

# FROM THE 9/11 HIJACKERS TO AMINE EL-KHALIFI: TERRORISTS AND THE VISA OVERSTAY PROBLEM

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## HEARING BEFORE THE SUBCOMMITTEE ON BORDER AND MARITIME SECURITY OF THE COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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## **FROM THE 9/11 HIJACKERS TO AMINE EL-KHALIFI: TERRORISTS AND THE VISA OVERSTAY PROBLEM**

**Tuesday, March 6, 2012**

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

The subcommittee met, pursuant to call, at 10:01 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Rogers, Duncan, Cuellar, and Clarke of Michigan.

Mrs. MILLER. The Committee on Homeland Security, our Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to hear testimony from John Cohen, deputy counter terrorism coordinator, the Department of Homeland Security; Peter Edge, deputy executive associate director for homeland security investigations within U.S. Immigration and Customs Enforcement; and David Donahue, the deputy assistant secretary of state for consular affairs, on the vitally important topic of visa security. I would recognize myself for an opening statement.

Since 9/11 our border security efforts have been very focused on stopping illegal immigrants and illicit drugs from entering our country, and we have really principally focused much of our efforts on our Southwest Border. However, estimates—some estimates as high as in the 40 percentile of all illegal aliens that are in our country just don't sneak across the border; they don't come in through the desert. They actually come in through the front door, so to speak, by obtaining a legitimate visa, and then they are here, they have a visa overstay, and they just simply never leave.

To secure our Southwest Border we have spent literally billions of dollars on agents, on fencing, on cameras, and there is no question, of course, that many of these investments have brought tangible security gains to the border and have helped stem the tide of illegal aliens trying to cross the border on the southern part of our Nation. There is an important distinction to be made, I think, however, between those who are crossing the border largely in search of a better life and terrorists who abuse the visa process with the ultimate goal of actually destroying our way of life.

To that end, I think that recent events should solidify in our minds the need to take really a holistic approach of border security and not view it as simply one-dimensional with all of the emphasis

on one region of the country or only about security at the physical borders, whether that be the Southern Border, the Northern Border, our coastal borders. Entering a country and overstaying a visa has been the preferred method for terrorists actually to enter our country. The recent case of Amine el-Khalifi, who was a 29-year-old Moroccan citizen who allegedly attempted to conduct a suicide attack on the U.S. Capitol—that is not the first time that terrorists have exploited our visa process.

In fact, el-Khalifi follows a long line of terrorists going back to the first World Trade Center attack in 1993 and, as this committee has noted many times, also includes several of the 9/11 hijackers, these terrorists who overstayed their visas and then went on to conduct or plan terrorist attacks. In fact, more than 36 visa overstayers have been convicted of terrorism-related charges since 2001.

I was going to have the staff put up a slide, if they can get it up here. I think it is interesting to take a look at these faces on this slide and think about the visa violations of these high-profile figures and what has happened here.

Clearly, more needs to be done to ensure the integrity of the visa system, including enhancements to Immigration and Customs Enforcement's ability to identify and promptly remove those who are overstaying their visas. Pushing out the border and conducting more rigorous vetting of visa applicants overseas through the Visa Security Program, which stations ICE officers and agents overseas, as well as the inclusion of fingerprints into the visa application process have made the visa process more secure than it was, certainly, before 9/11. However, I think we are all concerned with our ability to track and to promptly remove overstays who remain in our country.

It is especially troubling that el-Khalifi lived illegally in the United States for more than 13 years before being identified by law enforcement. During that time he had several run-ins with the law, but ICE really only identified him as an overstay once a current terrorism investigation was underway by the FBI agents who el-Khalifi thought, of course, were al-Qaeda, actually.

How many more visa overstayers are there out there who might pose a serious threat to the security of our homeland? We are all very concerned that ICE does not have a way to identify and track down overstays who entered the country prior to 2003, before our US-VISIT program was created, and we are concerned that we do not have a good enough handle on the number of overstayers that are in the country right now.

ICE arrests and puts into removal proceedings only a small fraction of those who overstay their visa who, for the most part, are caught because they commit an additional crime and are identified through Secure Communities, which is a fantastic program. This committee has had a number of hearings about Secure Communities. It is an excellent, excellent program with tangible benefits.

However, the administration's insistence on administrative amnesty through prosecutorial discretion, which el-Khalifi may have been eligible for before the start of this investigation due to his long presence in this country, certainly gives us pause, and it is clear that administrative amnesty could result in deferring action

for some illegals who go on to commit more serious crimes and perhaps even those who would go on to try to commit a terrorist attack.

So I look forward to hearing from our witnesses today on progress made since the creation of US-VISIT in 2003 on overstaying—identifying overstays, especially those who pose National security and public safety threats, and how the Department of Homeland Security plans to implement a comprehensive visa exit system that will prevent terrorists from successfully exploiting our visa system—a requirement, I might add, that was first mandated by Congress in 1996.

Last September this committee held a hearing on the topic of visa security, and so this is sort of a follow-on hearing to that. Actually, it was during that hearing that we heard that the Department was rolling out an enhanced biographic program which would add an additional layer of security to the visa process, and so we are interested today to hear about the progress that we have made on that program as well as what the plans are to develop an exit system.

More than 10 years ago on that day in September we learned a very hard lesson, and as the 9/11 Commission has noted—this is something they actually said in their recommendation in their report—the 9/11 Commission said, “For terrorists, travel documents are as important as weapons.” That, I think, is an important statement for all of us to reflect upon. Four of the 9/11 hijackers, as I mentioned, had overstayed visas—a missed opportunity to prevent the attacks which caused the deaths of nearly 3,000 people.

Without the hard work of the FBI and the bravery of their undercover agents Amine el-Khalifi may have been successful in carrying out his planned attack on the Nation’s Capitol, so obviously we would all like to offer our sincere thanks and congratulations to the brave men and women—the agents who were involved in that investigation. Great job on that.

You know, if we are serious about controlling who comes into the Nation and preventing another attack we need to get serious about an exit program. It has been more than 2 years since the exit pilot program was in both Detroit and Atlanta, and we are still waiting for the Department to really articulate a plan to move forward with a comprehensive exit plan in the air environment or elsewhere, for that matter. So it is long overdue for a plan to move the Nation toward a viable and cost-effective exit solution and we will be very interested in the testimony of the witnesses today and we appreciate them all coming.

But at this time, Chairwoman now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Cuellar, for his opening statement.

[The statement of Chairwoman Miller follows:]

STATEMENT OF CHAIRWOMAN CANDICE S. MILLER

MARCH 6, 2012

Since 9/11 our border security efforts have been focused on stopping illegal immigrants and illicit drugs from entering the country; chiefly our Southwest Border.

However, some estimates are that 40 percent of all illegal aliens do not sneak across the border; they come in through the front door by obtaining a legitimate visa and simply never leave.

To secure our Southwest Border, we have spent billions of dollars on agents, fencing, and cameras—there is no question that many of these investments have brought tangible security gains to the border and have helped stem the tide of illegal aliens attempting to cross the border.

There is an important distinction to be made between those who cross the border, largely in search of a better life, and terrorists who abuse the visa process with the ultimate goal of destroying our way of life.

To that end, I think recent events should solidify in our minds the need to take a holistic view of border security and not view it as one-dimensional with all of the emphasis on one region of the country, or only about security at the physical borders.

Entering the country and overstaying a visa has been the preferred method for terrorists to enter the country. The recent case of Amine el-Khalifi, a Moroccan citizen, who allegedly attempted to conduct a suicide attack at the U.S. Capitol, is not the first time terrorists have exploited the visa process.

In fact, el-Khalifi, follows a long line of terrorists, going back to the first World Trade Center attack in 1993 and includes several of the 9/11 hijackers who overstayed their visas and went on to conduct or plan terrorist attacks. In fact, more than 36 visa overstayers have been convicted of terrorism-related charges since 2001.

Clearly, more must be done to ensure the integrity of the visa system, including enhancements to Immigration and Customs Enforcement's ability to identify and promptly remove those who overstay their visa.

Pushing out the border and conducting more rigorous vetting of visa applicants overseas through the Visa Security Program which stations ICE agents overseas, as well as the inclusion of fingerprints into the visa application process have made the visa process more secure than it was before September 11.

But I am also concerned with our ability to track and promptly remove overstays who remain in the country.

It is especially troubling that el-Khalifi lived illegally in the United States for more than 13 years before being identified by law enforcement. During that time, he had several run-ins with the law, but ICE only identified him as an overstay once the current terrorism investigation was underway by the FBI.

How many more visa overstayers are out there who pose a serious threat to the security of the homeland?

I remain concerned that ICE does not have a way to identify and track down overstays who entered the country prior to 2003, before US-VISIT was created and am concerned we do not even have a good handle on the total number of overstayers in the country right now.

ICE arrests and puts into removal proceedings only a small fraction of those who overstay their visa, who for the most part are caught because they commit an additional crime and are identified through Secure Communities—which I think is a fantastic program that helps identify criminal aliens.

However, this administration's insistence on administrative amnesty through prosecutorial discretion—which el-Khalifi may have been eligible for before the start of this investigation, due to his long presence in the country, gives me great pause and it is clear that administrative amnesty will result in deferring action for some illegals who go on to commit more serious crimes—and perhaps even those who will go on to commit a terrorist attack.

I look forward to hearing from our witnesses today on progress made since the creation of US Visitor and Immigrant Status Indicator Technology (US-VISIT) in 2003 in identifying overstays, especially those that pose National security and public safety threats, and how the Department of Homeland Security plans to implement a comprehensive visa exit system that will prevent terrorists from successfully exploiting the visa system—a requirement, I might add, that was first mandated in 1996.

Last September this committee held a hearing on the topic of visa security—and during that hearing we heard that the Department was rolling out an enhanced biographic program to add a layer of security to the visa process; I am very interested to hear about the progress made on that program as well as what plans are in place to develop an exit system.

More than 10 years ago on that day in September, we learned a hard lesson—as the 9/11 Commission noted, “For terrorists, travel documents are as important as weapons.”

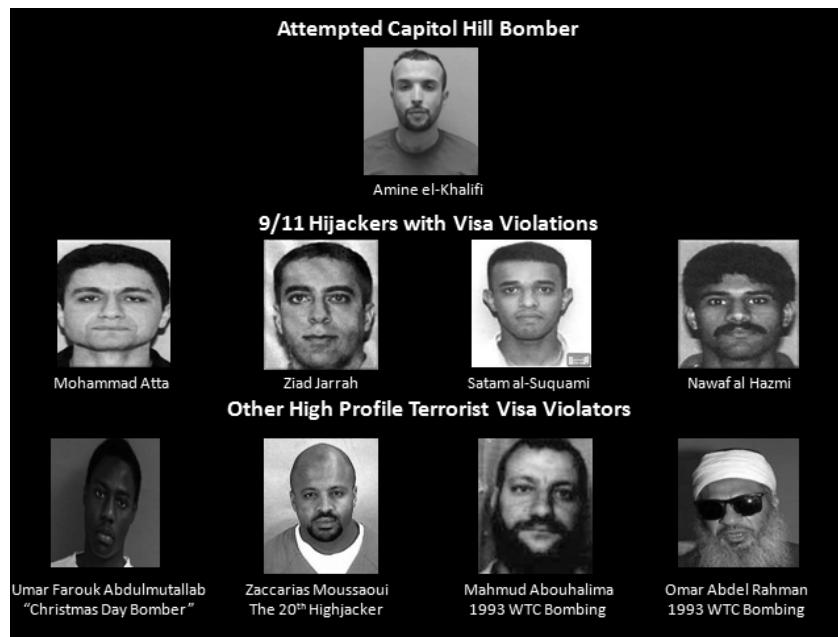
Four of the 9/11 hijackers had overstayed visas—a missed opportunity to prevent the attacks which caused the death of nearly 3,000 people.

Without the hard work of the Federal Bureau of Investigation, and the bravery of their undercover agents Amine el-Khalifi might have been successful in carrying out an attack on the Nation's Capitol, so I would like to offer my sincere thanks to those agents involved in this investigation.

If we are serious about controlling who comes into the Nation and preventing another attack, we need to get serious about an exit program.

It has been more than 2 years since the exit pilot in Detroit and Atlanta and the Department has yet to articulate a plan to move forward with a comprehensive exit plan in the air environment or elsewhere.

It's long overdue for a plan to move this Nation toward a viable and cost-effective exit solution. With that I'd like to recognize the gentlemen from Texas.



Mr. CUELLAR. Thank you, Madam Chairwoman. I am pleased that this subcommittee is meeting today to examine the issue of immigration overstay.

Cases such as the 9/11 hijackers and more recently the Capitol Hill bomber have underscored the potential homeland security threat posed by individuals who enter this country on visas but overstay the authorized—or should I say the authorized period of time in the United States. Of the approximate 11.5 million to 12 million unauthorized resident alien population that was mentioned a few minutes ago, an estimated 33 to 48 percent are overstayed. Not everybody crossed the river; not everybody swam across the Rio Grande, as some people think. But there are actually 33 to 48 percent of them are—got here through a legal method.

Of course, the overwhelming majority of individuals who enter this country do so for legitimate purposes. Even of those who enter the United States illegally or enter legally but overstay, the majority pose no threat. However, a small handful of people seek to enter this country for evil purposes.

Since 2001 the Department of Homeland and the Department of State, with the direction from Congress, have taken important steps to identify, locate, and address overstays, particularly those that may pose a security or a safety risk to our communities. Within the Immigration and Customs Enforcement, ICE, and the Counterterrorism and Criminal Exploitation Unit they are primarily responsible for overstay enforcement.

However, the CTCEU is not the only entity within ICE that removes overstay. Indeed, the primary responsibility for apprehending and removing overstays and other aliens who do not have lawful immigration status rests with ICE Enforcement and Removal Operation—Removal Operations—the ERO.

Various programs, from the Secure Communities to the Criminal Alien Programs—Program, identify and remove overstays from this country every day. However, more remains to be done.

I was encouraged to hear that at our last hearing that we had DHS had reduced the backlog of overstay cases by half, and I hope to hear on that, and congratulations on that effort that you are doing. I look forward to hearing where DHS has continued to make strides in this particular area and what else can we do to try to help you continue those strides. I also hope to hear about how the administration's plan to move U.S. visas functions to ICE and CBP will help those agencies fulfill their respective missions more effectively.

At the subcommittee's September 2011 hearing on visa security I also expressed my concern about the so-called recalcitrant countries. These countries refuse to accept the return of their nationals or use of lengthy delay tactics to avoid taking these nationals back that are unlawfully in the United States.

Again, just as an illustration, the—this is only an example of this recalcitrant countries: Pakistan has an average travel document issuance time of 149 days; China has a time of 148 days; India has a time of 267 days; Bangladesh has a time of 434 days; Cambodia has 277 days; Vietnam has a time of 285 days; Iraq has 594 days. When you look at—and I emphasize to my friends, since I live on the border—everybody thinks that everything is coming from Mexico and South America, but for my friends, let me give you some days. The average time for documents from those countries: Guatemala, Honduras, El Salvador, Dominican Republic, Columbia, Mexico, and Ecuador takes an average of—going down that order—9 days, 5 days, 23 days, 22 days, 13 days, 36 days, 34 days, respectfully. You compare it to 594 days, 285 days, 277 days, 434 days, 267 days, 148 days, 149 days, that shows you why I think we need to put an emphasis to make sure that we use our resources in a better way.

I know I have talked to John Morton about this several times. I will see him again tomorrow.

Again, Mr. Edge, Mr. Cohen, I ask you to continue working, and Mr. Donahue, with the State Department. I understand diplomatic relations; I understand all that. But I think we need to put a little bit more pressure on those countries to get them to do that, because it is costing the taxpayers a lot of money, and I have the costs as to how much it costs for some of those countries.

So I would like to hear more details from our witnesses today about why visas continue to be issued to individuals from those countries, and at what rate, and as well as recommended steps for improving actions. Again, so again, if we are still giving those visas out to those countries, we understand they are very difficult in taking those folks back when they need to take them back. I think we need to rechange our—and—and look at the steps in addressing that.

So, Madam Chairwoman, I thank you for holding this hearing and I thank all the witnesses for being here today.

Mrs. MILLER. Thank the gentleman for his comments.

Other Members of the committee are reminded that their opening statements could be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

MARCH 6, 2011

Some in Congress seem to believe that securing America's Southwest Border is the answer to our Nation's illegal immigration concerns.

But an estimated 40 percent of individuals unlawfully present in the United States actually entered this country legally and have simply overstayed.

Among those millions of people may be a handful who seek to do us harm.

Addressing this so-called "overstay" issue is essential not only to immigration control, but also to homeland security.

Certainly, the 9/11 attacks focused the Federal Government on the importance of securing the visa process and addressing the potential threat posed by certain individuals who remain in the United States after their visas expire.

Under Democratic leadership in the 110th and 111th Congresses, this committee held hearings on the issue of visa overstays.

I am pleased the subcommittee is also examining the issue today.

I would like to hear from our DHS witnesses about what tools they need to be more successful at locating and addressing individuals who have overstayed their visas in the United States—particularly those who may pose a safety or security threat to this country.

I also hope to hear from our State Department witness about what they are doing to prevent individuals who are likely to overstay from receiving visas in the first place.

As part of the effort to address the overstay issue and in accordance with a 9/11 Commission recommendation, Congress has repeatedly required the Department of Homeland Security to deploy a biometric entry-exit system under US-VISIT.

Such a system would help DHS determine whether an individual has departed the United States or has remained in this country.

Yet more than a decade after September 11, 2001, DHS is still without a biometric exit system.

The lack of significant progress toward this mandate has been troubling to those of us who believe a biometric entry-exit system is essential to border security.

However, last year DHS made significant strides by eliminating about half of the 1.6 million record backlog in US-VISIT.

Much more remains to be done, however.

I hope to hear from our DHS witnesses today about how they are working to resolve the remaining backlog cases, as well as how the Department is moving forward to identify cost-effective technology for implementing biometric exit at ports of entry.

Finally, I would note that I was pleased to see the administration's proposal in the fiscal year 2013 budget request to transfer US-VISIT's functions to CBP and ICE.

US-VISIT in its current configuration has so far failed to meet its mandate.

By moving the program's functions to CBP and ICE, it will be more closely aligned with the operational components that work with and rely on the program on a day-to-day basis.

The transfer should bring efficiencies, and hopefully more progress toward implementing the mandated biometric exit system.

I look forward to discussion about that transfer here today.

In closing, I would note that while the issue before the subcommittee today is of great importance, I was dismayed to learn that "Part II" of last month's hearing on maritime cargo security hearing would not being held today as planned.

It is my hope that the subcommittee will complete its work on that hearing in the near future.

I thank the witnesses for being here today and I yield back the balance of my time.

Mrs. MILLER. I will just introduce, now, all three of our witnesses at the same time, and then we will start with Mr. Cohen.

John Cohen serves as the principal deputy coordinator for counterterrorism at the United States Department of Homeland Security and as a senior advisor on counterterrorism, law enforcement, and information sharing. He has also served as the senior advisor to the program manager for the information sharing environment in the Office of the Director of National Intelligence.

Peter Edge began his law enforcement career in 1986 with the Essex County, New Jersey prosecutor's office before his selection as a special agent with the U.S. Customs Service in Newark, New Jersey. In 2005 Mr. Edge was promoted to the position of assistant special agent in charge in the New York office where he led high-profile investigative components, such as the New York High Intensity Financial Crime Area, JFK International Airport, and the Immigration Division. Today he serves as the deputy executive associate director for homeland security investigations within the U.S. Immigration and Customs Enforcement.

David Donahue is the deputy assistant secretary for visa services, Bureau of Consular Affairs. He has previously served as minister counselor for consular affairs in Mexico City and was the consul general in both Manila and Islamabad.

So we certainly appreciate all of the witnesses coming. We have an excellent panel here today. We look forward to your testimony.

The Chairwoman now recognizes Mr. Cohen.

**STATEMENT OF JOHN COHEN, DEPUTY COUNTER-TERRORISM COORDINATOR, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. COHEN. Thank you, Chairman Miller, Ranking Member Cuellar, and distinguished Members of the committee—the subcommittee. Thank you for the opportunity to participate in this very, very important hearing.

Madam Chairwoman, I have submitted written testimony and request that it be included as part of the record.

Mrs. MILLER. Without objection.

Mr. COHEN. In your opening statements you and the Ranking Member both expressed concerns that terrorists and others who pose a risk to the National security of the United States seek to exploit the visa and visa waiver programs and travel to and remain illegally in the United States. The Department of Homeland Security certainly shares your concern, which is why, as you pointed out, over this past summer, at the direction of Secretary Napolitano, we began an intensive effort to address gaps to these programs by integrating and interlinking key law enforcement and National security information repositories with our immigration and travel systems.

This effort began, as I described when I last met with you, as a very tactical effort intended to vet approximately 1.6 million records that were commonly referred to as the overstayed backlog. I would note that these records, under past regimes, would not have been vetted from a National security and public safety perspective. But for very obvious reasons that you have pointed out the Secretary instructed that they be so vetted.

But through this effort, which included the efforts of ICE, CBP, US-VISIT, the National Counterterrorism Center, and others in the Federal Government, it led the Department to a better understanding and the development of a way forward for a more expansive overstay vetting system and a path forward for establishing an enhanced entry-exit capability. We continue to implement this effort, allocating \$4.1 million from fiscal year 2011 funds and identifying an additional \$10.9 million in fiscal year 2012 funds to pay for a series of system and operational enhancements.

The result, today, leveraging the technical and operational capabilities of US-VISIT, ICE, and CBP, and our strong relationship with other Federal entities like the Department of State and NCTC, we recurrently vet all visa applicants, all visa holders, and potential overstays from a National security and public safety perspective. This recurrent vetting ensures that as new intelligence and new derogatory information is acquired by the Federal Government we can quickly and effectively target those individuals for enforcement actions, whether it be an FBI investigation or whether it be for some other type of immigration enforcement.

These enhancements make it harder for individuals to overstay their visas and avoid detection, and conversely, make it easier for the Department to confirm when someone is an overstay and target them for enforcement action. I should note that this includes increasing the Department's ability to take administrative action against confirmed overstays that are not public safety or National security risks.

These enhancements will also result in greater efficiencies to our Visa Security Program and they will provide the core components of an enhanced entry-exit system. They will also, Madam Chairwoman, ensure that we can more accurately track overstay rates by country.

Specifically, through these efforts DHS will be better able to validate documents presented during the visa application process or prior to an individual traveling to the United States, increasing our capacity to detect and prevent the use of fraudulent passports and other travel documents. We will also be able to ensure that fingerprints and other biometric data captured prior to travel to the United States is accurately matched with biographic records, improving our ability to accurately identify those traveling to the United States and further identify those biometrics with multiple identities in our systems.

We are vetting visa applicants and those traveling from visa waiver countries against a broader array of law enforcement and National security information, enhancing our current capacity to ensure that those who pose a risk to the United States are identified prior to their travel to the United States. We are automating database queries that today require time-consuming manual data-

base checks, thereby improving operational efficiencies and ensuring that we never again have a backlog of unvetted potential overstay records.

Through the use of name-matching algorithms we are ensuring that departure data collected at U.S. air and sea ports more accurately match data collected upon a person's entry to the United States. As Secretary Napolitano has communicated to Congress, the technology and process enhancements that are currently underway will provide the foundation for a biometric air exit program. They will also immediately improve the ability of DHS operational components to identify and take action against those who have overstayed their lawful status.

For this reason, it is critical that the Department continue to fully implement these improvements described to the subcommittee when I appeared before you last September, and with your support we will continue to do so. Thank you, and I will be happy to answer any questions.

[The joint statement of Mr. Cohen and Mr. Edge follows:]

PREPARED STATEMENT OF JOHN COHEN AND PETER T. EDGE

MARCH 6, 2012

#### 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 the efforts of the Department of Homeland Security (DHS) to prevent the exploitation of our visa system by terrorists and criminals. Visa overstays and other forms of immigration status violation bring together critical areas of DHS's mission—National security and immigration enforcement, and the determination of whom to allow entry into the United States.

#### *Joint Anti-Fraud Strategy*

We recognize that those who pose National security threats may seek to commit immigration benefit fraud in order to enter or remain in the United States. For that reason, we work hard to detect and deter immigration fraud and to continually enhance our anti-fraud efforts. ICE exercises criminal authority in the detection and deterrence of immigration fraud, while USCIS exercises 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 ICE Document and Benefit Fraud Task Forces (DBFTFs), we focus our efforts on detecting, deterring, and disrupting document and benefit fraud. DBFTFs bring together the joint expertise of Federal, State, and local law enforcement partners to formulate a comprehensive approach in targeting the criminal organizations and the beneficiaries committing immigration fraud.

#### *The Visa Security Program*

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

Through the Visa Security Program (VSP), ICE deploys trained special agents overseas to high-risk visa activity posts in order to identify potential terrorist and criminal threats before they reach the United States. ICE special agents conduct targeted, in-depth reviews of individual visa applications and applicants prior to issuance, and recommend to consular officers refusal or revocation of applications when warranted. DHS actions complement the consular officers' initial screenings, applicant interviews, and reviews of applications and supporting documentation.

ICE now conducts visa security investigations at 19 high-risk visa adjudication posts in 15 countries. In fiscal year 2012 to date, VSP has screened 452,352 visa applicants and, in collaboration with DOS colleagues, determined that 121,139 required further review. Following the review of these 121,139 applications, ICE identified derogatory information on more than 4,777 applicants.

In March 2010, the National Targeting Center (NTC) within U.S. Customs and Border Protection (CBP) implemented a program to conduct continuous vetting of U.S. non-immigrant visas that have been recently issued. Recurrent 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, to recommend revocation of the visa to DOS, or to notify ICE regarding individuals determined to be within the United States. Since the program's inception, DOS has revoked more than 900 visas based on requests from CBP on information uncovered after a visa was issued.

ICE, CBP, and DOS have partnered to modernize DHS visa screening efforts. These efforts automate the flow of on-line visa information to DHS systems and provide the ability to send information back to DOS using an automated interface. ICE personnel currently deployed to the NTC will partner with CBP officers to expand current VSP efforts to enhance screening of visa applicants against DHS data worldwide. This screening will be conducted prior to the visa interview and complements DHS efforts to streamline the Security Advisory Opinion process of third agency checks on the highest-risk visa applicants world-wide, which has resulted in significant delays in visa issuance for some individuals.

#### *The Counterterrorism and Criminal Exploitation Unit*

The Counterterrorism and Criminal Exploitation Unit (CTCEU) is the first National program dedicated to the enforcement of non-immigrant visa violations. Today, through the CTCEU, ICE proactively develops cases for investigation in cooperation with the Student and Exchange Visitor Program (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 to 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 preliminary analysis of data from the Student and Exchange Visitor Information System (SEVIS) and US-VISIT, 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 of these records are analyzed in-house each month. Since the creation of the CTCEU in 2003, nearly 2 million such records using automated and manual review techniques have been analyzed. On average, ICE initiates approximately 6,000 investigative cases annually and assigns them to our special agents in the field for further investigation, resulting in over 1,800 administrative arrests per year.

ICE special agents and analysts 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 on specific intelligence. The practice 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.

In order to ensure that the potential violators who pose the greatest threats to National security are given priority, ICE uses intelligence-based criteria, developed in close consultation with the intelligence and law enforcement communities. ICE assembles the Compliance Enforcement Advisory Panel (CEAP), which is comprised of subject matter experts from other law enforcement agencies and members of the intelligence community, who assist the CTCEU in keeping 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 non-immigrant overstays and status violators who pose the gravest threats to National security are targeted.

A recent ICE investigation in Los Angeles, California exemplifies how the CTCEU operates. In March 2011, the CTCEU received an INTERPOL blue notice concerning a person who traveled to the United States as a tourist. The person had an arrest warrant in connection to child pornography charges in Colombia. A week later, ICE special agents arrested the person who was admitted as a visitor and violated their terms of admission by working in the adult film industry. A similar example occurred in July 2011, when the CTCEU received an INTERPOL red notice for an El

Salvadorian national wanted for murder. As a result of CTCEU data analysis and field investigation, ICE special agents arrested the subject in Baltimore, Maryland.

More recently in January 2012, ICE Special Agents from the Washington, DC office arrested a Saudi Arabian national who was admitted as an F-1 nonimmigrant student and violated the terms and conditions of his admission. The individual was referred for investigation after his status was terminated in SEVIS for failure to maintain student status, as well as for possessing several indicators of National security concerns, including threatening to blow up the White House and the Saudi Arabian Cultural Mission to the United States.

Likewise, in May 2010, ICE's Counterterrorism and Criminal Exploitation Group in San Francisco, initiated an investigation into Tri-Valley University (TVU) in Pleasanton, California. The criminal investigation led to the indictment and arrest of the organization's owner and four workers for visa fraud violations. The owner and employees were issuing immigration documents containing false statements and forged signatures, which falsely certified that the school's students were attending a full course of study. ICE Special Agents effected five criminal arrests and over 300 student violators were administratively arrested, consisting mostly of Indian nationals. In addition, ICE Special Agents seized one vehicle, filed lis pendens on five properties valued at approximately \$3.2 million, and seized numerous bank accounts totaling almost \$2 million that represented proceeds derived related to the illicit scheme.

Similarly, in November 2011, the CTCEU Group in Los Angeles arrested Karena Chuang of Wright Aviation Academy (formerly Blue Diamond aviation) for encouraging the illegal entry of aliens for private financial gain. Wright Aviation Academy/Blue Diamond Aviation (BDA), a non-SEVP accredited flight school, was suspected by ICE's Visa Security Program of fraudulently recruiting and training foreign flight students from Egypt. The investigation revealed that Chuang applied to SEVP accredited schools, often without the student's knowledge, for the sole purpose of obtaining valid Forms I-20 (student visas). The students, in turn, used the Forms I-20 to get M-1 (vocational) visas to enter the United States to attend BDA. This investigation successfully upheld the integrity of the SEVP program through ICE's layered enforcement approach—identifying and disrupting visa fraud overseas, dismantling the transnational organization, and prosecuting the perpetrators in the United States.

#### *Coordination with US-VISIT and Other DHS Components*

CTCEU also works in close collaboration with US-VISIT. 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 a risk 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 apply for visas, try to enter the United States, or apply for immigration benefits.

Biometric information sharing between the Federal Bureau of Investigation's Criminal Justice Information Services (FBI-CJIS) and US-VISIT is the foundation of Secure Communities' use of Automated Biometric Identification System (IDENT)/Integrated Automated Fingerprint Identification System (IAFIS) interoperability.

Through Secure Communities' use of IDENT/IAFIS interoperability, 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 fingerprints are submitted to the FBI-CJIS's biometric database, IAFIS, and then to DHS/US-VISIT's biometric database, IDENT. Once individuals are identified, ICE officials determine what enforcement action is appropriate, consistent with ICE's enforcement priorities. Currently, Secure Communities' use of this technology is deployed in over 2,300 jurisdictions in 46 States and territories.

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.

ICE receives or coordinates non-immigrant overstay and status violation referrals from US-VISIT Mission Support Services from three unique sources, which include: the typical overstay violation; a biometric watch list notification; and a CTCEU Visa Waiver Enforcement Program (VWEP) nomination. The first type, Non-immigrant 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 of individuals of National security concern. These new watch list records are checked against all fingerprints in IDENT 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 VWP currently allows eligible nationals of 36 countries to travel to the United States without a visa and, if admitted, to remain in our country for a maximum of 90 days for tourist or business purposes. The Visa Waiver Program (VWP) is the primary source of non-immigrant visitors from countries other than Canada and Mexico. Visa-free travel to the United States builds on our close bilateral relationships and fosters commercial and personal ties among tourist and business travelers in the United States and abroad.

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. One of the goals of this program is to identify those subjects that attempt to circumvent the U.S. immigration system by obtaining travel documents from Visa Waiver Countries.

#### *Enhanced Biographic Exit*

In May 2011, at the direction of Secretary Napolitano, DHS's CT Coordinator organized an effort to ensure that all overstays, regardless of priority, receive enhanced National security and public safety vetting by the National Counterterrorism Center (NCTC) and CBP. As part of Phase 1 of this effort, Department components reviewed a backlog of 1.6 million unvetted potential overstay records based on National security and public safety priorities.

As of last summer, DHS had a backlog of "unreviewed overstays," comprised of system-identified overstay leads that did not meet criteria set by ICE for expedited high-priority review. Before this summer, these records would not have been examined, except in instances when the workload allowed it.

The DHS "overstay initiative", begun over the summer of 2011 at the direction of the Secretary, reformed this effort. By leveraging capabilities within Customs and Border Protection's Automated Targeting System (ATS-P), as well as DHS's relationship with NCTC, DHS was able to conduct richer, more thorough vetting for National security and public safety concerns. This generated new leads for ICE, which previously would not have been uncovered.

A beneficial by-product of this effort was the identification of efficiencies and cost savings gained through automation. Through this new automated approach, we can match and integrate relevant information from multiple systems in order to quickly and accurately identify overstays.

Today, DHS has integrated these enhancements to its process for reviewing system-identified overstay leads and prioritizing them for review and targeted enforcement. Now, ALL overstay records are reviewed for National security and public safety concerns, and DHS is also leveraging existing automated capabilities to conduct automated reviews of all overstays (both normal priority and high-priority). All of this is done on a recurrent basis.

Overall, what I have described constitutes the first phase of DHS's enhanced biographic exit capability. This "enhanced exit" plan improves DHS's ability to calculate overstays and reduce their occurrence in the future. It uses resources from a variety of DHS components and will provide benefits to several of these components, as well the DOS, as adjudicators of visa applications. When fully implemented, this enhanced exit program will eliminate any future backlog of unreviewed overstays, and allow DHS to prioritize and take action on overstays, focusing on National security and public safety.

We have identified carry-over funding, and allocated it toward Phase II of this effort, which includes automating connections between data sources, and refining ICE's ability to more effectively target and prioritize overstay leads of concern. We expect to see these enhancements come on-line this summer.

DHS has also identified its top priorities within Phase III of the enhanced biographic exit plan. This includes database modernization, further investments in targeting and prioritization capabilities, increased functionality between biometric and biographic repositories, as well as document validation. As investments in the future phases of this capability come on line, DHS will have increased its ability to "close out" overstay records using automated means.

The Department will have also increased its data quality and expanded its data sources, both of which will increase its ability to "close" records before they are referred to an investigator.

Finally, these upgrades will have enhanced DHS's ability to draw on capabilities across the Department for further manual review and targeting for enforcement action.

DHS also remains committed to introducing a biometric component to the exit process. The enhanced exit plan also incorporates biometric elements, allowing DHS personnel to more efficiently connect biometric identifiers (fingerprints and photographs) with biographic information residing within intelligence community and law enforcement databases. DHS has directed the Science and Technology Directorate to establish criteria and promote research for emerging technologies that would provide the ability to capture biometrics at a significantly lower operational cost.

In the mean time, the Department is taking action to secure our borders today, by making strategic security investment decisions that prioritize those capabilities needed for the implementation of a future biometric exit system while providing security value now.

This entire process has illustrated something fundamental, which is that dealing with the overstay population is a challenge that confronts all of DHS, not just any one component. US-VISIT tracks the overstay population through ADIS. CBP, as the custodian of our borders, taps into information about traveler movements, and is increasingly at the center of DHS's vetting and targeting activities. ICE bears the burden of taking enforcement action.

Left up to any one component, DHS action would be incomplete, but by harmonizing efforts across the Department and by taking advantage of unique skills and capabilities, we are able to put together a plan that enhances the integrity of our immigration system.

#### *ICE's Presence Overseas and Coordination with DOS*

Stopping a threat before it reaches our shores is an important priority that ICE supports internationally. Through our Office of International Affairs, 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, non-drug 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.

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 conduct collaborative training and orientation prior to overseas deployments. Once they are deployed to overseas posts, ICE and DOS personnel work closely together in working groups, meetings, training, and briefings, and engage 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 in recognizing potential security threats in the visa process.

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.

## CONCLUSION

DHS has made significant progress in preventing terrorists from exploiting the visa process. We will continue to work closely with our international, Federal, State, local, and Tribal partners to combat visa fraud and protect the integrity of our visa security system.

Thank you again for the opportunity to testify today and for your continued support of DHS and its law enforcement mission.

We would be pleased to answer any questions at this time.

Mrs. MILLER. Thank you very much.

The Chairwoman now recognizes Mr. Edge for his testimony.

**STATEMENT OF PETER T. EDGE, DEPUTY ASSOCIATE DIRECTOR, HOMELAND SECURITY INVESTIGATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. EDGE. Good morning, Chairman Miller, Ranking Member Cuellar, and other distinguished Members of the subcommittee. Thank you for inviting me to appear before you today along with my counterparts, Mr. Cohen and Mr. Donahue, to discuss our collective efforts to prevent the exploitation of our visa system by terrorists and criminals.

I would also ask that my complete testimony be accepted into the record.

Mrs. MILLER. Without objection.

Mr. EDGE. Visa overstays and other forms of immigration status violations bring together critical areas of my agency's mission, National security, and immigration enforcement. We recognize that those who pose National security threats may seek to commit immigration benefit fraud to enter or remain in the United States. For that reason, we work hard to detect and deter immigration fraud and to continually enhance our anti-fraud efforts.

ICE exercises criminal authority in the detection and deterrence of immigration fraud while our partner agency, USCIS, exercises administrative authority. This strategy essentially allows us to concentrate our efforts on major fraud conspiracies and other cases of National security or public safety interest, which allows USCIS to address the majority of immigration benefit fraud cases administratively.

As you know, DHS is charged with assisting in the identification of visa applicants who seek to enter the United States for illegitimate purposes, including criminal offenses and terrorism-related activities. The visa adjudication process often presents the first opportunity to assess whether a potential nonimmigrant visitor or immigrant poses a threat to our Nation.

ICE's Visa Security Program is one of—program focused on minimizing these global risks. Through the Visa Security Program ICE employs trained special agents overseas to high-risk visa activity posts to identify potential terrorists and criminal threats before they reach the United States. These agents conduct targeted, in-depth interviews of individual visa applications and applicants prior to issuance and recommend refusal or revocation of applications, when warranted, to consular officers.

ICE now conducts Visa Security investigations at 19 high-risk visa adjudication posts in 15 countries. In fiscal year 2012 to date, the Visa Security Program has screened over 452,000 visa appli-

cants and, in collaboration with our State Department colleagues, determined that over 121,000 required further review. After reviewing these applications ICE identified derogatory information on more than 4,700 applicants.

Another program at ICE dedicated to enforcing non-immigrant visa violations is the Counterterrorism and Criminal Exploitation Unit, or CTCEU. Through the CTCEU, ICE proactively develops cases for investigation in cooperation with the Student and Exchange Visitor Program and the US-VISIT Program. Both programs enable ICE to access information about the millions of students, tourists, and temporary workers present in this country at any given time and to 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 preliminary analysis of data from the Student and Exchange Visitor Information System, also known as SEVIS, as well as from US-VISIT. After this analysis, the CTCEU determines potential violations that warranted field investigations and/or establishes compliance or departure dates from the United States.

Since the unit's creation in 2003, nearly 2 million such records using automated and manual review techniques have been analyzed. On average, ICE initiated approximately 6,000 investigative cases annually and assigns them to our special agents in the field for further investigation. This has resulted in over 1,800 administrative arrests per year.

In January 2012, for example, ICE special agents from our Washington, DC office arrested a Saudi Arabian national who was admitted as an F-1 nonimmigrant student and violated the term and condition of his admission. The individual was referred for investigation after his status was terminated in SEVIS for failure to maintain student status as well as for possessing indicators of National security concerns, including threatening to blow up the White House and the Saudi Arabian Cultural Mission to the United States.

ICE has made significant progress in preventing terrorists from exploiting the visa process. We will continue to work closely with our law enforcement partners to combat visa fraud and protect the integrity of our visa security system.

Thank you again for the opportunity to testify today, and I would be pleased to answer any questions that you may have.

Mrs. MILLER. Thank the gentleman.

The Chairwoman now recognizes Mr. Donahue for his testimony.

**STATEMENT OF DAVID T. DONAHUE, DEPUTY ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. DONAHUE. Good morning, Madam Chairwoman, Ranking Member Cuellar, and distinguished Members of the subcommittee. I have been involved as a—with visas for the majority of my 29-year career with the State Department and I appreciate this chance to testify here today, and I have submitted written comments for the record.

The Department of State is dedicated to the protection of our borders through a layered approach to border security. This approach enables us and our partners in DHS 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 constantly refining and updating the technology that supports the adjudication and production of U.S. visas. 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. This is 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.

Our new on-line visa application forms provide consular officers and fraud prevention officers, and soon our intelligence and law enforcement partners, the opportunity to analyze data in advance of the visa interview, including the detection of potential non-biographical links to derogatory information. We have ambitious plans to screen more of this data with our partners in the law enforcement and intelligence communities to make the visa system even more secure.

In addition to biographic checks the Department performs checks on two biometric identifiers. Most visa applicants' fingerprints are screened against DHS and FBI databases. We also use facial recognition technology to screen visa applicants against a watch list of photos obtained from the Terrorist Screening Center as well as visa applicant photos contained in the Consular Consolidated Database.

Our vast database of visa information is fully available to other agencies. It is specifically designed to facilitate fast, accurate, and comprehensive sharing to meet the needs of a 24/7 global screening environment. In return, we have unprecedented levels of cooperation with law enforcement and intelligence agencies and benefit from their capabilities and resources in ways that were not possible at the time of 9/11.

Let me turn to our coordination with DHS to address the overstay issue. Consular officers at posts abroad use arrival and departure data from—for non-U.S. citizen travelers contained in the DHS Arrival and Departure Information System, ADIS, to help determine whether an applicant who visited the United States previously departed by the end of his or her authorized period of stay and whether the applicant qualifies for a visa. The consular officer also use their knowledge of the local language, culture, and conditions as part of their evaluation of an applicant's eligibility for a U.S. visa.

ADIS overstay information is also included in the revocation recommendations the Department receives daily from CBP's National Targeting Center and our consular sections abroad. Whether the overstay information exists in isolation or as one of multiple factors, the Department considers the information as part of our visa

revocation process. If a subject whose visa has been revoked is in the United States our colleagues from DHS are responsible for removal. As Mr. Cuellar mentioned, we are working very closely with the—with ICE and Director Morton to do everything we can to help with those removal processes.

Consular officers have detailed instructions on visa revocation procedures and reinforce standing guidance on their discretionary authority to deny visas under 214-B of the Immigration and Nationality Act with specific reference to cases that raise security and other serious concerns. We have created a dedicated revocations unit in Washington that focuses exclusively on ensuring that any derogatory information on a U.S. visa holder is rapidly evaluated and acted on.

Distinguished Members of the committee, our current layered approach to security screening, in which each agency applies its particular strengths and expertise, best serves our border security agenda while furthering traditional U.S. interests in legitimate travel, trade promotion, and the exchange of ideas. The United States must meet both goals to guarantee our long-term security.

Thank you, and I am ready to answer your questions.

[The statement of Mr. Donahue follows:]

PREPARED STATEMENT OF DAVID T. DONAHUE

MARCH 6, 2012

Good afternoon Madam Chairwoman 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 world-wide 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 world-wide rollout of our on-line non-immigrant visa application form is complete, and we are currently piloting the on-line immigrant visa application form. These new on-line 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 on-line 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 non-immigrant 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 2 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 watch list 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, on-going 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 al-

ways 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 3 years. Overstays of 365 days or more may make an applicant ineligible to reenter the United States for 10 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 watch list 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 fiscal year 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, 7 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 front line 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.

Mrs. MILLER. Thank the gentleman.

I thank all of the witnesses for your testimony today.

I guess I would start with Mr. Edge. As we were talking about Khalifi, this individual that apparently had some run-ins with law enforcement, I think in 2005—we were looking through some of the various information before we had our hearing here—and as we mentioned during the testimony, what a great program Secure Communities is. Do you think if Secure Communities was in place that it would have flagged this individual, you know, if he was to be picked up by just—in a regular line of law enforcement during the course of everyday duties? Do you think that the Secure Communities would have picked this individual up, and are you finding that Secure Communities is really having a fantastic impact now on your ability to do so?

Mr. EDGE. Well, I think when——

Mrs. MILLER. Just press the button there.

Mr. EDGE. Yes. When Mr. Khalifi was arrested in the early part of 2000 we did not have a mechanism in place to be able to communicate once somebody's fingerprints were rolled when someone was arrested, but we are working towards that these days with US-VISIT and our ability to run fingerprints and get information from those who are arrested at the State and local level. This isn't something that would have risen to the Federal level at the time of his first arrest. I believe they were even misdemeanor charges in a State system in Virginia.

So I think that as we move forward the level of communication between our State and local counterparts, whether it is through Secure Communities or just by the various programs we have and our databases that are connected, we will be able to at least identify those people who are connected into the immigration system.

Mrs. MILLER. No. That is really something that, again, referencing the 9/11 Commission, one of their recommendations—ex-

cuse me—that we keep in mind all the time is when they talk about how—we need to move from the need to know to the need to share information with the various agencies, and at every level of government, whether it is the Federal level, the State level, the county level, the local level, et cetera, with all of these kinds of things.

But one of the things that we are focusing on, obviously, in this subcommittee hearing is how we try to bring more attention to the fact that, as I mentioned, over 40 percent of all of the illegals that are in the country are here on visa overstays, and as we have talked about, didn't come across the desert and the southern edge of our border, which is where everybody seems to think that all of the illegals came from.

So you have all of these visa overstays and it really is for the Congress, I think, to try to prioritize our funding and focus the funding that we have, understanding the constrictions that we have with the financial crisis that is facing our Nation, but we are looking through your budget, for instance, with ICE, and I am not sure if this is true—maybe you can tell me what percentage of your—of the budget that ICE has that you are focusing on visa, for instance. You probably don't have those exact numbers, but we were sort of trying to figure it out and it looks like it is a small percentage—maybe 3 to 5 percent of the budget that is even focused on visa overstays.

So I guess I would ask you to try to answer that the best if you could, or how do you identify overstays that have been in the country for over 13 years, like this particular individual? Do you consider the country of origin? What is your matrix, actually, for looking at these things?

Mr. EDGE. Well, Madam Chairwoman, that is a complicated question in that our investigative responsibilities are very vast. We have a lot of disciplines that we are empowered to investigate, from human trafficking, document and benefit fraud, narcotics smuggling, a wide variety of different investigative areas that we are responsible for. Through conducting those investigations we do and we are able to identify visa overstays.

If it is someone who is not in contact with our investigative process and homeland security investigations it is certainly possible that we would not come in contact with them if they had been in the country for a very long time. But certainly, given the communication that we have and the various databases that we are working with today, and through our CTCEU process, as Ranking Member Cuellar mentioned earlier, we are certainly in a better position to identify these overstays in the normal course of business.

Mrs. MILLER. Mr. Cohen, I took some notes when you were talking there. You were saying that your new system that you have that you now have the ability to track by countries, and as you are vetting sort of the backlog that you testified to the committee—subcommittee for previously back in September, how many overstays do you think you have from special interest countries, or how are you doing with identifying from particular countries?

As you also mentioned, the Secretary, when she was testifying here earlier, said that the system that they—that you are operating under right now is a good bridge to what ultimately all of our mu-

tual goal is, to have a really robust biometric system. So I guess I am just, again, trying to get a feel for what your matrix is for what you are looking at with the various special countries. As my colleague was mentioning, all of the various countries and the days it is rather startling to look at some of those kind of things, and obviously that is an indicator that we all need to be looking at.

Mr. COHEN. Thank you, Madam Chairwoman.

So it is a work in progress still, so we are continuing to implement these improvements that I referenced in my opening statement. I will get back to the subcommittee with regard to specific numbers on the special interest countries, but your previous question to Mr. Edge and your question to me raises sort of the key issue here, which is up until this effort there was no systematic effort by the Department to integrate all of these various repositories of information, in which information vital to determining whether someone had actually departed the country, had changed their status, was in custody for another crime, or was actually an overstay, and they weren't linked together so it made it very difficult.

So in the case of Mr. Khalifi, the information—and others that went into overstay status in the late 1990s and early 2000, prior to the development of US-VISIT—the information repository which reflected that they were potentially overstay was TECS—Treasury Enforcement Communication System. TECS system was a system that part of the data it collected were border crossings, so we could tell when somebody came into the country and we could also tell if they left the country; that was in TECS. However, most local police departments during that time didn't have access to TECS, and unless they had some reason to believe that an individual detained for some other offense was, in fact, an immigration violator, it would be rare that they would call INS and ask them to do a—what we would call a TECS check.

Through the system enhancements that I described earlier we are automating that process, so today if someone is arrested for any type of offense part of the query that will take place through both the Secure Communities program and through the enhancements that I have been describing will be an automatic check of immigration systems, will be a check of TECS, as well. So the chances are greatly enhanced that today if somebody were to be booked in for a minor drug offense—or a serious traffic violation, even, the person's immigration status would come to our attention.

Mrs. MILLER. Thank you.

Chairwoman recognizes the Ranking Member.

Mr. CUELLAR. Thank you, Madam Chairwoman.

Without going over the numbers over those countries that are a little bit less cooperative in working with us, you know, you have—I believe the last time your managing director of visa services was back here with us, and I think it was in November 2011, he said that there are some countries like Brazil and China that there is increase—there is an increase in demand for visas—travel visas.

Let's talk about China, since it is one of those countries that has not been very—what incentives—or does it make sense that if a country is not taking back those folks that they are supposed to be taking back and they are delaying, why are we going to be increasing their visas? I understand travel, and business, and—I under-

stand all that. But just specifically in this issue, why are we increasing the number of visas but at the same time, at the back end, for the folks that they are supposed to be taking back, they are still delaying them by large numbers itself.

I guess—and I can understand—I can already guess what you are going to say and I understand all that, but what suggestions do you have? Because I am specifically looking at—to be quite honest, we brought this up—I mean, there have been some steps—we are looking at putting some appropriation language, and hopefully that will direct you all to those particular countries.

Do you have any suggestions as to what we can look at to specifically help you do that? I know the State Department might be in a difficult position to work with those countries, but what can we do? What sort of language would be appropriate, understanding it is going up but understand at the back end those countries—why have we provided that incentive to them?

Mr. DONAHUE. Well, first of all, let me say that we agree with you entirely that the wait times for these documents are unacceptable and we have been working very closely with Director Morton, at ICE. Our assistant secretary—they have formed a group; they go out and meet with the ambassadors. Also, in our capitals overseas we are meeting with these senior officials there. Our ambassador in China, and we have a new ambassador going out to India, hopefully, if confirmed. These are all opportunities to make it clear to those governments how important this is to our bilateral relationship and to their obligations to do this.

We do have authority, as you know, under the INA, to address this, also, and we feel like that is the last step we want to exhaust, as we have discussed in your office, all the diplomatic ways to get countries to cooperate with us on this. On the countries that are sending large numbers of travelers to the United States we—it is a delicate balance. I don't have an answer.

These are real jobs that they are creating in the United States when they come here. They stay in the hotels. Chinese, they say, spend \$6,000 a day in the United States while they are here. They buy our goods and services. So it is very difficult to do things—and for China it is very hard to put any more—make it more difficult because they only receive 1-year visas. Their country doesn't care whether their citizens come here; it is more that we care that they come here and visit our great places, attend our universities paying full tuition, they buy our goods and services, our tractors, all those things. So they have very little incentive to change their ways and we have all good reasons for our economy to attract them here.

Mr. CUELLAR. Yes. I understand, and I—you know, I appreciate the visits that we had and I understand all of that. But there has got to be something we can do. I mean, we just can't—and I—again, I appreciate—I am complimenting all three of you all and your—the men and women that work for all of you all. You are all doing a good job. I am not criticizing you.

Is there anything we can try to help you? Really, the only way I am looking at this, because I don't know about reauthorization or any bill that is moving, but the appropriation bill, one way or the other, is going to pass.

Mr. DONAHUE. Right.

Mr. CUELLAR. So we can talk about it later, but I am asking all three of you all if you all want to talk later, or, you know, with the Chairwoman or myself. We have got to put some language there, but I don't want to put some language that will be counter-productive. But I just—you know, I just don't see why we keep feeding what they have biting on the other hand on that.

But I understand international education; I understand and I appreciate all that. I know it is very, very difficult, but there has got to be something. You know, China might be a special situation. What about Bangladesh? What about the other countries? I mean, not everybody is on the same level as China.

But anyway, I would look forward to working with you on some language, and again, I am not being critical. I really appreciate the prioritization work that both the State Department and Homeland is doing. But I am asking you to give me some suggestions.

Mr. DONAHUE. All right. We will see what we can suggest to you and we will continue working on this. This is a top priority for Assistant Secretary Jacobs.

Mr. CUELLAR. Okay.

Thank you to all three of you. I appreciate the work that you all are doing.

Thank you, Madam Chairwoman.

Mrs. MILLER. Thank the gentleman.

The Chairwoman now recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairwoman.

Appreciate the work you guys are doing and I thank the Chairwoman for having this very valuable hearing today.

Mr. Edge, what does ICE stand for?

Mr. EDGE. Immigration and Customs Enforcement.

Mr. DUNCAN. Okay. I am going to leave customs out of this because we are talking about immigration. Immigration enforcement. Immigration enforcement.

At what point is someone unlawfully present in the United States?

Mr. EDGE. When they enter the country illegally, sir.

Mr. DUNCAN. So if they overstayed their visa that is not unlawful?

Mr. EDGE. That is unlawful.

Mr. DUNCAN. Okay. So if you cross the Southern Border without coming through a natural port of entry you illegally enter into the country, you are unlawfully in the country. If you overstay your visa you are unlawfully in the country, based on what you just said.

So Chairwoman asked a question or maybe made a statement—how many visa overstays do we have present in the country at any given time?

Mr. EDGE. I don't have an exact number on how many are presently in the country at this time.

Mr. DUNCAN. Is there a percentage of the illegal aliens, would you say—50 percent, 30 percent, 10 percent?

Mr. EDGE. I will be able to give you a number of—between 2009 and 2011 37,000 both criminal and non-criminal aliens have been removed and those were overstays.

Mr. DUNCAN. How many have been removed. Okay.

It would seem to me that if you were going to think about committing a terrorist act in this country that—and you were a foreign national you would apply for a visa, and if you kept your nose clean and you didn't have a criminal record in the country, you weren't a person of interest that would pop up on some sort of prescreening that you would be able to get a visa to come to this country and then you could just overstay it and work on the terrorist act, like we saw recently with the D.C. bomber.

So I want to commend the State Department, Mr. Donahue, for your process of prescreening applicants for visas. That is really where your testimony stayed.

But in 1996 Congress said, "You know, we are going to create a biometric screening for exit and entry into this country so we will know when folks enter and we will know when they leave." I have traveled around the world in a lot of different countries where you have to give biometric data—fingerprints, whether it is just one finger or a complete hand.

So 1996, that has been about 16 years that we have had this focus. The 9/11 Commission Report revisited that.

So you all do a good job prescreening applicants for visas if that person is a person of interest or may have a background in that country that raises suspicions, or whatever, they would be denied a visa. But if they haven't had that background they would probably be given a visa.

So the problem, I think, is us having a reliable system in place for knowing when foreign nationals exit this country that have come on visas. So, after 16 years and this instance from Congress, I ask the State Department, when are we going to complete this process of an entry and exit biometric screening?

Mr. DONAHUE. The——

Mr. DUNCAN. Which I think begins with the State Department.

Mr. DONAHUE. It begins with the State Department and we collect biometrics on almost all applicants who are coming to the United States. Those are immediately transmitted to the Department of Homeland Security and are used for each and every person who enters the United States—not each and every, but almost all people who enter the United States then submit, as you have seen and as you have done overseas, people coming into the United States, including those legal residents, including other travelers—visitors.

Mr. DUNCAN. How is that information used? You are gathering that information from them as they come to the United States——

Mr. DONAHUE. That is right.

Mr. DUNCAN [continuing]. But we are not gathering that information as they exit.

Mr. DONAHUE. That is correct. I would defer to Department of Homeland Security on that because that is a Department of Homeland Security program—departure.

Mr. DUNCAN. I will refer to them.

Mr. Cohen.

Mr. COHEN. Mr. Duncan, thank you. As you pointed out, there are three elements of an effective entry-exit system: It is the collection of information and biometrics upon application and entry, it is

the feeding those biometrics into a information lair that connects not only that data with other immigration data but that data with other law enforcement data and intelligence data, and then there is the collection of information upon departure.

The Department is finalizing its plan for a comprehensive biometric exit system. We expect to have it to Congress shortly. As required by our recent appropriations bill, it will lay out not only the details of how we will link those three levels of activity together but how we will also achieve immediate benefit to your other point, which is making sure that we are better able to identify those visa overstays who are actually visa overstays and still in this country who aren't National security or public safety threats.

Mr. DUNCAN. Okay. You determine that someone has overstayed their visa; they haven't left on the date they were supposed to. A little period of time goes through, you check your records.

At what point in time do you all start implementing the process of finding the address where they said they were going to be, researching where that person may be, and trying to enforce removing them from the country? At what time does that kick in?

Mr. COHEN. I believe it is 30 days after the point of overstay. But if I may point out, because the process today requires so many manual database checks and is so resource-intensive ICE prioritizes for enforcement actions those visa overstays that are National security or public safety risks.

When we implement the enhancements that I described earlier we will be better able to identify those other visa overstays, provide that information into law enforcement systems so upon next encounter their overstay status will be identified, ensure that information gets to State Department so if they have departed the country and they seek to come back from a visa waiver country or through a visa process again State Department can take appropriate actions.

So we are going in the direction that you are suggesting. The problem is all of these systems that we need to make these determinations are disconnected and they use different language.

Mr. DUNCAN. I am out of time and I will look for a second round of questions, but I would just make a point—they are disconnected. The 9/11 Commission Report pointed to the fact that the disconnect of agencies talking to one another wasn't there. You had walls of separation. That is the problem, and I am afraid that we have got to correct that if we are going forward.

I will yield back.

Mrs. MILLER. We probably aren't going to have a second round of questions, so if you would like to ask one more question, please, I will yield to you.

Mr. DUNCAN. Okay. Thank you.

I want to continue going down this path because—we see, based on the—number of visa overstays that were involved in terrorist activity, at what point of time is someone that is stopped for a traffic violation or misdemeanor, as we saw with the gentleman on Capitol Hill, at what point in time do you say, “Well, they are a visa overstay; they are unlawfully present in the United States of America,” and they are returned to their country?

Americans are scratching their head looking at the data that is provided—and this is real data, actual cases. They are scratching their head going, “Why isn’t America—these are the low-hanging fruit. Why isn’t America dealing with this?” Because I am—they are scratching their head. Answer that for me, someone, please.

Mr. COHEN. So I would answer your question, Congressman, by saying we are dealing with it and we have finally begun the process of linking those disparate systems that you identified earlier together so that when a police officer arrests somebody and books that individual into jail they are quickly identified as being in violation of their immigration status so that ICE can be notified and appropriate enforcement actions can take place. That is the very capability that we are beginning—we have begun the process of putting into place.

Again, we expect to have the detailed plan to Congress shortly that will lay out what we are doing, but it has already begun, as I testified earlier, and we have already seen dramatic improvements in our ability to identify those visa overstays that represent National security or public safety threats. Again, this is from a pool of individuals that would not have been vetted before.

So progress is being achieved. To your very point, we absolutely agree with you. These systems have to be linked together and they have to be linked together to support the operational activities of ICE and CBP and the other enforcement agencies that are responsible for enforcing our immigration laws.

Mr. DUNCAN. You shouldn’t have to keep coming back to Congress because the law is the law of the land right now. Immigration and Customs Enforcement—immigration enforcement means that you enforce the immigration laws of the United States of America, and if you do that then folks that are caught on misdemeanors that have been here for 13 years over their visa deadline are picked up and they are deported from this country. That is what America expects from you, to enforce immigration laws that are on the books today and not keep having to come back to Congress for more and more and more.

Integration—I get that. But customs enforcement and immigration enforcement is your responsibility. I charge you guys with doing your job.

With that, Madam Chairwoman, I yield back.

Mrs. MILLER. Chairwoman now recognizes the gentleman from the great State of Michigan, Mr. Clarke.

Mr. CLARKE of Michigan. Thank you, Madam Chairwoman.

While we realize it is very important to track those individuals who are overstaying their visas, especially those who are likely to be terrorists, I also think it is important for this Congress and Department of Homeland Security to focus on preventing terrorists from entering our country in the first place. So to that end, I want to thank the advocacy of our Chairwoman who has been focusing on how we can get more resources to better secure our Northern Border to prevent these criminals, terrorists, and drug traffickers from coming across the border into our country, especially securing our border between Canada and Michigan. We do need the resources to better monitor that border and apprehend these folks in case they do come over.

To that same end, my question is this: How can we better secure the visa process to prevent terrorists from coming into our country in the first place—better secure that process but yet tailor it in such a way that we don't discourage but even encourage the immigration that we do need in this country? You know, I represent the city of Detroit, a metropolitan area that needs more economic investment. Capital is global. We want to encourage more international investors and entrepreneurs to come to this country to get a green card, especially when then invest in distressed areas like Detroit, or Pontiac, or Flint, in Michigan.

How can we have a process that balances the security that we need to prevent these folks that want to do us harm from even getting into this country but encouraging investors, entrepreneurs, encouraging those international graduates, especially in science and engineering and mathematics to actually stay in the United States to promote more innovation that will create more jobs for our country?

Mr. EDGE. Thank you very much for your question, Mr. Clarke. As far as ICE is concerned, we have our Visa Security Program, and what we are trying to do to encourage the expedited process of—and vetting of visa applicants is to do a lot of that on the domestic side through technology. We have many offices overseas—approximately 71 in 47 countries, and what we would like to do and what we have begun to do is to use our technological capabilities to vet these applicants in conjunction with our friends at the Department of State to enhance the process, to encourage people to want to come to this country, and they will know that the process will be a little faster than it has been in the past.

So that is one of the things that, through the Visa Security Program, we are doing. This will also allow our people who are in those other countries working and representing the United States in homeland security investigations to focus more on investigative work. But we are actively working on those technological enhancements right now.

Mr. COHEN. If I may add, Congressman, I think you raised an excellent point, and part of the answer includes extensively pre-vetting to the greatest degree possible either those individuals or those corporate entries seeking to cross the border. So the auto industry in Michigan and Detroit area rely on just-in-time deliveries. If those deliveries of parts and goods do not make it to those factories cars are not going to be produced.

People travel from Windsor to Detroit every day to enjoy restaurants and enjoy other elements. So what we are moving towards is an environment where to the greatest degree possible we can validate those people who have a legal—who legally can enter this country, whether they are doing it for business or for pleasure, and vet those people against the broadest array of intelligence and law enforcement systems so we can weed out initially, before they come to this country, those people who represent a danger to this country, thereby enabling those who don't represent a danger who can help our economy grow can travel more effectively and efficiently to this country.

Mr. CLARKE of Michigan. Thank you, Mr. Cohen.  
Thank you, Mr. Edge.

Mr. DONAHUE. Let me just mention that the prevention of issuance to these—of visas to persons like the overstay is one of our key goals in all of our visa adjudications. We do a lot of training but we also do a lot of what we call validation studies. We will take a group of people, using information from—the ADIS records from the Departure and Information Service, and we will look to see if a person—if this group of persons—it could be a group of elderly people coming for vacations or to see their family members—are they likely to overstay in the United States, or students? We will do this by groups, and we do it from a number of—from all countries around the world and check to see how our officers are doing.

We also make sure that they understand what the culture is, what is the likelihood that people will return? We refuse about a million visas a year, and yet we find in our validation studies more and more that we are getting very close to finding that almost everyone—we would like it to be everyone—uses their visa appropriately and comes back in many of the countries where we have been doing these validation studies.

Mr. CLARKE of Michigan. Thank you, Mr. Donahue.

I yield back my time.

Mrs. MILLER. Chairwoman recognizes the Ranking Member.

Mr. CUELLAR. Thank you, Madam Chairwoman.

Couple questions. It is concurrent—that is, Mr. Cohen, two questions real quickly—in its current configuration the U.S. visa program has failed to fulfill its statutory requirement regarding deploying a biometric exit system to track visitors to the United States and better identify overstays. The administration's fiscal year 2013 budget request proposes that we transfer the US-VISIT's functions from NPPD to CBP and ICE. Some have expressed concerns that this transfer will be detrimental to the U.S. visa mission but others argue that aligning this mission with the relevant components makes more sense.

Can you please explain how aligning US-VISIT with CBP and ICE would strengthen the program and help DHS get an exit system done?

Mr. COHEN. Thank you, Congressman. You know, the Secretary isn't a big fan of moving boxes around and it is—it—she has rarely come to Congress and sought an organizational change such as this, but the rationale behind the change is much if not all of what US-VISIT does ties directly to the enforcement and operational activities of either ICE or CBP.

So from an efficiency perspective and from a financial perspective, in order to avoid duplicative efforts, it just made sense to place those functions of US-VISIT that most support ICE's operational mission into ICE and those parts of the US-VISIT mission that best support CBP's operational issues or operational functions into CBP.

The only other thing I would add is that as we learned through this initiative from the beginning, that the effective management and enforcement of our visa and immigration laws, of our counter-terrorism responsibilities occurs best when the different elements of the Department are working closely together. So the movement of US-VISIT into CBP and ICE should not be viewed as a taking

a step back, that the Department is going to continue to enhance its operational coordination across all of its components.

Mr. CUELLAR. Okay. Thank you, Mr. Cohen.

Finally, you say that DHS will soon transmit to Congress your plan for deploying the biometric exit. How soon is soon?

Mr. COHEN. Without giving a specific date, it is going to be within weeks, not months, not years. We are putting the finishing touches on the report as we speak.

Mr. CUELLAR. Weeks, so that is within the next 30 days?

Mr. COHEN. That would be our intention.

Mr. CUELLAR. Okay. All right.

Thank you to all three of you all.

Thank you, Madam Chairwoman, for having this meeting today.

Mrs. MILLER. Thank you very much.

I certainly want to thank all the witnesses, as well.

Mr. Cohen, I was going to ask that question so I am glad my colleague did, as well. We are certainly interested to see what you described as a work in progress. I think it is hopefully clear from all of the Members here that this issue is something that this subcommittee is very, very focused on—and I really don't think that enough attention has been paid in the past, as I say, because—we seem to be so focused on what is going on with securing—our Southern Border, in particular. Believe me, I am not minimizing the challenges that we have down there, certainly with the drug cartels, and the violence, and the spillover, et cetera, and illegals that are coming across. I think this Nation certainly wants this Congress and all the agencies that are under our umbrella to exercise the political will that we need to to secure our borders—all of our borders.

But I think this visa overstay issue, again, is something that we have just not paid enough attention to. Certainly we want to work with all of your agencies on making sure that Congress is, through the appropriations process, et cetera, is assisting where we need to to prioritize our spending.

Again, I always thank our Chairman of this—of the full committee for putting those posters—will you—turn around you see the posters on the back of the wall there, which are of the burning towers on 9/11 and why the Department of Homeland Security was even put together. Again, four of those cowards—those terrorists that attacked innocent—and murdered innocents that day were here on visa overstays.

So we don't want to be in any way an adversarial position with any of your agencies. We do commend you for all of the work that you have done and are doing on this issue and we certainly want to be a conduit—to be a success in making sure that we do have a very comprehensive—not just the entry but the exit system, really a robust biometric system.

So again, we thank the witnesses for all of your testimony and look forward to working with you shoulder-to-shoulder to solve this problem.

With that, I would mention that if any Members of the subcommittee have any other additional questions the hearing record will remain open for 10 days. With that, the subcommittee will be adjourned. Thank you.

[Whereupon, at 11:05 a.m., the subcommittee was adjourned.]

