



# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

**PETER T. EDGE**

**DEPUTY ASSOCIATE DIRECTOR  
HOMELAND SECURITY INVESTIGATIONS  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY**

**REGARDING A HEARING ON**

*“Ten Years after 9/11: Can Terrorists Still Exploit our Visa System?”*

**BEFORE THE**

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY**

**Tuesday, September 13, 2011 - 10:00 a.m.  
311 Cannon House Office Building**

## **INTRODUCTION**

Chairman Miller, Ranking Member Cuellar, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement's (ICE) efforts to prevent the exploitation of our visa system by terrorists. 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 entry into the United States and ensuring compliance with the conditions of such entry cannot be understated. We are proud of the good work we have done over the last ten years to protect the integrity of our visa system, and I look forward to sharing with you both our successes thus far and the opportunities we see to improve our systems.

### ***Joint Anti-Fraud Strategy***

We recognize that those who pose national security threats often commit immigration benefit fraud while seeking to enter or remain in the United States, and we work hard to detect and deter immigration fraud and to continually enhance our anti-fraud efforts. Working closely with U.S. Citizenship and Immigration Services (USCIS), ICE exercises criminal authority in the detection and deterrence of immigration fraud, while recognizing USCIS' administrative authority. This strategy allows ICE to concentrate its efforts on major fraud conspiracies and other cases of national security or public safety interest, while allowing USCIS to address the bulk of immigration benefit fraud cases administratively.

Through the ICE Document and Benefit Fraud Task Forces (DBFTFs), we focus our efforts on detecting, deterring and disrupting document and benefit fraud. DBFTF participants include USCIS, the Department of State, the Department of Labor, and the Social Security Administration. Task Force investigators with expertise in different aspects of fraud collaborate with U.S. Attorneys' Offices around the country to formulate a comprehensive approach in targeting the criminal organizations and the beneficiaries behind these fraudulent schemes.

### ***The Visa Security Program***

The Homeland Security Act of 2002 directs DHS to assist in the identification of visa applicants who wish to enter the United States for illegitimate purposes, including illegal immigration, criminal activities and terrorism-related activities. The visa adjudication process is often the first opportunity to assess whether a potential nonimmigrant visitor or immigrant presents a threat to the United States. The Visa Security Program (VSP) is one of several ICE programs focused on minimizing global risks.

Our VSP Special Agents focus on select applicants and any connection the applicants may have to terrorism or transnational criminal organizations and coordinate with DOS to develop targeting plans based on assessed conditions and threats. The VSP ensures thorough reviews of applicants of concern in order to assess whether they pose a security threat to the United States. DHS does not participate in all visa adjudications, but rather becomes a part of the process following initial screening of an applicant in countries where an ICE visa security operation is present. DHS actions complement the consular officers' initial screening, applicant interviews and reviews of applications and supporting documentation.

ICE now conducts visa security operations at 19 high-risk visa adjudication posts in 15 countries. In FY 2011 to date, the VSP has screened 900,000 visa applicants and, in collaboration with DOS colleagues, determined that 130,000 required further review. Following the review of these 130,000 applications, ICE identified derogatory information on more than 10,400 applicants. In *every* instance, DOS followed the VSP's recommendation concerning the visa applicant.

In March 2010 Customs and Border Protection's National Targeting Center (NTC) implemented a program to conduct continuous vetting of U.S. non-immigrant visas that have been recently issued, revoked and/or denied. The continuous vetting ensures that changes in a traveler's visa status are identified in near real-time, allowing CBP to immediately determine whether to provide a no board recommendation to a carrier, recommend revocation of the visa to Department of State, or notify the ICE NTEU for individuals determined to be within the United States. Since the program's inception the Department of State has revoked more than 900 visas based on requests from CBP on information uncovered after a visa was issued.

Additionally, ICE has deployed VSP personnel to the NTC to augment and expand current operations. The NTC provides tactical targeting and analytical research in support of preventing terrorist and terrorist weapons from entering the United States. The co-location of VSP personnel at the NTC has helped increase both communication and information sharing. The NTC conducts pre-departure screening of all travelers on flights bound for the United States. Screening identifies high risk passengers who should be denied boarding, including those whose visas have been revoked.

### ***The Student and Exchange Visitor Program (SEVP)***

The Student and Exchange Visitor Program (SEVP) is a self-funded program based on fees collected from students, exchange visitors and schools. It also certifies, recertifies and decertifies schools' eligibility to sponsor foreign individuals for scholastic enrollment and other academic purposes. SEVP oversees reporting requirements and policies related to foreign nonimmigrant students and exchange visitors, and provide overall guidance to schools regarding SEVIS.

SEVP acts as the bridge for government organizations that have an interest in information on foreign students. SEVP helps DHS and DOS monitor schools and exchange programs, as well as F (academic), M (vocational) and J (exchange) category visitors. SEVP administers the F and M student visa categories, while DOS manages the J exchange visitor program.

SEVP collects, maintains and provides the information so that only legitimate foreign students or exchange visitors gain entry to, and remain in, the United States. The result is an easily accessible information system that provides timely information to DOS, U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services and ICE. SEVP has a mutual commitment of shared responsibility with the educational community to maintain support and cooperation. Currently, SEVP has certified over 10,360 schools.

SEVP uses the Student and Exchange Visitor Information System (SEVIS) to track and monitor schools and programs, students, exchange visitors and their dependents approved to participate in the U.S. education system.

### ***The Counterterrorism and Criminal Exploitation Unit (CTCEU)***

The Counterterrorism and Criminal Exploitation Unit is the first 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 of hundreds of thousands of potential status violators, after analysis of data from SEVIS and US-VISIT, along with other information. These records are resolved by further establishing potential violations that would warrant field investigations, establishing compliance or establishing departure dates from the United States. Between 15,000 and 20,000 of these records are resolved by in-house analysts each month. Since the creation of the CTCEU in 2003, analysts have resolved more than 1.6 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, resulting in over 1,400 administrative arrests per year.

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 initiating or supporting high-priority national security initiatives based upon specific intelligence. The practice is designed to detect and 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 identification approach based upon country of birth, gender, and age.

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.

A recent ICE investigation in Las Cruces, New Mexico, highlights how the CTCEU functions. As a result of CTCEU data analysis and field investigation, in February 2010, ICE Special Agents arrested two foreign nationals who were admitted as F-1 nonimmigrant students and violated the terms and conditions of their admission. Both individuals were referred for investigation after their status was terminated in SEVIS for failure to maintain student status, as well as for possessing several indicators of national security concerns.

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 student status to nonimmigrants, without requiring them to maintain full courses of study in order to comply with the terms of their admission. ICE's primary goal in these types of investigations is to focus on the criminal violations of the owner/operators of these businesses

and the administrative violations on the students. This ICE investigation uncovered information that only approximately five percent of the school's students attended class on any given day. In addition to the indictment, follow-up investigation by ICE resulted in the administrative arrests of 116 student visa violators purported to be attending the school from countries including Thailand, Syria, Honduras, South Korea, Japan, Colombia, the Dominican Republic, Turkmenistan, Turkey, Indonesia, Venezuela, Brazil, and Kyrgyzstan.

As we move forward, it is imperative that we expand the nation's enforcement efforts concerning overstays and other status violations specifically regarding 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.

### ***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 (NPPD). 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. Biometric information sharing between the Federal Bureau of Investigation's Criminal Justice Information Services and US-VISIT is the foundation of ICE's Secure Communities IDENT/IAFIS Interoperability Program.



Through Secure Communities, aliens—including those who have overstayed or otherwise violated their immigration status—who are encountered by law enforcement may be identified as immigration violators when criminally arrested by state and local law enforcement. Once individuals are identified through Secure Communities, ICE officials determine what enforcement action is appropriate, consistent with ICE's enforcement priorities. Currently, Secure Communities is deployed in over 1,500 jurisdictions in 44 states.

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 Data Integrity Group (DIG) from three unique sources, which includes the typical overstay violation; a biometric watch list notification and a CTCEU Visa Waiver Enforcement Program (VWEP) nomination. 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.

A second type of lead is generated from biometric data collected by US-VISIT. US-VISIT routinely receives fingerprint records from a variety of governmental sources and adds them to a biometric watch list that includes individuals of national security concern. These new watch list records are checked against all fingerprints in the US-VISIT's biometric database, the Automated Biometric Identification System, or IDENT, managed by US-VISIT, 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 1 percent, ICE created a program dedicated to overstays arising from this VWP population given the large number of individuals in this category. Prior to the implementation of the VWEP in 2008, there was no national program dedicated to addressing overstays within this population. CTCEU provides a refined weekly list of individuals to US-VISIT for additional scrutiny, who have been identified as potential overstays who entered the United States under the VWP. In accord with its intelligence-based criteria, a relevant portion of this report is then imported into the CTCEU's internal lead tracking system for review and possible field assignment.

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

### ***ICE's Presence Overseas***

Stopping a threat before it reaches our shores is an important priority that ICE supports internationally. Through our Office of International Affairs (OIA), we have personnel in 70 offices in 47 countries. ICE personnel in these offices collaborate with our foreign counterparts and federal partner agencies in joint efforts to disrupt and dismantle transnational criminal organizations engaged in money laundering, contraband smuggling, weapons proliferation, forced child labor, human rights violations, intellectual property rights violations, child exploitation, human smuggling and trafficking, and many other violations. Additionally, ICE facilitates the repatriation of individuals with final orders of removal, returning violators to their home countries.

### ***Overseas 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 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

assist Consular Officers and other U.S. Government personnel to recognize 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***

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 a few 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 other 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.

More recently, in May 2011, ICE Special Agents within the VSP Security Advisory Opinion Unit (SAOU) investigated a Saudi Arabian 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***

Ten years 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.