



DEPARTMENT OF STATE

WRITTEN STATEMENT

OF

DAVID T. DONAHUE

DEPUTY ASSISTANT SECRETARY OF STATE

FOR VISA SERVICES

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

HEARING

ON

VISA SECURITY: PREVENTING TERRORISTS FROM ABUSING U.S. IMMIGRATION

POLICY

MAY 11, 2011

1:30PM – RAYBURN HOUSE OFFICE BUILDING

Good afternoon, Chairman Gallegly and Ranking Member Lofgren. Thank you for the opportunity to testify today on this important topic. I am glad to share the panel with my colleague from the Department of Homeland Security (DHS). As you will see in my testimony, we enjoy close and fruitful cooperation in this area.

The State Department strongly supports the mission and future of the Visa Security Program (VSP). We embrace a layered approach to security screening and believe the VSP is a valuable component of the U.S. government's overall policy of protecting our borders. The VSP maximizes the utility of the visa application and interview processes to detect and combat terrorism, criminality, and other threats to the United States and the traveling public. We work very closely together with DHS to ensure that no terrorist receives a visa or is admitted into our country.

U.S. Immigration and Customs Enforcement (ICE) special agents assigned to Visa Security Units (VSUs) provide timely and valuable on-site vetting of visa applications and other law enforcement support to our consular officers. In fact, reports from our VSU posts suggest that as the VSP has matured over the past few years, VSU personnel have, where resources permit, moved beyond a singular focus on visa application review, and have been able to contribute their expertise and resources to enhance our response to all kinds of threats to the visa and immigration processes - terrorism, human smuggling and human trafficking, and trafficking in a wide variety of contraband. As reported by one of our missions, "(i)n addition to their concerns with visa security, [VSU agents'] efforts have also

led to arrests and indictments in the areas of child pornography and countering the proliferation of controlled technology. This is a win-win partnership.”

Here in Washington, we work very closely with our VSP colleagues on day-to-day issues affecting the operations of the program, as well as longer-term issues related to the expansion of the program to select overseas posts. VSP officers in Washington review our visa databases and advise posts of emerging information about visa holders. Another important aspect of our Washington partnership is the resolution of issues that are raised as the VSP expands to more posts. In January 2011, the State Department’s Bureaus of Consular Affairs (CA) and Diplomatic Security (DS) concluded a Memorandum of Understanding (MOU) with ICE. This MOU governs VSU-State Department interactions within visa sections, procedures for resolving the very few disputed visa cases that emerge from the VSU review process, and collaboration between ICE/VSU agents and their DS law enforcement colleagues assigned as Regional Security Officers (RSOs) or Assistant Regional Security Officers for Investigations (ARSO-Is) assigned to consular sections.

As the recent Government Accountability Office (GAO) report noted, reasonable and conscientious professionals sometimes can, and do, consider the same set of facts and reach different conclusions. As with any process involving so many records and individual travelers, a small number of adjudications require extra effort to complete—a process facilitated by the positive working relationships among interagency partners. Under the umbrella of section 428 of the Homeland Security Act, we work together to resolve cases. In the end, there must be full agreement on any visa decision, since the traveler cannot travel

without the visa and will not be boarded for a flight to the United States without the approval of DHS.

Let me address the expansion of the VSP, which is of keen interest to the members of this Subcommittee. The Department works collaboratively with DHS, pursuant to an October 2004 MOU between the Department of State and the ICE Visa Security Program on the Administrative Aspects of Assigning Personnel Overseas, and National Security Decision Directive 38 (NSDD-38). This is to determine whether the establishment of a VSU is appropriate at a particular post based on a number of factors, including the effectiveness of alternative arrangements for DHS staff, available space at the embassy, support capabilities, and security concerns. NSDD-38s give the Chief of Mission (COM) responsibility for the size, composition and mandate of U.S. government agency staff under COM authority. This includes all executive branch personnel, except those under the command of a U.S. military area commander or on the staff of an international organization. While there are no NSDD-38 criteria specific to VSUs, each individual COM considers the following five issues before making their decision:

- Whether the need for the proposed position is addressed in the Mission Strategic Plan;
- Whether other resources at post might perform the proposed function;

- If the request is for one or more U.S. direct-hire positions (i.e., full-time U.S. government employees), whether the function could be performed by temporary duty (TDY) or local-hire staff;
- What administrative support, space, and funding arrangements would be required for the proposed position; and
- Whether the benefits of increasing the post's staff size outweigh the heightened security risk relating to such an increase.

The most recent round of VSU expansion was launched in January 2010, when we received NSDD-38 requests for the establishment of three new VSUs and for increases to VSU staff at two other posts. In February 2010, we received a NSDD-38 request regarding the establishment of another VSU. Those requests all have been approved by the respective COMs, and the new VSUs are either deployed or in the latter stages of deployment. In addition, a previously closed VSU was reopened when visa operations were resumed, after having been suspended for security reasons in 2005.

Before submitting an NSDD-38 request, ICE officials, with the support of senior State Department officers from CA and DS, conduct a post-specific, on-site assessment. The visit provides an opportunity for the team to consult with officials at post to validate the interagency assessment of the risk environment, determine

the feasibility and timing of establishing an office, and brief the COM on the role of the VSU. In June 2010, a joint State-ICE team conducted on-site assessments at three posts.

Before closing, I would like to expand on the critical role our consular officers play in enforcing U.S. immigration policy and protecting our borders. The State Department has unique expertise and authorities required to carry out the responsibilities for issuance of visas to eligible aliens. Our 246 consular sections, in 167 countries, are staffed by more than 1,500 officers, nearly 4,000 locally engaged staff and 100 full-time DS agents assigned as ARSO-Is devoted to fraud prevention efforts. We are on the ground to coordinate data sharing with foreign governments, and we communicate with them directly on a regular basis.

We carefully screen all visa applications. All visa applications are adjudicated according to the law, taking into account the circumstances of the alien, as well as any information made available by any of the relevant U.S. government agencies at the time of the visa application.

Prior to the visa interview, all applications are screened against multiple biographic and biometric databases, including the Consular Lookout and Support System (CLASS, our online repository of visa-lookout information). Almost seventy percent of the records in CLASS are provided to us by other U.S. government agencies. Applicants' fingerprints are compared to holdings in the FBI's Integrated Automated Fingerprint Information System (IAFIS) and relevant

DHS databases. Their photographs are processed through our facial recognition database, which is the largest of its kind in the world. There is a complex, layered approach to screening, which includes multiple steps by ICE and U.S. Customs and Border Protection (CBP) to ensure the security of the visa issuance process. As a result of this layered screening, and/or based on information developed during the visa interview, hundreds of thousands of applicants annually undergo additional interagency counterterrorism, criminal history, immigration history, and other checks. In addition, working with ICE and CBP, and with other agencies, we constantly review our databases for any visa holders about whom new derogatory information has become available and revoke these visas as appropriate.

Consular Affairs shares its visa consolidated database widely within the interagency group responsible for national security. In fact, several data mining and analytical tools have been developed based on the information we share. We are told by CBP that the case notes from adjudicating consular officers seen by CBP officers at our Nation's ports of entry are invaluable in determining admissibility to the United States. This robust sharing of data between agencies is part of the layered approach to security adopted after 9/11. Interviews and checks by consular officers, constant vetting of applicant data by CBP's National Targeting Center-Passenger, screening by Visa Security Units overseas and ICE agents in the U.S., and the robust use of biometrics are just a few of the measures in place to confirm the identity and intentions of those wishing to enter the United States. These measures are constantly reviewed and enhanced as needed.

While national security is paramount, the visa function also has foreign and economic policy implications, directly tied to U.S. relations and contacts with other nations and people. Our professional staff understands foreign cultures and follows overseas political, legal, and economic developments in a way that gives the Department special expertise over matters directly relevant to the full range of visa ineligibilities.

Officers devoted to visa adjudication are highly qualified, well trained, and very motivated professionals committed to a career of serving the United States overseas. These employees have the foreign-language skills necessary to stay abreast of local trends and conduct visa interviews—1,067 of our consular officer positions require fluency in one of 65 local languages.

Training gives our officers particular expertise in identifying individuals who possess fraudulent documents, are imposters, or are otherwise attempting to enter the United States improperly. Consular training at the Foreign Service Institute begins with the basic consular course—an intensive 31-day curriculum that includes two weeks of security-related training, on subjects such as recognizing and combating fraud, terrorist mobility, and alien smuggling.

Officers beginning their foreign affairs careers are fully prepared for this critical responsibility, and are closely supervised by experienced officers who review adjudications daily. Officers receive continuing education, including courses in fraud prevention and advanced security name-checking. Training

continues throughout consular officers' careers, through distance learning and other methods. And as an institution, we continue to work with all of our interagency partners on new ways to make the overall process of screening visitors to the United States more effective and efficient.

Esteemed members of the Subcommittee, we are pleased with the partnership we have built with the Department of Homeland Security and I assure you that we work together every day to make full use of emerging technologies and information to ensure safe, secure, and efficient borders. I welcome your questions.