperative that we continue to expand the nation's enforcement efforts concerning overstays and other status violations with special emphasis on those who threaten national security or public safety. Accordingly, ICE is analyzing various approaches to this issue, including sharpening the focus of programs that address vulnerabilities exploited by visa violators, such as the DHS Overstay Initiative and school fraud targeting by CTCEU.

Coordination with US-VISIT and Other DHS Components

CTCEU also works in close collaboration with US-VISIT, part of the DHS's National Protection and Programs Directorate. 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 risks 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 try to cross our borders or apply for immigration benefits under an assumed name. Interoperability between the FBI Criminal Justice Information Service's IAFIS and US-VISIT's Automated Biometric Identification System (IDENT), which includes the sharing of biometric information, is the foundation of ICE's Secure Communities program.

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 by analyzing related biographical information.

ICE receives or coordinates nonimmigrant overstay and status violation referrals from US-VISIT's Data Integrity Group from several unique sources: overstay violations; biometric watch list notifications; CTCEU Visa Waiver Enforcement Program nominations; and enhanced biometric exit. 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.

HSI generates a second type of lead from biometric data collected by US-VISIT. US-VISIT routinely receives fingerprint records from a variety of government sources and adds them to a biometric watch list, including 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 Visa Waiver Program (VWP) is the primary source of nonimmigrant visitors from countries other than Canada and Mexico. Although the overstay rate from this population is less than one percent, ICE created a program dedicated to addressing overstays from VWP. Prior to the implementation of the VWEP in 2008, there was no national program dedicated to addressing VWP. CTCEU provides US-VISIT a list of potential VWP overstays for additional scrutiny. In accord with its intelligence-based criteria, the relevant portion of this list is given to CTCEU's lead tracking system for review and possible field assignment.

Additionally, the CTCEU develops potential overstay and status violation leads from SEVIS and other sources, and applies intelligence-based criteria to determine whether an investigative referral is appropriate. Throughout its history, the integrity of SEVIS data and its applicability have been valued throughout the law enforcement community.

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

As of 2010, DHS had a backlog of "un-reviewed overstays," comprised of system-identified overstay leads, which did not meet criteria set by ICE for expedited high-priority

review. Before the summer of 2011, these records would not have been examined, except in instances when resources allowed it. The DHS “overstay initiative,” begun in the summer of 2011 at the direction of the Secretary, reformed this effort.

By leveraging capabilities within CBP’s Automated Targeting System, 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.

Coordination with DOS

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 support collaborative training and orientation prior to overseas deployments. Once they are deployed to overseas posts, ICE and DOS personnel work closely together in: participating in working groups; coordinating meetings, training and briefings; and engaging in regular and timely information sharing.

The VSP’s presence at high-priority 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 alert Consular Officers and other U.S. Government personnel to potential security threats in the visa process.

ICE continues to evaluate the need to screen and investigate additional visa applicants at high-risk visa issuing posts other than the 19 posts at which the agency currently operates, which were determined in collaboration between ICE and DOS. ICE will continue to conduct joint site visits with DOS to identify locations for deployment based on emerging threats. 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.

Recent Successes with Our Partners

Working in tandem with other DHS personnel, as well as our international, federal, state, local and tribal partners, we have enjoyed significant successes preventing visa fraud. I would like to elaborate briefly on two of these cases.

In December 2010, ICE special agents were involved in the identification and investigation of a transnational alien smuggling organization that facilitated the illegal travel of Somali nationals into Yemen and on to western locations, including the United States. ICE special agents received information from the ICE Attaché office in Amman, Jordan that two Somali nationals had been intercepted in Amman attempting to travel to Chicago using counterfeit travel documents, and contacted local officials in Yemen and Somalia to investigate how the counterfeit documents had been obtained and how the subjects had transited Yemen. The information developed was shared with other U.S. agencies at post in Sana'a via the Law Enforcement Working Group, as well as ICE domestic offices and the appropriate FBI Joint Terrorism Task Force. While the joint investigation is ongoing, efforts to date have eliminated this scheme as a method of entry to the United States.

In May 2011, ICE special agents within the VSP Security Advisory Opinion Unit (SAOU) investigated a Middle Eastern national who obtained a nonimmigrant visa to enter the United States by concealing his true identity from DOS by using a variation of his true name. Through vetting efforts, the SAOU identified this individual's true identity and revealed that he was a known terrorist with significant ties to other known terrorists, and who was likely involved in the planning of a terrorist attack in 2003. Based on this investigation and at the request of the VSP and SAOU, DOS revoked the individual's visa on national security-related grounds and prevented him from traveling to the United States.

Conclusion

More than a decade after the attacks of 9/11, ICE has made significant progress in preventing terrorists from exploiting the visa process. Thank you again for the opportunity to testify today and for your continued support of ICE and its law enforcement mission.

I would be pleased to answer any questions you may have.