



# **DEPARTMENT OF STATE**

**WRITTEN STATEMENT**

**OF**

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**DEPARTMENT OF STATE**

**BEFORE THE**

**UNITED STATES HOUSE OF REPRESENTATIVES**

**COMMITTEE ON HOMELAND SECURITY**

**SUBCOMMITTEE ON BORDER AND MARITIME SECURITY**

**HEARING**

**ON**

**FROM THE 9/11 HIJACKERS TO AMINE EL-KHALIFI: TERRORISTS**

**AND THE VISA OVERSTAY PROBLEM**

**MARCH 6, 2012**

Good afternoon Madame Chairman Miller, Ranking Member Cuellar, and distinguished Members of the Subcommittee. I thank you for this opportunity to update you on the steps we have taken to increase the security of the visa process.

The Department of State (the Department) is dedicated to the protection of our borders, and has no higher priority than the safety of our fellow citizens. We are the first line of defense in border security because the Department is often the first government agency to have contact with foreign nationals wishing to visit the United States. We are committed, along with our partner agencies, to a layered approach to border security that will enable the U.S. government to track and review the visa eligibility and status of foreign visitors from their visa applications throughout their travel to, sojourn in, and departure from, the United States. We are equally committed to facilitating legitimate travel, and providing efficient and courteous visa adjudication. The Bureau of Consular Affairs is successfully meeting the challenge of increasing worldwide demand for U.S. visas without compromising the security of our nation's borders.

At 222 visa-adjudicating embassies and consulates around the world, a highly-trained corps of consular officers and support staff processes millions of visa applications each year, facilitating legitimate travel while protecting our borders. Consular officers adjudicated 8.8 million applications and issued more than 7.5 million visas in fiscal year 2011, up 16 percent from the 6.4 million visas issued in fiscal year 2010. We have experienced tremendous increases in demand for visas in some of the world's fastest-growing economies. We are issuing as many visas as we did in 2000, even though nine more countries have joined the Visa Waiver Program since then.

### **Data Sharing Leads to a More Secure Visa Adjudication Process**

The Department has developed and implemented an intensive visa application and screening process, requiring personal interviews in most cases; employing analytic interview techniques; and incorporating multiple biographic and biometric checks, all supported by a sophisticated global information technology network that shares data among the Department and federal law enforcement and intelligence agencies. Security remains our primary mission – every visa decision is a national security decision.

We constantly refine and update the technology that supports the adjudication and production of U.S. visas. The worldwide rollout of our online nonimmigrant visa application form is complete, and we are currently piloting the online immigrant visa application form. These new online forms provide consular officers, as well as intelligence and law enforcement agencies, the opportunity to analyze data before applicants appear for their interviews. While the forms offer foreign language support, applicants are required to answer in English, to facilitate data searches and information sharing between the Department and other government agencies. The new application forms are “smart,” meaning that certain answers to questions will trigger subsequent questions. The system will not accept applications if the security-related questions have not been answered completely, and inappropriate or unacceptable answers are flagged to ensure that consular officers address them in the interview.

The Immigration and Nationality Act (INA) requires our consular officers to interview first-time visa applicants aged 14 through 79 in person. We may waive the interview requirement for diplomatic and official staff of foreign governments, as well as for certain other applicants in very limited circumstances. In addition, we employ strong, sophisticated name-searching algorithms to ensure matches between names of visa applicants and any derogatory information contained in the 42.5 million records found in the Consular Lookout and Support System (CLASS), our online database of visa lookout records.

CLASS has grown more than 400 percent since 2001. Almost 70 percent of CLASS records come from other agencies, including DHS, the FBI, and the DEA. CLASS also includes unclassified records regarding known or suspected terrorists (KSTs) from the Terrorist Screening Database (TSDB), which is maintained by the FBI’s Terrorist Screening Center (TSC) and contains data on KSTs nominated by all U.S. government sources.

We also screen visa applicants’ names against the historical visa records in our Consular Consolidated Database (CCD). A system-specific version of the automated CLASS search algorithm runs the names of all visa applicants against the CCD to check for any prior visa applications, refusals, or issuances. DHS and other federal agencies have broad access to the CCD, which contains more than 151 million immigrant and nonimmigrant visa records covering the last 13 years. We make our visa information available to other U.S. government agencies for law enforcement and counterterrorism purposes, we specifically designed our systems to facilitate comprehensive data sharing with these entities, and they use this access extensively. For example, in January 2012, more than 20,000 officers from DHS,

the FBI, and the Departments of Defense, Justice, and Commerce submitted more than two million visa record queries in the course of conducting law enforcement and/or counterterrorism investigations.

In addition to biographic checks, the Department also performs checks on two biometric identifiers. Visa applicants' fingerprints are screened against DHS and FBI systems, which between them contain the available fingerprint records of terrorists, wanted persons, immigration law violators and criminals. In 2011, consular posts transmitted more than 8.6 million fingerprint submissions to these systems, and received from them more than 221,000 derogatory and criminal history records. We transmit the fingerprints taken during the visa interview process to U.S. Customs and Border Protection (CBP) officers at ports of entry, to enable them to match the fingerprints of persons entering the United States and confirm their identity.

We use facial recognition technology to screen visa applicants against a watchlist of photos of known and suspected terrorists obtained from the TSC, as well as the entire gallery of visa applicant photos contained in our CCD. Facial recognition screening has proven to be another effective way to combat identity fraud.

Data sharing requires intense, ongoing cooperation from other agencies. We have successfully forged and continue to foster partnerships that recognize the need to supply accurate and speedy screening in a 24/7 global environment. As we implement process and policy changes, we are always striving to add value in both border security and operational results. Both dimensions are important in supporting the visa process.

### **Overstay Information**

In April 2008, consular officers at posts abroad obtained access to arrival and departure data for non-U.S. citizen travelers contained in the DHS Arrival Departure Information System (ADIS). We began running automated ADIS checks for every visa applicant in June 2011. Officers in the field use ADIS data to help determine whether an applicant who visited the United States previously departed by the end of his or her authorized period of stay. If ADIS indicates a traveler departed after this period, or there is no departure shown at all, the officer works to confirm whether the individual overstayed his or her previous period of admission. Since land border departures are not usually recorded in ADIS, and airlines have not always provided departure manifests, ADIS information alone does not confirm or refute an overstay.

If a consular officer confirms a prior overstay of any duration, the applicant may be unable to overcome the presumption of immigrant intent. Overstays of 181 to 364 days may make an applicant ineligible to reenter the United States for three years. Overstays of 365 days or more may make an applicant ineligible to reenter the United States for ten years.

### **Security Advisory Opinions and the Visa Security Program**

In coordination with federal law enforcement and intelligence agencies, the Department has instituted particular measures to process higher-risk visa applications. Our Security Advisory Opinion (SAO) mechanism provides consular officers input from Washington on security-related issues relating to pending visa applications. Department guidance explains when a consular officer must request an SAO. Most are triggered by a CLASS watchlist hit; others are required as a matter of policy or submitted by the consular officer per his or her discretion. Consular officers receive extensive training on the SAO process, which requires them to suspend visa processing pending interagency review of the case and additional guidance. SAO requests are routed electronically to relevant federal intelligence and law enforcement agencies. Consular officers submitted more than 366,000 SAO requests in FY 2011.

The Visa Security Program (VSP), under which DHS deploys U.S. Immigration and Customs Enforcement (ICE) special agents to conduct visa security screening and investigations at certain overseas consular posts, is a valuable component of the U.S. government's overall policy of protecting our borders. We have a close and productive partnership with DHS, which has authority for visa policy under section 428 of the Homeland Security Act, and are fully supportive of the mission and future of the VSP. ICE/VSP is present at 19 visa-issuing posts in 15 countries.

### **Visa Revocation**

DHS is responsible for removing subjects of visa revocations who are present in the United States, whether or not they have overstayed the period of legal presence. The Department has broad and flexible authority to revoke visas and we use that authority widely to protect our borders. Since 2001, the Department has revoked approximately 60,000 visas for a variety of reasons, including nearly 5,000 for suspected links to terrorism. Cases for revocation consideration are forwarded to the Department by our consular offices overseas, NTC, and other entities. As soon as information is established to support a revocation (i.e., information that could

lead to an inadmissibility determination), a “VRVK” entry code showing the visa revocation is added to CLASS, as well as to biometric identity systems, and then shared in near-real time (within about 15 minutes) with the DHS lookout systems used for border screening. As part of its enhanced “Pre-Departure” initiative, CBP uses these VRVK records, among other lookout codes, to recommend that airlines should not board certain passengers on flights bound for the United States. Almost every day, we receive requests to review and, if warranted, revoke any outstanding visas for aliens for whom new derogatory information has been discovered since the visa was issued. Our Operations Center is staffed 24 hours a day, seven days a week, to address urgent requests, such as when a potentially dangerous person is about to board a plane. In those circumstances, the State Department can and does use its authority to revoke the visa, and thus prevent boarding. ADIS overstay information is also included in the visa revocation recommendations the Department receives daily from the NTC and our consular sections abroad. Whether the overstay information exists in isolation or as one among multiple factors, the Department considers the information as part of our visa revocation process.

Most revocations are based on new information that has come to light after visa issuance. Because individuals’ circumstances change over time, and people who once posed no threat to the United States can become threats, revocation is an important tool. We use our authority to revoke a visa immediately in circumstances where we believe there is an immediate threat. At the same time, we believe it is important not to act unilaterally, but to coordinate expeditiously with our national security partners in order to avoid possibly disrupting important investigations.

## **Conclusion**

We believe that U.S. interests in legitimate travel, trade promotion, and educational exchange are not in conflict with our border security agenda and, in fact, further that agenda in the long term. Our long-term interests are served by continuing the flow of commerce and ideas that are the foundations of prosperity and security. Acquainting people with American culture and perspectives remains the surest way to reduce misperceptions about the United States. Fostering academic and professional exchanges keeps our universities and research institutions at the forefront of scientific and technological change. We believe the United States must meet both goals to guarantee our long-term security.

Our global presence, foreign policy mission, and personnel structure give us singular advantages in executing the visa function throughout the world. Our authorities and responsibilities enable us to provide a global perspective to the visa process and its impact on U.S. national interests. The issuance and refusal of visas has a direct impact on our foreign relations. Visa policy quickly can become a significant bilateral problem that harms broader U.S. interests if handled without consideration for foreign policy equities. The conduct of U.S. visa policy has a direct and significant impact on the treatment of U.S. citizens abroad. The Department of State is in a position to anticipate and weigh all those factors, while ensuring border security as our first priority.

The Department has developed and implemented an intensive visa application and screening process supported by a sophisticated global information technology network. We have visa offices in virtually every country of the world, staffed by consular officers drawn from the Department's professional, mobile, and multilingual cadre of Foreign Service Officers. These officials are dedicated to a career of worldwide service, and provide the cultural awareness, knowledge, and objectivity to ensure that the visa function remains the frontline of border security. Each officer's experience and individual skill set are enhanced by an overall understanding of the political, legal, economic, and cultural development of foreign countries in a way that gives the Department of State a special expertise over matters directly relevant to the full range of visa ineligibilities.

This concludes my testimony today. I will be pleased to take your questions.