



**U.S. Department of Homeland Security**

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**STATEMENT**

**OF**

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**FOR**  
**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**  
**U.S. DEPARTMENT OF HOMELAND SECURITY**

**REGARDING A HEARING ON**

**“VISA REVOCATIONS II”**

**BEFORE THE**  
**HOUSE SUBCOMMITTEE ON NATIONAL SECURITY,**  
**EMERGING THREATS, AND INTERNATIONAL RELATIONS**

**July 13, 2004**  
**10:00 A.M.**  
**2247 Room Rayburn House Office Building**

Good morning Mr. Chairman, Vice Chairman, Ranking Member Kucinich, and Distinguished Members of the Subcommittee. Thank you for the opportunity today to update you on improvements made to the visa revocation process by U.S. Immigration and Customs Enforcement (ICE). Identifying and investigating individuals who pose potential threats to the security of the United States is a critical task in fulfilling ICE's mission of preventing terrorist and other criminal activity by targeting the people, money, and materials that support terrorist and criminal organizations. Strengthening the visa revocation process, and utilizing all of ICE's unique authorities to investigate, prosecute, and remove individuals with revoked visas from the United States, is an important tool in the war against terrorism.

The Department of Homeland Security (DHS) was created in part to bring Federal security agencies together to eliminate vulnerabilities exposing the United States to possible future terrorist attacks. ICE has thoroughly reviewed our role in the visa revocation process, and, in coordination with our colleagues from U.S. Customs and Border Protection (CBP), the Department of Justice, and the Department of State; we have taken steps to address possible vulnerabilities. I am pleased to be here today to discuss these developments with you.

## INTRODUCTION

Over the last year, ICE has grown into a comprehensive and robust law enforcement agency dedicated to detecting vulnerabilities and preventing violations that threaten national security -- in particular, border security, economic security and public security.

Central to the ICE national security mission is the National Security Investigations Division (NSD) within the Office of Investigations. The NSD is comprised of investigative units that apply the traditional customs and immigration authorities needed to effectively combat the threat of terrorism and to enhance national security. The Compliance Enforcement Unit (CEU) and the National Security and Threat Protection Unit (NSTP) work in tandem to ensure the thorough and timely investigation of all visa revocation cases referred from the State Department.

## HISTORY

As you are aware, the visa revocation process involves a coordinated effort by many members of the federal law enforcement community. In June of 2003, the Government Accountability Office (GAO) identified weaknesses in that process, including difficulties in receiving the visa revocation cables and a lack of specific derogatory information behind those cables. ICE addressed these weaknesses; however, a follow-up report by GAO in July 2004 identified a need for additional coordination between DHS and the State Department and for the implementation of performance standards, such as specific time frames, for completing each step of the process. I am pleased to describe the actions that ICE has taken to address the concerns raised by GAO.

## CURRENT PROCESS

Along with our colleagues within DHS, the Department of Justice and the State Department, ICE has thoroughly reviewed our role in the visa revocation process and has implemented a number of changes to increase the efficiency and coordination of visa

revocation investigations. Visa revocation investigations are a priority for ICE, and we are committed to thoroughly investigating all referrals from the State Department. The following are the key changes that have been made since June 2003:

- The State Department now transmits visa revocation notifications to ICE electronically via e-mail. Ice receives these visa revocation notifications daily. This is an improvement over the prior practice of sending revocation cables periodically via facsimile. The State Department now transmits visa revocation certificates as they are issued, allowing ICE to initiate an investigation in a timelier manner.
- The State Department now provides a Terrorist Screening Center (TSC) reference number for every national security revocation based on a TSC record that allows ICE to retrieve the specific derogatory information behind the revocation. This is an improvement over the prior practice whereby ICE would often search classified information systems for the specific derogatory information often with uncertain results.
- The State Department on a case-by-case basis will now consider revoking a visa retroactive to the date of issuance of the visa for persons in the United States who pose a significant risk to the national security of the United States. This new tool may allow ICE to place individuals posing a serious national security threat in removal proceedings.

- The State Department on a case-by-case will now consider revoking a visa effective immediately for a person at a port of entry who poses a security risk, thus allowing CBP to deny entry based on lack of a valid visa.
- The State Department, the TSC, and ICE now reconcile visa revocation lists to ensure that all visa revocation cases have been received by the investigating agencies. This allows us to provide for case de-confliction in the event that more than one investigation has been initiated and to share information on the presence of visa revocation subjects in the United States.
- All national security visa revocation cases identified by the State Department are prioritized by ICE and those identified by the TSC as having a nexus to terrorism are given the highest priority and are jointly investigated by ICE and the Federal Bureau of Investigation through the National Joint Terrorism Task Force (JTTF).
- ICE has updated its Standard Operating Procedure (SOP) for the visa revocation workflow to include required time frames for research, assignment, and investigation.
- ICE enters all visa revocation referrals from the State Department into a lead-tracking database that creates an audit trail of all case milestones as well as records the results of case research and investigation. The use of this database allows ICE to more closely monitor the status of all visa revocation cases and to insure compliance with the time frames required by the SOP.

The ICE visa revocation workflow is well documented in an SOP that is summarized as follows:

1. Visa revocation referrals are immediately entered into the lead-tracking database as they are received from the State Department.
2. The lead is then assigned to a research analyst to review all relevant DHS databases as well as other law enforcement and open source databases to determine if the subject of the visa revocation certificate is currently in the United States, and if in the U.S., whether the subject has violated the conditions of his or her immigration status.
3. If there is no indication that the subject is present in the United States, the Compliance Enforcement Unit (CEU) ensures that the appropriate lookouts have been placed to prevent re-entry into the U.S., and closes the lead.
4. If the subject appears to be in the United States, the derogatory information behind the visa revocation certificate is then pulled and the case is assigned to the ICE National Security and Threat Protection Unit (NSTP) for review and proper field assignment. Steps one through four must be completed within one week of receiving the State Department cable.
5. Once an assignment determination is made, the case is opened in the Treasury Enforcement Communications System (TECS) case management system and is electronically transmitted to the appropriate ICE Special-Agent-in-Charge (SAC) field office. Special-Agent-in-Charge offices are given one week from the date of case assignment to initiate the field

investigation. In all instances, ICE investigates the case in coordination with the Joint Terrorism Task Force.

6. After assignment to the Special-Agent-in-Charge, desk officers of the NSTP and the CEU closely monitor the cases and update the lead tracking database with results.

## RESULTS

Over the past year, ICE has investigated hundreds of visa revocation cases. Just last week, ICE agents in Atlanta arrested the subject of a visa revocation referral for an overstay violation. The subject, an Afghani national, is listed in the TIPOFF database and was identified by the TSC as a person of interest. This case was initiated by ICE and coordinated through the JTTF. While some cases have led to arrests, many of the referred cases are ultimately closed through a determination that the subject of the revocation has either never entered the United States, has departed from the United States, or has been cleared as not in fact being a national security threat. In cases where the field investigation concludes that the subject is not in the United States, ICE ensures that the appropriate lookouts have been placed by CBP and/or the State Department prior to closure, to prevent the subject's re-entry.

## DHS' LEGAL EFFORTS TO REMOVE ALIENS WHOSE VISAS ARE REVOKED

As you are aware, neither existing regulations nor statutes expressly provide for the removal of aliens based solely on visa revocations. Revocation of a visa is not explicitly a stated ground for removal under the Immigration and Nationality Act. Department of

State's visa revocation certificate generally states that the revocation shall become effective immediately on the date the certificate is signed unless the alien is already in the United States, in which case the revocation will become effective immediately upon the alien's departure from the United States. Therefore, if ICE special agents locate an alien in the United States for whom State has issued a revocation certificate that states that the alien's visa is revoked effective upon his or her departure, ICE would be unable to place the admitted alien in removal proceedings based solely on a visa revocation that had not yet taken place. However, State and DHS have recently agreed that on a case-by-case basis, Department of State will consider issuing a superseding revocation certificate to make the revocation effective retroactively to the date of issuance of the visa. Such a change in the language of the certificate may make it possible for DHS to place the alien in removal proceedings. By proceeding this way only on a case-by-case basis, we will be able to ensure that we target aliens of genuine concern and that the Department of State can continue to revoke visas on a very low threshold of information and without giving notice to the visa holder – that is, we want State to maintain a quick and prudential revocation process because it best serves the interests of homeland security.

As indicated in DHS' Memorandum of Understanding with State, DHS is working "cooperatively to create and maintain an effective, efficient visa process" to protect the United States from threats to our security.

DHS and the Department of State have exchanged letters to ensure that the two agencies are aware of the operational steps that each is taking when a visa revocation occurs.

These letters essentially define the roles and responsibilities of each agency involved in



the visa revocation process. DHS and State are considering formalizing the letters in a memorandum of understanding.

## CONCLUSION

ICE initially upon notification treats every visa revocation referral as a national security priority for investigation; the ultimate disposition of these cases will vary. As Deputy Assistant Secretary of State Jacobs has explained in her testimony on visa revocation matters, the derogatory information behind many visa revocations is often vague and ambiguous and identifies people with common names -- often without other biographic information such as dates and places of birth that can be used for corroboration. Thus, on investigation we may conclude that the person whose visa was revoked is not a person of true concern. There will be other cases, however, where the person is of concern. Our job is to determine whether the person is in the United States and if so to make these distinctions and take appropriate action in light of the results of our assessment. In many cases, we will make no arrest. But we will make arrests when appropriate. ICE believes that if one potential or suspected terrorist is arrested and prevented from taking action to harm the United States and its people, then the effort exerted in each investigation is well justified.

In summary, ICE has worked diligently to strengthen our nation's security by implementing new procedures and refining old procedures. We continue to work closely with our partners in this mission to assure that any and all threats are addressed and challenged with our agency's full authority. We appreciate the extensive work and the

cooperation of GAO in the review of the visa revocation process. Thank you for the opportunity to speak to you today and I look forward to your questions.