



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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HEARING ON

**BORDER SECURITY: EXAMINING B1/B2 VISAS
AND BORDER CROSSING CARDS**

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY**

**THURSDAY, NOVEMBER 14, 2013, 10:00 AM
2154 RAYBURN HOUSE OFFICE BUILDING**

INTRODUCTION

Chairman Chaffetz, Ranking Member Tierney and distinguished Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to prevent the exploitation of our nonimmigrant visa system. Through specific intelligence and the use of sophisticated data systems, ICE identifies and tracks millions of foreign students, tourists, and temporary workers who are present in the United States at any given time. Visa overstays and other forms of nonimmigrant status violations bring together two critical areas of ICE's mission—national security and immigration enforcement. My testimony today will focus on the process of identifying, tracking and investigating overstays.

Overstay Analysis Unit

The Department of Homeland Security (DHS) is focused on enhancing its vetting initiatives across the full mission space of homeland security by providing real-time biographic and biometric data to its front-line operational components while continuing to set leading biometric policies and standards. To this end, ICE's Overstay Analysis Unit (OAU) analyzes biographical entry and exit records stored in DHS's Arrival and Departure Information System (ADIS) to support the Department's ability to identify international travelers who have remained in the United States beyond their authorized periods of admission. DHS' Automated Biometric Identification System (IDENT) and ADIS provide person-centric information and enable DHS to search biometric and biographic data against government databases to establish and confirm the identities of individuals that DHS has already encountered. DHS's Office of Biometric Identity

Management (OBIM) supports DHS components by returning any linked information from a match against its database to aid in their vetting of individuals already encountered by DHS to identify known or suspected terrorists, national security threats, criminals, and those who have previously violated U.S. immigration laws.

The OAU analyzes and validates two types of nonimmigrant overstay records: out-of-country overstays (OCO) and in-country overstays (ICO). OCO records pertain to visitors who stayed beyond their authorized admission period and subsequently departed the country. The OAU validates these violations based on their reported departure dates and creates biometric and biographic lookouts for these subjects. The lookouts are posted in two separate databases: DHS' IDENT Secondary Inspection Tool and TECS¹, in order to alert and notify Department of State consular officers and CBP officers of a subject's violation before he or she is granted a visa or is readmitted to the United States. ICO records pertain to visitors with no evidence of departure or adjustment of status upon expiration of the terms of their admission.

The OAU makes overstay and status violation referrals from three unique sources, which apply to typical overstay violators, admitted watchlist subjects, and Visa Waiver Program (VWP) violators. The first source, nonimmigrant overstay leads, is used 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. The second source, admitted watchlist leads, monitors records for individuals who, at the time of admission to the United States, were

¹ TECS, formerly known as the Treasury Enforcement Communications System, is U.S. Custom and Border Protection's (CBP's) primary law enforcement and anti-terrorism data base system which contains enforcement, inspection, and intelligence records.

the subject of a watchlist record containing derogatory information that did not render them inadmissible to the United States, but did warrant monitoring their visit. The third source is the Counterterrorism and Criminal Exploitation Unit's (CTCEU) Visa Waiver Enforcement Program (VWEP).

The Counterterrorism and Criminal Exploitation Unit

The CTCEU is the first national program dedicated to the enforcement of nonimmigrant visa violators. 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 the OAU 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 SEVIS and ADIS records are analyzed each month and, since the creation of the CTCEU in 2003, over two million such records have been analyzed using automated and manual review techniques.

Today, through the CTCEU, ICE proactively develops cases for investigation in cooperation with the Student and Exchange Visitor Program and OAU. These programs enable ICE special agents to access information about the millions of students, tourists, temporary workers, and other nonimmigrants 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. ICE special agents and analysts monitor the latest threat reports and proactively address emergent issues. This practice, which 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, 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 the potential violators who 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), 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 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 greatest threats to national security are targeted.

The third unique source for overstay and status violation referrals is CTCEU's VWP. Visa-free travel to the United States builds upon our close bilateral relationships and fosters commercial and personal ties among tourist and business travelers in the United States and abroad. VWP, the primary source of nonimmigrant visitors from countries other than Canada and Mexico, currently allows eligible nationals of 37 countries² 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. Prior to the implementation of the VWP in 2008, there was no national

² The list of designated VWP countries can be found at 8 C.F.R. § 217.2, with the most recent designation being Taiwan in October 2012. Consistent with The Taiwan Relations Act of 1979, Pub. L. No. 96-8, § 4(b)(1), 22 U.S.C. § 3303(b)(1), all references to "country" in the Visa Waiver Program authorizing legislation, section 217 of the Immigration and Nationality Act, 8 U.S.C. § 1187, are read to include Taiwan.

program dedicated to addressing overstays within this population. Today, ICE regularly scrutinizes a refined list of individuals who have been identified as potential overstays who entered the United States under the VWP. One of the primary goals of this program is to identify those subjects who attempt to circumvent the U.S. immigration system by obtaining travel documents from VWP countries.

In Fiscal Year 2012, the CTCEU received 38,335 B1/B2 violator leads. An automated vetting process closed 24,325 cases leaving 14,010 potential violators. The most common reasons for closure were subsequent departure from the United States or adjustment of immigration status to that of a lawful permanent resident. A total of 985 prioritized leads were sent to the field resulting in 253 arrests that met CTCEU's national security criteria. The remaining cases were referred to Enforcement and Removal Operations for possible enforcement action or closed.

CONCLUSION

ICE is proud of the good work accomplished over the last ten years to protect the integrity of our visa system. We are committed to promoting national security and have made significant progress in identifying visa overstay violators by working closely with our international, federal, state, local, and tribal partners to combat visa fraud and protect the integrity of our visa system.

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 at this time.