CREATING SECURE BORDERS AND OPEN DOORS: A REVIEW OF DHS-STATE COLLABORATION ON U.S. VISA POLICY

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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THURSDAY, SEPTEMBER 9, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Davis of Virginia, Souder, Ose, Maloney, Cummings, Kucinich, Tierney, Van Hollen, Ruppersberger, Norton, and McCollum.

Staff present: Melissa Wojciak, staff director; David Marin, deputy staff director/communications director; Keith Ausbrook, chief counsel; Ellen Brown, legislative director and senior policy counsel; Jennifer Safavian, chief counsel for oversight and investigations; David Young and Jim Moore, counsels; Robert White, press secretary; Drew Crockett, deputy director of communications; John Cuaderes, senior professional staff member; Teresa Austin, chief clerk; Sarah Dorsie, deputy clerk; Corinne Zaccagnini, chief information officer; Michael Yeager, minority deputy chief counsel; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. Good morning. A quorum being present, the Committee on Government Reform will come to order.

I want to welcome everybody to today's hearing, which continues the committee's history of oversight hearings on U.S. visa policy. The committee has previously reviewed visa backlog issues and the implementation of the US-VISIT program. This hearing will focus on the collaboration between the Department of Homeland Security and the State Department in the establishment and implementation of U.S. visa policy.

We all agree that homeland security is a priority and that, as a result of the acts of September 11th, we need to closely scrutinize visitors to our country. This tighter scrutiny has undoubtedly been a major contributing factor to the increase in visa application and processing delays around the world.

Lest we think this is a trivial matter, next to issues concerning Social Security, visa delays tend to be the most requested issue when it comes to casework within our districts. We have heard in prior hearings about the serious impact visa delays have on U.S.

businesses, on tourism, institutions of higher learning, the science community, and many others.

Today, however, the committee will examine the collaboration between the Department of Homeland Security and the State Department in the establishment and implementation of U.S. visa policy, and how this collaboration is mitigating the delays to facilitate business and tourism while at the same time ensuring security.

Section 428 of the Homeland Security Act of 2002 grants DHS the authority to set policy regarding the granting and issuing of visa. Nearly a year ago, DHS and State announced the completion of a Memorandum of Understanding that clarifies the roles of both agencies and established mechanisms through which interagency concerns could be addressed.

In addition to the requirements set out under Section 428, a number of policy changes directed by both agency decisions and statutory requirements have changed the way individuals seek visas to travel to the United States. These changes are primarily in the information that is collected in the visa applications and the procedures by which visa applications are adjudicated. Despite the fact that DHS is still in its infancy and State has had over two centuries to practice its mission, it is essential that the two departments bring together their personnel, their information and expertise to secure the borders while facilitating the travel of legitimate visitors.

The hearing will examine the collaboration between DHS and State, and the challenges facing the two departments in a number of areas, including the requirements for DHS to deploy visa security officers as an added security component to the visa adjudication process. Although these officers were statutorily required to be installed in Saudi Arabia to review all visa applications, this specific role has been under consideration by both State and DHS.

The committee is also interested in the progress in determining which countries may receive visa security officers in the future and what value they will add to the visa adjudication process. The DHS Office of Inspector General recently released a report that identified several challenges facing the Department of Homeland Security in the implementation of the Visa Security Officer program.

Particularly, the IG found that DHS faces challenges in recruiting, training, and maintaining permanent security officers in overseas posts. It is our understanding that State and DHS have established internal working groups to manage the implementation of requirements under Section 428, and will discuss the implementation of these requirements.

In a previous hearing, the committee reviewed the visa backlog problems resulting from the lengthy Security Advisory Opinion process required for students, scientists, and other applicants who travel to the United States to work or study particularly on sensitive technologies. As a result of an interagency review of the entire process, DHS and State have recently modified the process to reduce the time required for applicants to obtain clearance from the applicable agencies without sacrificing security.

DHS and State have collaborated in the implementation of the US-VISIT program. State has nearly completed its installation of equipment and software at the over 200 visa issuing posts around

the world as part of the Visa Biometric Program. Biometric data collected at embassies and consulates are being entered into a DHS data base that is then used to check applicants against watch lists and to confirm the identity of a visa holder when a visitor attempts entry at a port of entry.

Today, the Government Accountability Office released its report on the challenges facing the two departments in the strategic use of the data being collected, the embassy and the consulate workflow designs that need to be changed to optimize biometric checks, and the ensuing facility and personnel needs that may result from the workflow design changes.

DHS and State access to lost and stolen passport information is an important tool in preventing visa application fraud. The information is especially important in preventing imposters from entering the country via the Visa Waiver Program by assuming the citizenship of a country participating in the program.

In a previous report, the DHS Inspector General identified several challenges in collecting the data from foreign countries and making the data accessible to the officers at the ports of entry. The committee looks forward to hearing from State and DHS on the improvements made in this area.

Through this hearing, the committee hopes to learn about the effectiveness of the collaboration between State and DHS in developing and implementing an effective visa policy. Information sharing is at the core of this effort. The committee also hopes to look beyond statutory requirements and deadlines to have a productive discussion on long-term issues.

In many ways this hearing today goes to the heart of information sharing. Information—who has it, who gets it, and who acts on it—is paramount in protecting the homeland and facilitating travel for legitimate purposes. Information gathered by State or DHS is only useful as long as the other agencies are able to access and query that information. Information stovepipes are not only inefficient, they threaten collective security.

As we have experienced in the past, agencies not only experience technological and resource limitations to information sharing, but also have cultural and sometimes statutory barriers in place that prevent useful information sharing. But we hope that is becoming a thing of the past. I am confident that after today's hearing we will have a better understanding of how agencies that work together can overcome challenges, what challenges still exist, and how information sharing is the key to successful visa policy.

I want to thank all of our witnesses for appearing before this committee today, and I look forward to their testimony.

[The prepared statement of Chairman Tom Davis follows:]

Opening Statement
Chairman Tom Davis
Committee on Government Reform
"Creating Secure Borders and Open Doors:
A Review of DHS-State Collaboration on U.S. Visa Policy"

September 9, 2004

I would like to welcome everyone to today's hearing, which continues the Committee's history of oversight hearings on U.S. visa policy. The Committee has previously reviewed visa backlog issues and the implementation of the US-VISIT program. This hearing will focus on the collaboration between the Department of Homeland Security and the State Department in the establishment and implementation of U.S. visa policy.

We all agree that homeland security is a priority, and that as a result of the acts leading up to September 11, we need to closely scrutinize visitors to our country. This tighter scrutiny has undoubtedly been a major contributing factor to the increase in visa application and processing delays around the world. Lest we think this is a trivial matter, next to issues concerning Social Security, visa delays tend to be the most requested issue when it comes to casework within our districts. We have heard in prior hearings about the serious impact visa delays has on U.S. businesses, tourism, institutions of higher learning, the science community, and many other areas. Today, however, the Committee will examine the collaboration between the Department of Homeland Security and the State Department in the establishment and implementation of U.S. visa policy and how this collaboration is mitigating the delays to facilitate business and tourism while at the same time ensuring security.

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The hearing will examine the collaboration between DHS and State and the challenges facing the two departments in a number of areas, including, the requirement for DHS to deploy Visa Security Officers as an added security component to the visa adjudication process. Although these officers were statutorily required to be installed in Saudi Arabia to review all visa applications, this specific role has been under consideration by both State and DHS. The Committee is also interested in the progress in determining which countries may receive visa security officers in the future and what value they will add to the visa adjudication process. The DHS Office of Inspector General recently released a report that identified several challenges facing DHS in the implementation of the Visa Security Officer program. Particularly, the IG found that DHS faces challenges in recruiting, training, and maintaining permanent security officers in overseas posts. It is our understanding that State and DHS have established internal working groups to manage the implementation of requirements under Section 428, and will discuss the implementation of these requirements.

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I would like to thank all of our witnesses for appearing before the Committee, and I look forward to their testimony.

Chairman TOM DAVIS. I now yield to any other Members who wish to make opening statements. Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chairman. I would like to thank you for holding this important hearing on U.S. visa policy.

Since the September 11th attacks on the United States, the security of our Nation is the most important issue facing us. Unfortunately, new visa policies and procedures have been a hardship for foreign students, academics, scholars, and scientists who come to the United States to teach, study, or to conduct research.

We also have foreign nations who are invited to participate in scholarly conferences who have been affected by these policies. It is critical that we not only closely examine the security of our country, but that we work to make changes to create a system that works for our colleges, universities, and businesses to allow those who have been invited to attend conferences and have been accepted to be educated in this country be able to do so.

I have spoken with college and university presidents, including my own president, Robert Bruininks, from the University of Minnesota, President Stephen Trachtenberg from George Washington University, and many others. These leaders in education are becoming more and more concerned that the world's brightest and most talented individuals are increasingly avoiding the United States to pursue educational opportunities and professional conferences in other countries.

I want to bring to the committee's attention a recent survey of the council of 113 graduate schools that indicated over 90 percent of the schools responding show that they had major decreases in international graduate student applications for 2004. The 600,000 international students studying in the United States each year contribute more than $12 billion to the U.S. economy. Not only from a scholarly, but from an economic perspective, our colleges and universities are concerned about the declining international student applications.

The major factor in this disturbing trend is post-September 11th visa application and approval process. This process does not allow for the screening of students, scholars, and scientists in an effective, efficient and timely manner. I have spoken with many of our Ambassadors in foreign countries. They are concerned about the process, as well as Secretary of State Colin Powell. We need a visa process that protects Americans, but we also need a process that does not disadvantage U.S. interests in this highly competitive global marketplace for intellectual capacity.

The former director of the CIA and current president of Texas A&M University, Robert M. Gates, articulates this well in a New York Times editorial dated March 31, 2004: "We simply cannot tolerate a visa process that fails to differentiate quickly and accurately between legitimate scholars and students and those individuals who may pose a genuine risk to our security."

This country's global leadership is at risk. For generations future leaders in government, industry, and scientists have been educated and trained at U.S. colleges and universities. These students, scholars, and scientists not only return home with a degree, technical training or professional experience, but they also return home a

strong friend of the United States and the people of the United States.

Over the years, millions of these special relationships have yielded profound diplomatic, economic and cultural benefit to the United States and the world. For example, the Secretary General of the United Nations, Kofi Annan, completed his undergraduate work at McAllister College in St. Paul, MN, and we are well aware of his relationship that was started at a U.S. higher education institution over 40 years ago.

At this moment in our Nation's history, cross-cultural understanding and global relations are critical to the world and critical to our safety. Now is not the time to discourage or dissuade the world's future decisionmakers from studying, teaching, or conducting research in the United States.

In response to a question I asked the 9/11 Commission during an international relations hearing on August 19th, Susan Ginsburg, the senior counsel to 9/11 Commission, stated: "We didn't see a lot of results, security benefits, from some of the measures put in place immediately after 9/11."

Mr. Chair, I look forward to today's testimony. I had proposed a joint hearing between the House Education and Workforce, and the International Relations Committee addressing the problems facing international students. Unfortunately, the chairman of the House Education and Workforce Committee did not see this as an important enough issue to examine. So I am pleased that this committee is looking at all visa processes.

Thank you again very much for this hearing, Mr. Chair.

Chairman TOM DAVIS. Thank you, Ms. McCollum.

Mr. Souder, any opening comments?

Mr. SOUDER. Yes, I would like to make a few comments.

One, some of the history of the problem that you are highlighting in your testimony today originally started in this committee as a reaction to the failures of the visa program in the State Department, and when we reorganized there was a very hot debate over whether this should be left in the State Department at all.

The State Department, I believe, and those of us who sought a compromise, made a compelling case that this was an entry level position for the State Department, and without that position it would be very difficult to recruit overseas and staff the State Department effectively; that sometimes State objections to individuals were not on security reasons, and so they had a compelling interest to stay involved.

But what that meant is we laid over the top of that a DHS person there too, so that either agency in effect could flag and stop a person. If there were State Department interests, if there were a national security interest, they could overlap.

Now, I think some of what I was just briefly reading suggests that clearly DHS is behind; they don't have language people that were trained in languages when we entered into this. Now, presumably their data base is better than what we had in the State Department. The plain fact is what we were faced with, the U.S. Congress, was a US-VISIT program that was fatally flawed and not working to protect the interest of the United States.

So now we need to look—and this is what this hearing process is—to figure out a way to integrate two departments and to do this in a long-term beneficial way to the United States that protects both State Department interests as far as other types of foreign policies and other types of clearance types of things, as well as national security interests. And maybe they can blend over time and maybe they can't be blended; that is what this committee came to a conclusion before. Otherwise, it would have merely been taken from the Department of State and put in Homeland Security.

But I understand the difficulty that this has been putting, particularly in certain areas of the world. The University of Notre Dame in Indiana has a very high profile case right now of a visiting professor, and it presents all kinds of problems when the information that has been gleaned may or may not want to be released for multiple purposes, and I don't know an easy way to work through this, and I am interested in the comments.

And if I could make a side comment that doesn't directly relate to this regarding one problem on entry-exit visits for U.S. citizens that I would like DHS to look at. Congressman Joe Pitts and I, as well as a number of Congressmen in Ohio, represent the largest Amish populations in the United States. It is becoming an increasing problem at Windsor and Niagara Falls because in their religion they believe a photo is a graven image, and it is potentially, so far it is up almost to the individual agent, whether he waives that if he shows other types of ID.

But in talking to a number of Amish, we may be able to work out something with a fingerprint. But clearly this is going to be, as we get better exit systems for the U.S. citizens, we are going to have to address that one subgroup that often goes into Southern Canada across that border who don't believe in photos, which leaves our system vulnerable to penetration if somebody disguises themselves if we don't address it.

And I think that community is willing to look at that, but it is one that is in two of the biggest border crossings where we have risk zones, at Buffalo, Niagara Falls and at Detroit, a question we have to work through.

I thank the chairman.

Chairman TOM DAVIS. Thank you very much.

Do any other Members wish to make opening statements?

Yes, sir, Mr. Ruppersberger.

Mr. RUPPERSBERGER. Thank you, Mr. Davis, for holding this hearing.

It is our fundamental duty to preserve the openness that so many have sought upon our shores without providing a logistical loophole for those with negative intentions to take advantage. Only with the truest of cooperation between the two departments can this process create an efficient and secure visa system.

One key component of this new system is the expansion of the DHS security reach. They augment the international experience of the State Department with the security expertise of the Department of Homeland Security. Recruiting, training, and maintaining such posts and positions must be held at a very high priority, as they are front lines in the war against lax security focus.

Not only must we learn from the past and implement for the present, but we must also expand our vision toward the future. An integrated personnel data collection system such as the Visa Biometric Program will facilitate the flow of information to and from officers at both visa offices and port of entry points. This real time information will be invaluable to the prevention of both visa and identification fraud.

Biometric data will allow for more accurate identifications, and we must work to optimize the system needed to ensure that this data reaches those who need it most in the most quick and efficient manner. Therefore, I welcome a more in-depth look at what programs have been implemented and how both departments are handling the new visa protocols.

Thank you.

Chairman TOM DAVIS. Thank you very much.

We now come to our first panel.

Mr. Cummings, any opening statements?

Mr. CUMMINGS. Mr. Chairman, I have a brief statement.

Chairman TOM DAVIS. Sure.

Mr. CUMMINGS. Thank you very much, Mr. Chairman, for holding this hearing today, which will allow us to look at the processes in place to expedite the issuing of non-immigrant visas at U.S. consulates abroad.

It is important, Mr. Chairman, that the existing collaboration between the Department of Homeland Security and the State Department regarding visas is functional, because the threat of terrorism is at an all-time high. It is important that we are able to readily distinguish between ally and foe.

By the same token, our economy is affected greatly by the ability to admit foreign visitors who come to this country for business, pleasure, students or scholars. America has always been, and must remain, a country that is welcoming to visitors and immigrants who can enrich the diverse culture of the United States.

In a previous hearing, "America's New Welcome Mat: A Look at the Goals and Challenges of the US-VISIT Program," our committee learned about the plans for the newly implemented entry-exit tracking program, US-VISIT. At that time we discussed several challenges of the program, such as the visa backlog, which had been attributed to the lengthy security process, as well as the possibility that innocent visitors might be detained at immigration ports of entry because of inaccurate and outdated information.

I understand that a DHS and State Department collaboration has resulted in a modification of the visa application procedure for security clearance that will reduce the amount of time needed to process the applications. I applaud DHS and the State Department for your efforts, and look forward to hearing about the processes both agencies took in order to make this improvement possible. I also hope that similar processes are being put into place to minimize the delays foreign business travelers, students and scholars are experiencing as well.

At today's hearing I anticipate that the DHS will update the committee on its overall progress in visa policy and oversight, and that the State Department will give an update on its implementation on fingerprinting, interviewing, and screening requirements

for visa applications. I look forward to the hearing and the testimony.

Mr. Chairman, again, I thank you for holding this hearing, and with that I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

Statement of Congressman Elijah E. Cummings
House Government Reform Committee
"Creating Secure Borders and Open Doors: A Review of DHS-State Collaboration on U.S. Visa Policy"
September 8, 2004 at 10:00 a.m.
2154 Rayburn house Office Building

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At today's hearing, I anticipate that the DHS will update the Committee on its overall progress in visa policy and oversight and that the State Department will give an update on its implementation on fingerprinting, interviewing, and screening requirements for visa applicants. I look forward to hearing their testimonies.

Mr. Chairman, thank you again for holding this important hearing.

I yield back the balance of my time.

Chairman TOM DAVIS. Thank you very much.

We will now move to our first panel of witnesses. Thanks for bearing with us.

I want to welcome the Honorable Janice Jacobs, the Deputy Assistant Secretary for Visa Services for the Department of State; the Honorable C. Stewart Verdery, Jr., the Assistant Secretary for Border and Transportation Security Policy and Planning for the Department of Homeland Security; and the Honorable Clark Kent Ervin, the Inspector General for the Department of Homeland Security.

It is our policy that we swear everybody in before you testify. If you would rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Thank you very much.

In order to allow time for questions, your entire statement is in the record, and the staff and members have reviewed that for our questions, but we would like to try to keep the testimony as close to 5 minutes as we can.

We have a light in front of you. It will be green for the first 4 minutes, yellow for the 5th minute, and then it turns red. When you see it turn red, if you can just start to summarize at that point, it will be helpful. We won't hold you strictly to it because we want to make sure you have an opportunity to make your case. We are just delighted to have you here today.

Ms. Jacobs, we will start with you. And thanks for bearing with us and being here today.

STATEMENT OF JANICE JACOBS, DEPUTY ASSISTANT SECRETARY FOR VISA SERVICES, U.S. DEPARTMENT OF STATE

Ms. JACOBS. Mr. Chairman, members of the committee, thank you for inviting me to testify on the cooperation between the State Department and the Department of Homeland Security on the implementation of U.S. visa policy. We are very pleased to review the tremendous progress we have made in the past year. Working together with the Department of Homeland Security and other agencies, we have improved the visa process and our ability to combat terrorism through enhanced information and data sharing, the use of biometric in travel documents, and an improved security clearance process.

Since September 11, the Department, working with other agencies, has made significant improvements to our ability to share information. We now have 19.6 million records in our consular lookout system on people potentially ineligible to receive visas, nearly triple what we had prior to September 11.

We are providing Customs and Border Protection [CBP], inspectors at ports of entry with electronic non-immigrant and immigrant visa data so that they can view the electronic files we have of every visa passenger entering the United States. We are also sharing our consular data base with the National Targeting Center [NTC], a 24/7 operation of Customs and Border Protection within DHS. We have also offered to provide CBP secondary inspectors with direct access to our Consular Consolidated Data base, as we have already done at both the NTC and the Forensic Documents Laboratory.

The Department of State also joined in the establishment of the Terrorist Screening Center that integrates terrorist watch lists and serves as the centralized point of contact for everyone from the U.S. police officer on the beat here in the United States to the consular officer in the farthest reaches of the globe.

Together with DHS, we are creating a biometric system to track the entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. I am pleased to report that the program is now operational at more than 201 posts. The program will be in effect at all 211 visa adjudicating posts by October 26th of this year.

We have made great progress in improving the interagency security clearance process in recent months by moving from a paper-based system to electronic transmission. As security advisory opinion requests and responses now flow electronically, there is no longer any possibility that a case may get lost.

Visa's Mantis procedures have also been greatly streamlined. The effect has been to clear up many longstanding cases. The vast majority of Mantis cases are now being turned around within 30 days.

The State Department is also working closely with DHS and other agencies as part of an Interagency Working Group to review information on Visa Waiver Program countries. As part of that process, we are working together with DHS in the development and implementation of the U.S. Biometric Passport Program in conjunction with the U.S. biometric passport requirements of VWP countries.

Almost 1 year ago, the Departments of State and Homeland Security signed a Memorandum of Understanding based on Section 428 of the Homeland Security Act. The MOU is our road map for implementing Section 428, which includes the placement of Visa Security Officers in selected posts.

Currently, the consular sections in Riyadh and Jeddah are the only ones with Visa Security Officers, but we expect future deployments in the near future to additional countries. In Riyadh and Jeddah we have worked closely with DHS to ensure that the officers posted there were welcomed into the embassy family. We expect this level of cooperation to exist when DHS officers take up their duties at other embassies.

We are working closely with DHS to establish responsibilities for Visa Security Officers and ensuring that Chiefs of Mission have the information they need to make an appropriate decision on officer staffing at their missions in accordance with NSDD–38.

We are also working to implement other parts of the MOU. For example, the MOU calls for DHS officers to provide training to consular officers in certain areas such as counter-terrorism, anti-fraud techniques, etc. To this end, at least two DHS officers will soon attend the visa portions of the consular training curriculum at the Foreign Service Institute. They will then be able to develop training materials to meet any needs they determine are not being met now.

With our partner agencies in the U.S. Government, we continue to seek better ways to make our Nation's borders more secure. Working together, our goal is to establish procedures that will provide a sound basis for maintaining an effective, efficient visa proc-

ess that secures America's borders from external threats while continuing to promote legitimate travel to the United States.

Thank you.

[The prepared statement of Ms. Jacobs follows:]

Testimony of Deputy Assistant Secretary for Visa Services
Janice Jacobs
"Creating Secure Borders and Open Doors: Review of Department of Homeland Security-State Department Collaboration on Visa Policy"
House Government Reform Committee
September 9, 2004

Mr. Chairman, Ranking Member, Members of the Committee:

Thank you for inviting me to testify on the cooperation and collaboration not only between the State Department and the Department of Homeland Security on the implementation of U.S. visa policy but also among all federal agencies charged with protecting our borders. We are very pleased to review the tremendous progress in the last year since the State Department and the Department of Homeland Security signed a Memorandum of Understanding to define the new relationship between our respective departments and our roles in visa policy and implementation in accordance with Section 428 of the Homeland Security Act of 2002. I shall address the following areas of progress on visa operations: security advisory opinion process (SAO); inter-agency information sharing; State's Biometric Visa Program and its integration with US-VISIT; DHS-State review of Visa Waiver Program countries; and the integration of DHS's Visa Security Officers in consular operations.

We have made great progress in improving the inter-agency security clearance process in recent months by moving from a paper-based system to electronic transmission, thereby greatly enhancing response times and accountability. The SAO Improvement Project (SAO IP) has been fully implemented at all posts and has produced noticeable efficiencies in SAO processing. As SAO requests and responses now flow electronically, there is no longer any possibility for a case to get "lost" which could occur in the old cable-based system. Electronic transmission means that SAO requests and responses are being sent and received in near real time with a much lower risk of transmission delays that could happen with the cable-based system. SAO IP also provides us with excellent reporting functions that allow us to track individual cases throughout the process and monitor our own as well as other agencies' clearance performance. The reports also provide a wide array of useful statistics based on visa type, post, date and SAO category.

As a result of a joint State-DHS initiative, Visas Mantis SAO procedures have been greatly streamlined. Since that date, the Department has sent more than 2,000 clearances on Mantis cases to posts, mostly in China and Russia. The effect has been to clear up many longstanding cases. The vast majority of Mantis cases are being turned around well within 30 days, and at the present time only 2% of Mantis cases have been pending for longer than 30 days. These remaining cases are pending either additional information from the applicant or further input from one of the clearing entities. The Visa Office's Mantis team, which is devoted exclusively to processing Visas Mantis SAOs, is diligently working through these cases, one by one, to bring them to a swift resolution. Finally, working closely with DHS, we expect to take further steps to improve the Mantis screening process.

Information and data sharing is one of the best tools in the U.S. government's arsenal to combat terrorism. Since 9/11, the Department of State, working with other agencies, has made significant improvements to our ability to share information. Thanks to this new level of collaboration, the data holdings in our consular lookout system now total 19.6 million records on people potentially ineligible to receive visas, nearly triple what we had prior to September 11. We have more than eight million records from the FBI alone in our system that we use to check names of visa applicants, and in some cases criminal history records, prior to visa issuance. Further, we have developed MOUs with DHS and other agencies to standardize our information sharing arrangements. The majority of the data in the consular lookout system now derives from other agencies, especially those in the law enforcement and intelligence communities.

We are providing Customs and Border Protection (CBP) inspectors at ports of entry with electronic Non Immigrant Visa (NIV) data via US-VISIT and both Immigrant Visa (IV) and NIV data via IBIS so that they can view the electronic files we have of every visaed passenger entering the United States. This database permits examination of detailed information in near-real time on all visas issued, including the photographs of NIV applicants. We are also sharing our Consolidated Consular Database (CCD) with the CBP's National Targeting Center (NTC), a 24/7 operation, and the FBI. Finally, we have offered to provide CBP secondary inspectors with direct access to the CCD, as we have already done at both the NTC and the Forensic Documents Laboratory.

Many DHS databases are invaluable to consular adjudication for detecting inadmissible aliens, finding fraud, and improving the efficiency and security of case management. As part of the effort to expand data sharing with DHS (via Datashare, US-VISIT and the CCD directly), we are working with DHS to acquire additional overstay information from US-VISIT and also Citizenship and Immigration Service's (CIS) case management records. Having readily available information on the history of an applicant's previous stay in the United States, or that of family members, would be very useful in screening new applications. For instance, if an applicant misrepresents the period of his or her prior stay in the United States, this would have an immediate bearing on qualification for a new visa. Similarly, if applicants are denied admission at a port of entry, this information should be immediately available to consular officers for further investigation or future adjudications.

The Department of State also joined in the establishment of the Terrorist Screening Center (TSC) that integrates terrorist watchlists and serves as the centralized point of contact for everyone from the police officer on the beat here in the U.S. to the consular officer in the farthest reaches of the globe. Together with the Terrorist Threat Integration Center (TTIC), which maintains the principal database on known and suspected international terrorists in a highly classified form, we rely on the TSC to ensure consular officers have access to the information they need to deny visas to those who would do us harm. We are proud that these institutions rest on a foundation that the Department of State laid in the form of TIPOFF, a pioneering system in the use of classified information for screening purposes. The TIPOFF database with its approximately 130,000 records, more than double the amount since September 11, is now housed at TTIC. TTIC and TSC together eliminate the stove-piping of terrorist data and provide a more systematic approach to posting lookouts on potential and known terrorists.

Together with DHS, we are creating a biometric system to track the entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. This new system begins with consular officers collecting electronically scanned fingerprints and photographs at consular sections abroad for use in conducting background checks prior to visa issuance and enrolling the individual into DHS's US-VISIT entry and exit system and continues with the US-VISIT program at ports of entry and departure. When State collects an applicant's fingerprints, they are compared against multiple

databases prior to visa issuance. Upon arrival in the United States, these visa travelers' identities are verified through the US-VISIT program. CBP inspectors compare the biometrics collected at the port of entry to the ones submitted at the visa-issuing post. This one-to-one fingerprint comparison ensures that the person presenting the visa at the port of entry is the same person to whom the visa was issued. The global deployment of the Biometric Visa Program is a truly unprecedented undertaking; there has never before been a biometric enrollment of millions of people from such a wide variety of cultures in countries around the world. The enrollment rollout began in September 2003 and will finish in October 2004. I am pleased to report that the program is now operational at more than 201 visa-adjudicating posts. The program will be in effect at all 211 visa-adjudicating posts by October 26 of this year.

Since we have only recently begun to incorporate biometrics into the U.S. visa adjudicating process, we have taken steps to ensure the continued integrity of those visas issued without biometrics. There are currently some 20 million valid nonimmigrant visas that are not biometric visas. To ensure the integrity of these valid visas that do not have associated biometric data captured at visa issuance, we have upgraded our visa Datashare program for use at primary inspection under US-VISIT. Under visa Datashare, the biographic data and photo from the issued nonimmigrant visa are stored in DHS' IBIS system electronically for retrieval. When the CBP officer scans the visa at primary inspection, the photo and biographic data of the applicant are extracted from that database and projected on the screen. If the traveler has altered the photo on the visa, the CBP officer will be able to make a visual comparison with the original photo. If the visa is a complete counterfeit, nothing will appear on the CBP officer's screen. In this way, we can combat fraud and protect the integrity of the U.S. visa even for older visas without biometrics.

We also began issuing biometric immigrant visas and will have this program operational at all immigrant visa-adjudicating posts during this October. For immigrants, the undertaking has been even more complex. Not only are biometrics being collected from all immigrants, but also in conjunction with biometric immigrant visa enrollment a machine-readable immigrant visa is being issued for the first time, security advisory opinions are being processed electronically, and the processing of immigrant visas and diversity visas has been merged into a single system. As with NIVs, there will be reliable datashare with DHS so that the CBP inspector at the

port of entry can verify the identity of the traveler and the authenticity of that individual's status as a new immigrant.

Without optimal cooperation with the Department of Homeland Security, the Biometric Visa Program would not be a success. Teams from State and DHS have been meeting weekly or more often since July 2003, including late on Christmas and New Year's Eves, to establish the Biometric Visa-IDENT interface, and also to enhance the visa Datashare connection so that visa data is now available to CBP Officers at primary inspection at ports of entry. These complex system integration efforts are working effectively to prevent persons from entering the United States with photo-substituted or counterfeit visas.

The State Department is also working closely with DHS and other agencies as part of an Interagency Working Group to review information on Visa Waiver Program (VWP) countries. Following admission to VWP, a country's continued participation depends upon successful completion of a joint State-DHS review of the effect on U.S. national security and law enforcement of the country's participation in the program. Under the Enhanced Border Security Act of 2002, each VWP country must be reviewed every two years and demonstrate through the review that it continues to meet all VWP qualifications. Since the reviews first began in 2001, two countries (Argentina and Uruguay) have been removed from the program. Italy and Portugal were recently reviewed, and therefore are not part of the current process. Consular personnel joined DHS on every review trip and the follow-on analysis. Site visits have been made to all of the other 25 countries not recently reviewed, and the Working Group anticipates providing reports on these VWP countries to Congress in October. We are also working closely with DHS in the development and implementation of the U.S. biometric passport program in conjunction with the biometric passport requirements of the VWP countries.

Almost one year ago, on September 29, the Departments of State and Homeland Security signed a Memorandum of Understanding (MOU) based on Section 428 of the Homeland Security Act. The MOU is a roadmap for our cooperation in a new area of common endeavor and so far has proved a reliable guide. However, even before the MOU was signed, the two Departments had a history of cooperation beginning with the implementation of Section 428 of the Homeland Security Act and the deployment of DHS officers overseas. To demonstrate the importance we place on our

cooperation with DHS as we moved into an area new for both Departments, we designated an ambassador to liaise with the Visa Security Unit. She accompanied the first DHS officers who established their offices in Riyadh and Jeddah, Saudi Arabia and set the tone for future coordination. In addition, she traveled with VSU teams on trips that evaluated and selected additional sites for Visa Security Officers. On these visits the joint State-Homeland Security team met with ambassadors, deputy chiefs of mission and other members of the country team to ensure that they understood the Memorandum of Understanding and the role of Section 428 officers.

While the consular sections in Riyadh and Jeddah are the only ones required by law to have VSU officers, we expect deployments in the future to additional countries. In Riyadh and Jeddah, we have worked closely with DHS to insure that the officers posted there were welcomed into the Embassy family. Space in both the unclassified and classified sections of the Embassy and Consulate was made available to them as well as access to Department databases. Within these two consular sections, there is daily interaction between the two Departments including informal consultations and training in consular sections as well as with other members of the Country Team. We expect this level of cooperation to exist when DHS officers take up their duties at other Embassies.

While the presence of VSU officers overseas is perhaps the most visible sign of the new relationship between the Departments of State and Homeland Security, we are working to implement other parts of the MOU. For example, the MOU calls for DHS officers to provide training to consular officers in certain areas such as counter-terrorism, anti-fraud techniques, etc. To this end, at least two DHS officers will attend the visa portions of the consular training curriculum at FSI. They will then be able to develop training materials to meet any needs they determine are not being met now. In addition, DHS established criteria for the selection of additional posts for the placement of VSU officers as well as the criteria for the selection of officers to fill the positions. We are working closely with DHS to establish responsibilities for Visa Security Officers (VSO) and "rightsizing" parameters so that Chiefs of Mission have the information they need to make an appropriate decision on VSO officer staffing at their missions in accordance with NSDD-38.

In the area of data sharing, DHS officers in Riyadh and Jeddah were given immediate access to the Consolidated Consular Database as soon they

arrived at post. We are now working on final steps of an MOU to give DHS officers at headquarters the same access. We are also making modifications to the date fields in order to accommodate DHS needs. Along with this access, we anticipate that DHS officers will take on an enhanced role in the Security Advisory Opinion process.

With our partner agencies in the U.S government, we continue to seek every day better ways to improve on what we have accomplished to make our nation's borders more secure. Working together, our goal is to establish procedures that will provide a sound basis for maintaining an effective, efficient visa process that secures America's borders from external threats while continuing to promote legitimate travel to the U.S. Thank you.

Chairman TOM DAVIS. Thank you very much.

Mr. Verdery.

STATEMENT OF C. STEWART VERDERY, JR., ASSISTANT SECRETARY FOR BORDER AND TRANSPORTATION SECURITY POLICY AND PLANNING, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. VERDERY. Good morning, Chairman Davis and members of the committee. Thank you for the opportunity to present the progress that the Border and Transportation Security Directorate has made in fulfilling the visa responsibilities assigned to us in the Homeland Security Act.

Befiting of the excellent partnership that we have developed with the Department of State, I would like to associate myself with the remarks just made by Ms. Jacobs. In addition, my written testimony goes into great deal into many of the important issues raised in your opening statement.

Chairman TOM DAVIS. I have just been corrected. It is Verdery. I know that. That was the Amherst pronunciation I was giving, just to let you know that.

Mr. VERDERY. You know I am a Williams grad.

Chairman TOM DAVIS. I knew that. But I have an Amherst grad next to me, too, so it is two against one today. And I hope you are prepared for the questions.

Mr. VERDERY. Well, you are on the dais.

Chairman TOM DAVIS. OK.

Mr. VERDERY. As I was saying, Mr. Chairman, my written testimony speaks in great detail to many of the important issues raised in your opening statement, including how we have stationed Visa Security Officers overseas, how we are engaging in a security advisory opinion process in Washington, our assumption of lead responsibility for broad visa policy determinations, and how we are managing the Visa Waiver Program.

I would like to use my brief time here, the 5-minutes or so, to talk about how we are meshing these visa-related responsibilities with our broader efforts to secure international travel and to deploy an effective entry-exit system at our ports of entry.

The 9/11 Commission has reported in painstaking detail how the visa issuance process was exploited to facilitate the September 11th attacks on the United States. As Ms. Jacobs has described, BTS has been working with the Department of State and other departments to ensure that visas are only issued to those eligible consistent with applicable law and following an appropriate security check.

At the same time we recognize that the ability of legitimate students, scientists, tourists, or business partners to visit the United States is crucial to our society. If that travel is disrupted, either because people are unfairly rejected for a visa or because they believe travel to the United States is too inconvenient, we will experience devastating effects on our economy in the short run.

And perhaps equally as important, in the long run the ability of foreign visitors to come to this country is crucial to spreading our democratic ideals, furthering scientific development, and promoting the image of America overseas.

BTS is responsible for overall policy oversight in DHS's implementation of Section 428 following the Memorandum of Understanding between DHS and the Department of State. Secretary Ridge has assigned operational responsibility to the Visa Security Unit within U.S. Immigration and Customs Enforcement [ICE]. Policy development for visa security matters has largely been assigned to my office, the BTS Office of Policy and Planning, working where appropriate with U.S. Citizenship and Immigration Services and reporting to your former colleague, Under Secretary Hutchinson.

Despite difficult budgetary challenges, BTS has made substantial progress in implementing Section 428 of the Homeland Security Act. As was mentioned, we have established and maintained visa security operations at two posts in Saudi Arabia, which now review 100 percent of applications in that country. We have also evaluated and selected five overseas posts for the next expansion of the VSU.

BTS respects the report prepared by Mr. Ervin's Office of the Inspector General. We essentially agree with the 12 recommendations to enhance implementation of our Section 428 responsibilities, including those related to personnel selection and training, and selection to posts overseas. We are pleased that the OIG has designated all of its recommendations either closed or resolved.

In sum, the deployment of Visa Security Officers to Saudi Arabia has yielded the security benefits that Congress envisioned when it crafted the Homeland Security Act. With the enactment of the fiscal year 2005 budget in the coming weeks, hopefully, the program will receive much-needed financial stability and certainty as we expand our deployments and transition to full-time employees.

The VSU also has been tasked to participate in DOS's SAO process, providing the interagency review of visa applications selected because of risk assessments or because of scrutiny from the consular official. In coming weeks, BTS plans to deploy officers to the SAO process to resolve difficult or disputed cases.

But even as we engage in handling particular SAO cases, we have been extremely active in the broader field of visa policy and, of course, under the MOU, we can establish visa policy and have final authority over DOS-initiated visa guidance. We have gone through a comprehensive review of these programs, meeting with the scientific community, business operations, others, and we have heard their message loud and clear that improvements need to be made, and you are seeing those improvements, wait times are dropping.

The times of the applications falling into no man's land are quickly coming to a close. And I will just quote the director of Yale's Office of International Students who was quoted recently as saying that the administration, State Department, and DHS are listening very carefully to their concerns.

Ms. Jacobs talked about the Visa Waiver Program reviews. I won't take time here to do that. I can tell you, though, that these reviews that are ongoing in 25 countries are not a cursory process, these are active law enforcement-based investigations of the meeting of the statutory criteria that Congress has enacted, and those reviews will be completed by October.

As important as the visa process is, however, it is not the only mechanism that we use for screening for potential terrorists or criminals who might attempt travel to the United States. One of the keys for security and travel facilitation is knowing who is getting on the plane, especially for visa waiver travelers, so that the first line of defense is not when the passenger arrives at a U.S. airport. As you know, in May we finalized an important agreement with the European Union allowing for transfer of so-called passenger name record information to us for vetting purposes for international flights, and this PNR information is melded with the APIS information we have received from passports as planes are coming in air to the United States, vetting at the National Targeting Center run by Customs and Border Protection. We can go into this in more detail. We will be coming out with further guidance on APIS regulations in the near future, and we have promised, as part of the secure flight announcement last month, that we will be promulgating a rule later this fall requiring the APIS information before wheels up so that we can do better vetting of flights before they take off from foreign airports bound for the United States. We are also piloting the Immigration Security Initiative by placing inspectors overseas in key hub airports to assist airlines in reviewing passengers with potential terrorist ties or with fraudulent travel documents.

If I could just close, the US-VISIT program, the SEVIS student program, these are obviously signature achievements of DHS. They have been developed in very close partnership with the Department of State. In fact, the US-VISIT program and the Bio Visa Program are essentially one and the same in terms of the information collected and the linkages back and forth to make sure that information is being shared appropriately. I think the current statistics, we processed about 8 million foreign visitors through US-VISIT without impacting wait times; we have matched about 790 persons against criminal data, prevented 264 known or suspected criminals from entering the country, another about 906 people have been matched while applying for a visa overseas based on the biometric parts of the Bio Visa and US-VISIT system.

To close, the President's recent issuance of Homeland Security Presidential Directive 11 related to screening provides a formal structure to further coordinate and harmonize these screening programs. We recognize that much work remains to be done to create the 21st century borders that our citizens deserve to protect the homeland and to facilitate legitimate trade and travel.

I want to thank this committee for its support in this most important endeavor. Thank you.

[The prepared statement of Mr. Verdery follows:]

TESTIMONY OF C. STEWART VERDERY, JR.
ASSISTANT SECRETARY FOR BORDER AND TRANSPORTATION SECURITY POLICY AND PLANNING
DEPARTMENT OF HOMELAND SECURITY
BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM
September 9, 2004

INTRODUCTION

Good morning, Chairman Davis and Members of the Committee. Thank you for the opportunity to present the progress the Border and Transportation Security Directorate (BTS) has made in implementing Section 428 of the Homeland Security Act of 2002 (the Act) and in securing the homeland by improvements to U.S. visa and passenger vetting policies.

The 9/11 Commission has reported that the visa issuance process was exploited to accomplish the September 11 attacks on the United States. The Commission recommended that the US government consider new approaches to combating vulnerabilities in the visa system. BTS has been working with the Departments of State and Justice to address United States' security interests in the visa issuance process, to ensure that visas are issued only to those eligible consistent with applicable law and, where necessary, to implement appropriate changes to visa policy. We have also worked to integrate visa issuance policy into the larger spectrum of programs designed to secure air travel and ports of entry and to implement the US-VISIT entry-exit system.

Section 428 of the Act assigns the Department of Homeland Security (DHS) very specific visa security functions. The Act authorizes:

- DHS to assign officers to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security [Section 428(e)(1)]
- Assigned DHS officers to conduct specific functions at those posts [Section 428(e)(2)]
    - Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of visa applications
    - Review visa applications
    - Conduct investigations with respect to consular matters under the jurisdiction of the Secretary
    - Participate in the terrorist lookout committee operating a post

In addition, Section 428 requires that on-site DHS personnel review all visa applications in Saudi Arabia [Section 428(i)].

While as the IG notes the Act mandates that DHS develop performance standards to be used when the Secretary of State evaluates the performance of consular officers, according to the MOU, performance standards for evaluating consular officers must be developed in consultation with the Secretary of State.

The Act further authorizes DHS to establish permanent positions at overseas diplomatic or consular posts and directs such personnel to participate in the terrorist lookout committee operating at post. Finally, the Act exclusively vests the Secretary of Homeland Security "with all authorities to issue regulations with respect to, administer, and enforce the provisions of the [INA], and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas..."[1] These authorities relating to visa issuance are to be exercised through the Secretary of State, according to the Act. In addition, they are exercised in accordance with a Memorandum of Understanding between the Department of State and DHS signed by Secretary Ridge and Secretary Powell on September 29, 2004.

BTS ACCOMPLISHMENTS

BTS is responsible for overall policy oversight in DHS's implementation of Section 428 pursuant to the Memorandum of Understanding. Secretary Ridge has assigned operational responsibility to the Visa Security Unit (VSU) established within Immigration and Customs Enforcement's Office of International Affairs (ICE/OIA). Policy development for visa security matters has been assigned to my BTS Office of Policy and Planning, working where appropriate with U.S. Citizenship and Immigration Services and reporting to Under Secretary Asa Hutchinson.

Visa Security Unit

BTS has made substantial progress in implementing Section 428. Among our organizational accomplishments, BTS has:

- Recruited and trained temporary detail officers to initiate operations in Saudi Arabia.
- Recruited a headquarters staff serving long-term details.
- Developed a headquarters organizational structure and assigned functional responsibilities.
- Developed position descriptions for both headquarters staff and Visa Security Officers.
- Conducted planning sessions to guide continued program development over the next 12 months.

Operationally, BTS has:

- Established and maintained visa security operations at two posts in Saudi Arabia, which review 100% of the applications in that country.
- Established initial visa security review procedures and built a database to track visa security review workload.
- Evaluated, with DOS Bureau of Consular Affairs, and selected five overseas posts for the next expansion.

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[1] The Homeland Security Act reserves authority over the Executive Office for Immigration Review to the Attorney General.

- Conducted site assessments at the selected posts and met with the Ambassadors and senior officers at each post.
- Submitted NSDD-38s for the selected posts to the Department of State on June 29, 2004.
- Developed a detailed implementation plan to establish visa security operations at the selected posts.
- Recruited experienced DHS officers to serve temporary assignments as Visa Security Officers overseas.
- Developed a refined training program for the next Visa Security Officers to be deployed.
- Established a headquarters procedure for in-depth vetting of subjects of interest identified through visa security activities.
- Held intensive review sessions with returned Visa Security Officers to evaluate procedures and identify detailed requirements for system automation.
- Begun developing an enhanced database to support the Visa Security officers' work overseas.
- Prepared reports to Congress, as assigned by DHS.

DHS IG Report on Section 428

DHS's Office of Inspector General (IG) recently issued its final report entitled, "An Evaluation of DHS Activities to Implement Section 428 of the Homeland Security Act of 2002." The report describes the Inspector General's assessment of Section 428 implementation to date and identifies twelve (12) recommendations to enhance implementation of DHS' Section 428 responsibilities. The IG's recommendations are a valuable management tool for our purposes and span five general topics that I would like to briefly review:

- Personnel selection and training
- The selection of posts for visa security operations
- The status of implementation of some of DHS' Section 428 responsibilities
- The status of funding and its implications for operations
- The scope of Saudi visa security review mandated in Section 428

However, my most important point today is with regard to BTS/ICE's response to the IG Report, reproduced in Appendix B of the final report (Management Comments), where we updated the IG on the progress made on implementation since the initiation of the IG inquiry in fall 2003. BTS largely concurred with the IG's recommendations and has addressed or is in the process of addressing all of them. We are pleased that, based on BTS' work, the IG at Appendix C of the final report (OIG Evaluation of Management Comments) has designated all of its recommendations closed or resolved.

Personnel Selection and Training

Currently, VSU's Visa Security Officers (VSOs) are journeyman law enforcement officers with an average of 18 years experience. VSOs are responsible for a range of visa security functions: visa security review, investigations under Section 428, training of consular officers, consular evaluation, and application of tactical intelligence to identify and intercept mala fide applicants

and schemes. In the context of visa security review specifically, VSOs supplement the consular adjudication process with law enforcement and counter-terrorism expertise. As experienced immigration enforcement officers, the VSOs possess expert knowledge of inspections, investigations, and adjudications policies and procedures as well as a sophisticated knowledge of immigration law and regulation. In addition to their other responsibilities, VSOs provide technical assistance to other USG officials at post and to domestic law enforcement agencies and, in addition, conduct appropriate law enforcement liaison with host country officials.

BTS has developed a staffing model for posts and has defined selection criteria for VSOs. These criteria include: law enforcement expertise, including investigations; counterterrorism experience; fraud document detection; immigration law knowledge; experience working overseas in a diplomatic and interagency environment; and language training. BTS has and will continue to select the best-qualified personnel to accomplish this mission.

VSU is currently refining the VSO training program established with the initial deployment last fall. This interim program builds on the officers' existing skills acquired from their respective law enforcement academies and from their careers in law enforcement. It provides refreshers and country or culture-specific instruction in such topics as impostor detection, terrorist tactics, fraud document detection, and interview techniques. It is designed to ensure that VSOs can be successful in their work in a diplomatic environment and as representatives of the United States. The VSU is also working with the ICE Office of Training to develop permanent modules for VSO training.

Status of Implementation of Some Section 428 Responsibilities

The IG expressed interest in the status of two Section 428 responsibilities:

- The development and delivery of homeland security training for consular officers; and
- The development, in coordination with DOS, of performance standards to evaluate consular officers.

With respect to the training for consular officers, BTS views consular training as encompassing both formal and informal training activities. BTS is now developing a formal training program for consular officers in consultation with ICE Office of Training. Informal training occurs routinely at the two Saudi posts and will continue to be a critical form of consular training as the VSP expands. Informal training involves day-to-day interactions between Visa Security Officers (VSOs) and individual consular officers. The VSOs share their law enforcement expertise and immigration experience with the consular officers to guide their interviews and refine document review methods. Informal training also generates valuable input to VSU about the types of formal training consular officers may need.

With regard to the development of performance standards for DOS's use in evaluating consular officers, BTS views its role as an auditing function of DOS's own evaluation practices. VSU recognizes that its recommendation of performance standards as a basis for such an audit is dependent upon developing a sophisticated understanding of basic consular officer training, of how consular officers currently are evaluated, and of operating practices and skill sets at multiple

posts. In the future, BTS will deploy additional VSOs to the posts and send VSU staff to DOS training. This will enable VSU to work with DOS to develop performance standards in FY2005.

Selection of Posts for Visa Security Operations

The IG inquired about DHS' methodology for selecting posts for deployment of visa security operations. Given global risk, BTS has developed site selection criteria that consider a range of quantitative and qualitative information to assess the overall risk and need for visa security operations at a given post.

A key step in the selection process involves a site assessment of posts considered to be candidates for visa security operations that is coordinated with DOS Bureau of Consular Affairs and the Office of Rightsizing. During such visits, BTS and the Consular Affairs representative consult with the senior officials at the posts, including the Ambassador, the Deputy Chief of Mission, the Regional Security Officer, the Legal Attaché, and Department of Defense personnel. Through these discussions, BTS collects data about the conditions in the country, which informs the site selection process.

Based on information from the intelligence community, country-specific and law enforcement information, and the site assessments conducted by BTS and Consular Affairs, DHS has selected five posts for the next assignment of VSOs.

Status of Funding

The IG recommended that DHS establish a funding mechanism for visa security operations. The President's budget includes $10 million to establish the VSU, which includes funds to establish a headquarters office and SAO capability; training for consular affairs officers and the permanent establishment of overseas offices in Saudi Arabia and perhaps other locations later in FY 2005.

Scope of Saudi Visa Review

Section 428(i) mandates DHS review of all visa applications submitted in Saudi Arabia. The IG initially had suggested that DHS propose Congress modify this provision but now concurs with BTS' position. BTS does not propose to ask Congress for a modification, because BTS believes that all visa review is valuable to screen for systemic vulnerabilities in the visa process.

Status of Current Visa Security Operations

BTS currently has visa security operations in place in Saudi Arabia. Those operations began in October 2003. Between October 2003 and August 2004, DHS Visa Security Officers (VSOs) in Saudi Arabia reviewed approximately 19,000 visa applications. The VSOs and consular officers have developed very cooperative and collaborative working relationships. The VSOs review all applications after the consular officers have completed their adjudication and made a tentative decision whether to issue or deny the visa. Additionally, the VSOs routinely are asked by the consular officers for assistance during the adjudication process, for example: to review an application, to clarify a question of immigration law, to review suspect documents, and to clarify

or interpret derogatory information received about the applicant. In addition to ensuring rigorous scrutiny of visa applications, this practice provides an opportunity for on-the-job training of these junior consular officers to build on their current skills to screen for mala fides through enhanced interview techniques, imposter detection, and fraud document identification.

In summarizing this presentation of the implementation of section 428 procedures, I want to address two key areas of concern, that of information sharing with the Department of State and the Security Advisory Opinion Process.

Information Sharing with Department of State

In the context of visa security operations, VSU has worked cooperatively with Department of State to ensure that VSU and the VSOs are provided the information necessary to perform their Section 428 responsibilities as agreed to in the MOU. The VSOs in Saudi have arranged with consular officials to receive daily electronic transmissions of visa applicant biographic data to streamline the VSOs review activities. As the program expands, BTS envisions a more formalized and integrated system to facilitate the sharing of visa information between the two agencies, potentially using the current CCD architecture as a basis.

Security Advisory Opinion Process

BTS is developing a plan to participate in the Department of State's Security Advisory Opinion (SAO) process. The SAO process provides an interagency review of visa applications selected because of defined risk criteria (established under various SAO category designations) or because they otherwise warrant further scrutiny (based on consular officer discretion). BTS has proposed assigning four officers to the SAO process. These officers may be assigned to relevant offices, including Consular Affairs' Visa Office, to act as an initial point of contact in case resolution, leveraging DHS assets to assist in resolving problem cases. The officers will review overall SAO activity, processes, and patterns to identify areas requiring greater focus, to recommend improvements in information flow among the participating agencies, and to identify recommended refinement of visa policy based on changing needs.

Visa Policy

With respect to visa policy, under the Homeland Security Act and the Visa MOU, subject to certain exceptions, DHS can establish visa policy and has final authority over DOS-initiated visa guidance including: alien admissibility, classification, and documentation; place of visa application; personal appearance/interviews; visa validity periods and the Visa Waiver Program.

DHS recognizes that the ability of prospective students, scientists, tourists, or business partners to visit the United States is crucial to our society. If that travel is disrupted, either because people are unfairly rejected for a visa, or because they believe that travel to the United States is too inconvenient, we will experience a negative effect on our economy in the short-run. Equally as important, the ability of foreign visitors to come to our country is critical to spreading our democratic ideals, furthering scientific development, and promoting the image of America overseas.

Over the past several months, DHS, and particularly BTS and the Bureau of Citizenship and Immigration Services, have conducted a comprehensive review of the existing immigration laws, regulations, and policies to ensure that our immigration goals, policies, and laws are properly aligned in relation to visa issuance and policy. We have called on staff from US-VISIT, Customs and Border Protection and ICE to bring their best people and thoughts to the table to aggressively review these issues and, when appropriate, to effectuate change in this arena.

We have then worked closely with DOS on specific visa policy issues since the MOU was signed. We have met with many business organizations, education institutes, and the scientific community over the past several months and heard their message loud and clear that the visa process needs streamlining. These organizations have stated that visa application interview wait times are too lengthy, the SAO process is too slow, that applicants cannot determine if their application has been lost or is still pending, and that such delays have hurt the business, educational, and scientific sectors of the economy.

Over the past months, DHS and DOS have made a tremendous effort to combat the perception that security measures implemented since September 11 have made it too difficult for legitimate travelers to come to the U.S. We have examined how we can change policies to facilitate travel while ensuring safety to our nation and we seem to have been successful. The director of Yale University's Office of International Students and Scholars recently stated, "I think the administration, State Department and Department of Homeland Security are listening very carefully to the concerns of higher education."

DHS and DOS have worked together to identify solutions to these issues, advocated for changes through the interagency process, and implemented them once the concerns of other agencies have been addressed. We have examined the issues of visa reciprocity and visa interview validity periods, two issues that are inextricably intertwined.

DHS and DOS have also spent substantial time and effort to ensure that through appropriate changes in visa policy we can streamline the SAO process. With the ICE VSU, BTS is considering how to improve electronic transfers of information and whether imposing reasonable deadlines on other agencies to review the underlying visa application is appropriate. By reducing the number of pending applications through changes to streamline the SAO process, we have already seen a sizeable decrease in the backlog of security advisory opinions. We are looking a ways to make the visa application process smoother for many applicants, which will help our business, education, and scientific communities. Yale administrators said the speed and quality of the nation's visa-granting process has improved, smoothing this fall's entry of international students into the country. Yale President Richard Levin said "There have been improvements, and efforts to get responsiveness in Washington have been successful."

Visa Waiver Program

The Visa Waiver Program (VWP) enables citizens of certain countries to travel to the United States for tourism or business for ninety days or less without obtaining a visa. While visa-less travel encourages travel and trade with our allies, it also makes the program attractive to those

wishing to avoid visa security checks conducted at U.S. consulates abroad. To help address this security vulnerability, the Enhanced Border Security and Visa Reform Act (EBSA) requires that beginning on October 26, 2005, VWP countries have a program in place to issue their nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with International Civil Aviation Organization (ICAO) standards as a condition of continued participation in the VWP program. The law also requires that visitors coming to the United States under the VWP present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers, if the passport is issued on or after October 26, 2005—a date recently changed by Congress. Furthermore, DHS is required to install equipment and software at all ports of entry to allow biometric comparison and authentication of these passports. The Congress enacted a one-year extension of the deadline for both VWP travelers to use biometric passports and for the U.S. Government to install the equipment to read the passports. The new deadline is now October 26, 2005.

In FY03, over 13.5 million visitors (about 46 percent of all controlled arrivals) entered under the VWP.

There have always been concerns about possible security vulnerabilities created by any "visa free" travel programs. This is particularly true now, in light of recent enhancements to the visa issuance process. However, the permanent program legislation and subsequent amendments include provisions to address the law enforcement and security interests of the United States. The program now requires that:

- each participating Visa Waiver Program country certify that it has a machine-readable Passport (MRP) program;
- a VWP traveler present an MRP on 10/26/04 – a deadline that the Secretary of State has already extended from the original deadline of October 1, 2003 -- following a one-year waiver by the Secretary of State;
- participating countries be evaluated against statutory criteria every 2 years;
- participating countries establish a program to issue MRPs that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with standards established by the ICAO by October 26, 2005; and
- VWP travelers present "biometric-enabled" passports if the documents are issued after that date.

By law, DHS is required to review all participating countries periodically for continued participation and report to Congress. Several countries (Slovenia, Belgium, Italy, Portugal, Uruguay, and Argentina) were reviewed by the legacy Immigration and Naturalization Service (INS), and two (Argentina (2002) and Uruguay (2003)) were removed from the program. DHS, in coordination with the Department of State, is currently conducting reviews, including site visits by interagency teams from DHS, DOJ, and DOS, of the remainder of the countries and will

complete the reviews by October. This will be the first comprehensive review of the countries and will form the "baseline" for future reviews. I can assure you that these reviews will not be a cursory process: we will be asking tough questions as to a VWP country's compliance with the statutory criteria. Among these are:

- a low nonimmigrant visa refusal rate;
- a machine-readable passport program, and, following the Congress' passage of a one-year extension, after 10/26/05, biometric-enabled passport programs must be in place;
- a country designation may not compromise U.S. law enforcement and security interests, including enforcement of U.S. immigration laws and procedures for extraditions to the U.S.;
- the country must certify that it reports to the U.S. on a timely basis the theft of blank passports issued by that country; and
- low immigration violation rate (overstays, etc.).

Later this month, on September 30, we are going to enroll VWP applicants in US-VISIT, which will alleviate security gaps associated with the extension by providing biometric watchlist checks and identity verification for subsequent visits to the United States.

Pre-screening

As important as the visa process is, however, it is not the only mechanism by which the U.S. screens for potential terrorists or criminals who might attempt to travel to the U.S. One of the keys to security and travel facilitation is knowing who is getting on the plane, especially for VWP travelers, so that our first line of defense is not when a passenger arrives at a United States airport.

In May, working with a broad coalition of interagency partners, BTS finalized an important agreement with the European Union that permits the legal transfer to DHS of advanced passenger name record (PNR) data from airlines flying between EU countries and the United States. The purpose of our negotiations was to obtain an adequacy finding, under the European privacy directive, which allowed Customs and Border Protection (CBP) to receive PNR data from major airlines.

PNR data is an essential tool in allowing CBP to accomplish its key goals: (1) PNR data helps us make a determination of whether a passenger may pose a significant risk to the safety and security of the United States and to fellow passengers on a plane; (2) PNR data submitted prior to a flight's arrival enables CBP to facilitate and expedite the entry of the vast majority of visitors to the U.S. by providing CBP with an advance and electronic means to collect information that CBP would otherwise be forced to collect upon arrival; and (3) PNR data is essential to terrorism and criminal investigations by allowing us to link information about known terrorists and serious

criminals to co-conspirators and others involved in their plots, including potential victims. Sometimes these links may be developed before a person's travel but other times these leads only become available days or weeks or months later. In short, PNR enables CBP to fulfill its anti-terrorism and law enforcement missions more effectively and allows for more efficient and timely facilitation of travel for the vast majority of legitimate travelers to and through the United States.

Another important tool is Advance Passenger Information System (APIS) data. This is the information coded in the machine readable zone of your passport and transmitted electronically as part of a crew or passenger manifest to CBP for advanced analysis and for targeting of passengers traveling to and departing from the U.S. The National Targeting Center (NTC) uses PNR and APIS data in combination with a host of other passenger, cargo intelligence and threat information to conduct a risk analysis that helps to identify potential terrorists and targets for additional scrutiny. During the period of heightened alert last December, the NTC played a pivotal role in analyzing information that led to the delay of several international flights that were determined to be at risk. In the coming months, DHS will develop guidance governing the transmission of APIS data. As part of the Secure Flight passenger prescreening program announcement in August, DHS also announced that it will require APIS data to be provided before airplanes left foreign airports bound for the U.S., to better allow for vetting of incoming flights.

US-Visitor and Immigrant Status Indicator Technology (US-VISIT)

US-VISIT is a continuum of security measures that begins before individuals enter the United States and continues through their arrival and departure from the country. US-VISIT represents a major milestone in enhancing our nation's security and our efforts to reform our borders. It is a significant step towards bringing integrity back to our immigration and border enforcement systems. It is also leading the way for incorporating biometrics into international travel security systems.

In the border and immigration enforcement arenas, biometric identifiers are tools that help prevent the use of fraudulent identities and travel documents, including visas. The purpose of the biometric identifier is to verify a person's identity in order to run criminal history checks and ensure that an individual cannot apply and/or be granted benefits under different names. Biometric visas issued by the DOS to travelers to the United States allow one-to-one matches, to verify that the person presenting the visa is the person who was issued the visa, and one-to-many matches, to ensure that the bearer is not the subject of a biometric lookout or enrolled in the system under another name.

The biometric identifiers, currently a digital photograph and two digital fingerscans, that are collected by DOS during the visa application process are stored. Border inspectors use travel and identity documents to access that information for identity verification and watchlist checks. At assigned U.S. border points of entry, designated visitors are required to provide biometric data, biographic data, and/or other documentation. This data is checked against multiple databases, which US-VISIT has successfully integrated and which contain visa issuance information, terrorist and criminal watchlists, and immigration status information allowing

border inspectors to verify identity and identify criminals, security threats and immigration violators.

US-VISIT procedures are clear, simple, and fast for visitors.

DHS deployed the first increment of US-VISIT on time, within budget, and has exceeded the mandate established by Congress as it includes biometrics ahead of schedule. On January 5, 2004, US-VISIT entry procedures were operational at 115 airports (covering 99% of air travelers who use visas to enter the United States) and 14 seaports. In addition, we began pilot testing biometric exit procedures at one airport and one seaport. As of September 2, more than 8 million foreign visitors have been processed under the US-VISIT entry procedures without impacting wait times. US-VISIT has matched 790persons against criminal data and prevented 264 known or suspected criminals from entering the country. Nine hundred and six people were matched while applying for a visa at a State Department post overseas. [2] Before the biometric component of US-VISIT, these people might have gotten through our system and into our country. US-VISIT's experience with biometrics is demonstrating that our ability to identify who entered and left the country is significantly improved with the addition of biometric identifiers.

In August, US-VISIT began expanding the pilot exit capabilities to additional sites; on September 30 we will begin enrolling VWP nationals in US-VISIT at entry; and in December, entry capabilities will be expanded to the 50 busiest land border ports of entry. US-VISIT is critical to our national security and its implementation is already making a significant contribution to the efforts of DHS to provide a safer and more secure America. While improving security, US-VISIT is being developed and deployed in a manner that will not negatively impact our economy, particularly along the land borders.

CONCLUSION

Our border management system impacts the security of our citizens and our visitors, affects billions of dollars in trade and travel and helps define relations with our international partners. There is a need to improve this system and bring it into the 21st century with a new integrated system of technological processes that will keep our country's economic and national security strong. This 21st century technology will provide an important step toward achieving the President's goal of secure U.S. borders. While we recognize that much work remains to be done to create the 21st Century borders our citizens deserve to protect the homeland and facilitate legitimate trade and travel, we have made significant progress since 9/11. I want to thank this Committee for its support as we continue to enhance the security of our visa processes and policies.

[2] Not all criminal violations make an alien inadmissible to the United States, and some aliens apply for and receive waivers of inadmissibility.

Chairman TOM DAVIS. Thank you very much.

Mr. Ervin, thanks for being with us.

STATEMENT OF CLARK KENT ERVIN, INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. ERVIN. Thank you, Mr. Chairman and members of the committee, for this opportunity to appear today to discuss the findings of two of our recent reviews. The first concerns the assignment pursuant to Section 428 of the Homeland Security Act of Department of Homeland Security personnel called Visa Security Officers [VSOs], to Saudi Arabia initially, and eventually to other countries around the world, and the second concerns the security implications of the Visa Waiver Program. I will confine my oral remarks just to what we consider to be the most significant features of both reports, since we have submitted a longer statement for the record, as you noted.

With regard to the Section 428 report, we found that the VSO program can enhance the security of the visa issuance process, but that the program as presently constituted is not living up to its potential. The aim of the program is to provide a cadre of full-time Department of Homeland Security personnel with general expertise in law enforcement and/or intelligence and specific expertise in document fraud, interview techniques, and the language and customs of the applicable country. These officers are to work with Department of State consular officers to ensure that visas are not issued to known or suspected terrorists. They are also to work with host country counterparts to develop more information that can then be used by the embassy in the visa security process.

Unfortunately, due to funding, organizational and managerial problems, the 10 officers who are or have been serving in Saudi Arabia as of March 2004, when we completed our field work, have been serving on a temporary duty [TDY], basis. Only 1 of the 10 has served for longer than 90 days. The rapid turnover and short tenure has hampered their effectiveness. And though the act stipulated that the VSOs would be dispatched to Saudi Arabia upon "enactment," the officers did not arrive in Saudi Arabia until August 2003, some 7 months after enactment.

Further, DHS has not provided the VSOs with the training in language, fraud detection, and interview techniques required by statute; only 1 of the 10 officers reads and speaks Arabic. We saw firsthand, during our own visit to Saudi Arabia in March, how limited in their effectiveness the officers were who lack these skills, because many of the documents to be reviewed were in Arabic and many of the visa applicants to be interviewed and Saudi officials with whom they have to work speak only Arabic. Moreover, the VSOs lacked the budgetary, administrative, and logistical support they needed to be fully effective in their jobs.

Additionally, we found at the time that the VSOs were spending too much time entering visa applicant data into DHS computers that embassy staff had already inputted into State Department computers, limiting the time that the DHS officers could devote to adding unique counter-terrorism value to the visa issuance process.

Finally, when we visited the embassy in Riyadh in March, we learned that no thorough examination had yet been made of thou-

sands of visa applications that were submitted and approved before September 11 to determine whether any of the applicants had ties to any of the September 11 terrorists. We recommended that, at a minimum, an evaluation be made by DHS, in consultation with the State Department and the FBI, to determine whether conducting such an examination would be cost-beneficial.

Section 428 contemplates, as you know, that VSOs will eventually be assigned to embassies and consulates throughout the world. Before the program is expanded beyond Saudi Arabia, we believe that the recommendations that we have made to improve the program and ensure that it meets the statutory intent should be implemented, and we commend the department for working toward that end.

Turning briefly to the Visa Waiver Program, that program permits certain citizens from 27 countries to visit the United States for up to 90 days for purposes of tourism or business without a visa. While there are undeniable economic and diplomatic benefits to the program for America, there are also security risks. In this post-September 11 world, visa applicants are intensively scrutinized by consular officials. Most applicants nowadays are interviewed; they must submit extensive documentation; their finger scans and photos are taken, and the finger scans are run against key data bases; finally, all this information is instantly transmitted to DHS port of entry inspectors.

By way of contrast, visa waiver travelers are interviewed for the first and only time at a port of entry, little information about the traveler is collected and maintained, and the POE inspector generally has much less familiarity than an overseas-based consular officer with the language and documentation of such travelers.

One key recommendation that we made to strengthen the program was to apply the US-VISIT entry-exit checkout system to visa waiver travelers as soon as possible. DHS initially exempted visa waiver travelers from this system, which matches an entrant's name with a finger scan and photograph. By making this match, DHS can catch known terrorists and criminals who use the names of people with clear records to try to enter the country. Subsequent to the issuance of our draft report, the department announced that US-VISIT will be extended to visa waiver countries by the end of this month, and we were pleased by that announcement.

To conclude, our report also focused heavily on the problem of lost and stolen passports, particularly those from visa waiver countries. It is imperative that our recommendations in this area be implemented as quickly as possible. We found that these passports can and are still being used to enter our country and evade the scrutiny of the visa process, and we will be producing a separate report on this fact in the very near future.

With that, I conclude and I welcome your questions.

[The prepared statement of Mr. Ervin follows:]

STATEMENT OF CLARK KENT ERVIN

INSPECTOR GENERAL

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2004

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to be here today to discuss the findings of several of our office's recent reviews of homeland security issues related to the security of our nation's borders.

On August 25th, our office issued the inspection report, *An Evaluation of DHS Activities to Implement Section 428 of the Homeland Security Act of 2002.* In April 2004, we published *An Evaluation of the Security Implications of the Visa Waiver Program.* Copies of these reports have been provided to the Committee and are available to the public on our website. We currently are working on other border security inspections: of the US-VISIT program at land ports of entry, and of the successful use of stolen foreign passports to gain entry into the United States. We anticipate releasing these two inspection reports very soon.

SECTION 428 REPORT

Let me begin with a description of our analysis of the Department of Homeland Security's (DHS) activities to implement section 428. We said in our report that "We recognize the enormous challenges faced by BTS in establishing itself and its new missions in such a short time. We further understand that many of the Section 428 requirements levied against BTS were unfunded." Mr. Chairman, what follows needs to be considered with those two caveats in mind.

Section 428 requires the Department of Homeland Security to assume certain specific visa related responsibilities and submit certain reports to Congress. Our inspection report documented that some of the responsibilities and reports were accomplished only after implementation deadlines had passed, and that most have not yet been completed at all.

At the outset, I would observe that DHS was not prepared to undertake these responsibilities and a strong argument can be made that the deadlines imposed by the statute may not have been realistic under the circumstances. We encountered organizational confusion regarding initial responsibility for some of the statutory assignments, later addressed by realignments of function reflected in the creation of an Office of International Enforcement within the Border Transportation Security directorate (BTS), and the assumption of responsibility for the visa security program by Immigration and Customs Enforcement (ICE). In addition, some forward progress was held in abeyance, unnecessarily in our view, pending the completion of a memorandum of understanding between the Department of State and DHS, which took until September 29, 2003, to consummate. Thus, although early planning for the international aspects of homeland security began in late 2002, even before enactment of the Homeland Security Act, implementation realistically did not begin until the Fall of 2003.
Let me now turn to the principal features of section 428 of the Act.

- **One of the most significant requirements of Section 428 is that DHS assign Visa Security Officers to Saudi Arabia to review all visa applications.**

Beginning in August 2003, BTS dispatched a series of officers to Saudi Arabia, on temporary duty (TDY) assignment to Embassy Riyadh and Consulate General Jeddah. I had the opportunity in March of this year to observe our officers at work in this challenging environment. We all heard the news last week that shots had been fired at an embassy vehicle and its passengers in Jeddah, and we are again reminded that our employees are undertaking risky as well as difficult assignments on our behalf.

Our careful reading of the legislation, section 428(i) leads us to conclude that the law required this be done "after the date of enactment", which was January 26, 2003. BTS disagrees with our interpretation of the Act's deadline for dispatching the officers, and tells us that they accomplished the task immediately upon completion of the inter-agency memorandum of understanding that was a practical precondition to such an assignment, even though the Act did not so require.

Additionally, we reported that the way in which the Visa Security Officer program is currently managed and funded prevents BTS from realizing the potential value of stationing VSOs at U.S. embassies and consulates to review visa applications.

The use of TDY officers in these positions will not achieve the full intelligence and law enforcement value that a permanently assigned visa security officer could add to the existing consular process. The TDY officers have not received specialized training in VSO duties or foreign language training. Further, the positions are not adequately funded, nor do they have adequate administrative support. Lack of long-term funding, for example, kept the TDY officers in hotels for months because houses could not be leased long-term for their use.

In our inspection report we also recommended that the visa screening process would be improved if the embassy's consular computer system was connected to the DHS computer systems at the National Targeting Center in Reston, Virginia. In March, we found that the visa security officers spent too much time serving as keypunch operators; they were entering biographic information about every visa applicant into DHS computers despite the fact that embassy staff had already keyed the same information into the State Department computers.

As our report indicated, when we visited the embassy in Riyadh we saw thousands of old visa applications that had been submitted before September 11, 2001, and were now being archived. We were told that there had been no examination of these files by law enforcement or intelligence agencies. Embassy officers opined that a review of the applications might uncover information of intelligence or law enforcement value. Analysis, for example, might identify young Saudi males who may have been associates, or may have come from the families, tribes, or villages of the hijackers. DOS has moved many of the visa applications to archives in the United States, but large numbers remained at that time in temporary storage in Riyadh's visa section.

Our interviews with DHS, FBI, and intelligence officials in Riyadh confirmed that no thorough examination of pre-September 11 visa records has been made. They said that combing through these thousands of old applications for possible commonalities with the hijackers would require a very large amount of time and would be an unwise diversion from their higher priority counterterrorism efforts already under way.

We therefore recommend that the Under Secretary for Border and Transportation Security evaluate the possible benefit of analyzing the existing visa applications, coordinating with DOS, the FBI, and other federal agencies, as necessary, before making a determination about whether, or how, to proceed to analyze the applications.

- **A second requirement in Section 428 of the Act is that DHS assign employees to other diplomatic and consular posts at which visas are issued, unless the Secretary determines that such assignment at a particular post would not promote homeland security. DHS is further required by the Act to submit to Congress an annual report describing the basis for each determination not to assign DHS employees to a diplomatic or consular post.**

Our review found that expansion of the Visa Security program to other countries has not yet been funded, and only basic planning for assigning the next group of officers has occurred. Moreover, as of March 2004, the department had not established formal written criteria to select additional countries where VSOs will be assigned. BTS told us that the selection process involves evaluating current intelligence, historical connections to terrorism, visa volume, and several other factors to decide where the next visa security offices will be opened. While the visa security program eventually could have many offices around the world, the department has not determined how many offices will eventually be created, or where, or when.

After reviewing our draft report in June 2004, BTS has now provided our office with a list of selection criteria for future Visa Security offices. They consider the list "law enforcement sensitive" information, and have requested that we not reprint it in our report; neither will I discuss it here today.

Our report states that the department did not meet the November 25, 2003, deadline for submitting its first required report to Congress on the rationale for not assigning VSOs to U.S. embassies and consular offices. BTS submitted the annual report for OMB review on June 6, 2004. As of August 1, 2004, the annual report had not been presented to Congress. Our office has reviewed the draft and believes that it did not meet the full intent of the Section 428 (e)(1) requirement, which requires a report "that describes the basis for each determination ... that the assignment of an employee of the Department at a particular diplomatic or consular post would not promote homeland security." While the draft report describes current visa security operations and discusses the general criteria used to select future Visa Security Unites (VSU) sites, it does not describe the specific information BTS used to select the next five VSU sites or, for example, why these sites promote homeland security more than other sites. Further, it does not describe why other sites were not selected.

We also believe that the report could usefully have presented to Congress the costs of deploying VSOs to the next five selected sites. BTS contends throughout its response to our inspection report that funding is a major impediment to fully complying with all Section 428 requirements. Yet, in its report to Congress, BTS does not describe the details of this significant funding requirement. We suggested to the department that before the final annual report is issued to Congress BTS address these two concerns.

- **A third responsibility 428 imposes is to provide DHS employees with training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.**

We reported that BTS had not yet devised or initiated training to instruct DHS employees assigned to U.S. embassies and consular posts in foreign languages, interview and fraud detection techniques, and foreign country conditions. When we visited the Visa Security Offices in Riyadh and Jeddah, we saw first-hand how limited those officers who could not read or speak Arabic were. Many of the passport stamps and supporting documents the VSOs needed to examine were in Arabic, and many of the visa applicants being interviewed, and the Saudi immigration officers with whom our VSOs needed to work, did not speak English. Language training is mentioned specifically in the Act and in the State-DHS Memorandum of Understanding, and it is imperative that the VSOs sent abroad in the future be able to read and speak the languages of the host country.

- **The fourth responsibility mandated by Section 428 is that DHS develop homeland security training programs for consular officers.**

Our report also notes that the required "homeland security training" for consular officers is not further defined in the Act and BTS officials we interviewed had differing interpretations of what might be appropriate. BTS has not yet developed a plan to provide homeland security training to consular officers to make them more likely to spot factors that would deter them from issuing a visa to someone who might be a terrorist.

- **The fifth responsibility is to develop performance standards to be used when the Secretary of State evaluates the performance of consular officers.**

Our report states that the department has not established performance standards to evaluate consular officers. While the State-DHS Memorandum of Understanding contains coordination mechanisms to be used by the departments to consult with each other on Section 428 issues, it does not contain substantive provisions regarding development of performance standards.

- **Sixth: the Act requires that DHS study the role of foreign nationals in the granting and refusing of visas and other documents authorizing entry of aliens into the United States, and submit a report to Congress.**

The department failed to meet the November 25, 2003, submission deadline for the report. A draft was sent to State in December 2003 for comments. In February 2004 the draft was released to the Office of Management and Budget for review. The final report was delivered to Congress in July 2004. The report concludes that foreign nationals do not present a threat to the integrity of the visa process, that internal controls are robust and effective, and that the costs of replacing foreign nationals overseas with American employees would be astronomical. Our office has not had the opportunity to validate these findings independently.

- **Finally, the Act mandates that DHS submit a report to Congress, jointly with the Secretary of State, on the implementation of subsection (e), which relates to the assignment of DHS employees to embassies abroad, and conveying any legislative proposals necessary to further the objectives of subsection (e).**

During the course of our fieldwork for this inspection, we were unable to find any official who had any knowledge of who would prepare this report, or when, or what it might be expected to contain.

Our inspection report contains 12 recommendations. BTS has concurred with eleven and is making progress towards implementing improvements. On the twelfth recommendation, our office found that the counter-arguments BTS provided were reasonable and persuasive, and we closed the recommendation.

One important issue we highlighted in our report is the difficulty a domestic agency faces trying to manage an international workforce under the constraints of the Civil Service personnel system. We noted that the former INS sometimes found it difficult to control which employees were assigned where overseas, and for how long, and to guarantee the employees overseas appropriate jobs back home when their overseas tours were completed. In our report we noted that several agencies that wrestled with this in the past, such as the Departments of Agriculture and Commerce, have developed a foreign service of their own under enabling legislation from the Congress. We pointed out that legacy responsibilities and the new Visa Security Officer obligation meant that DHS would in the future have a significant and dispersed overseas workforce. We suggested that DHS study the personnel management techniques used by other agencies with global workforces and evaluate ways to facilitate the overseas rotation and domestic return of DHS employees.

THE VISA WAIVER PROGRAM REPORT

Turning now to the Visa Waiver Program: the VWP enables most citizens of 27 participating countries to travel to the United States for tourism or business purposes for 90 days or less without obtaining a visa. The program has always involved a balancing of the security risks against the benefits to commerce, tourism, foreign relations, and the workload of the Department of State (DOS). The fundamental premise of the program is that millions of persons, about whom we know little, can be exempted from the Department of State's ever more rigorous visa procedures and permitted to board U.S.-

bound planes where, at a port of entry, they will be very briefly interviewed by a DHS employee before being allowed to enter the U.S. (Only about ten percent of the VWP admissions take place at our land borders.) Zacharias Moussaoui and Richard Reid traveled to the United States using the Visa Waiver Program.[1]

There were approximately 13 million VWP admissions to the United States in 2002 and 2003. These represent only three percent of all admissions to our country. Travelers with visas comprise another five percent of the total. U.S. citizens and U.S. permanent residents were 55 percent of the total, and the rest – 37 percent – were Canadians and Mexicans, who are exempted from the visa requirement by other U.S. laws.

Our office looked carefully at VWP security issues and made recommendations to strengthen it. We found timeliness and accuracy problems when stolen passport data was entered into lookout systems, failures to check lookout systems when passports were presented, and disorder in the management of the stolen passport program. We found that the lost and stolen passport problem is a critical security problem associated with the visa waiver program. Our country is vulnerable because gaps in the treatment of lost and stolen passports remain. To be specific:

- DHS does not have a process to check new lost and stolen passport information against existing entry and exit information to determine the scope of fraudulent use of visa waiver passports.

- There continue to be problems with how the United States obtains lost and stolen passport information from visa waiver program participating governments and a need for a more regularized collection of such information. In at least one foreign country visited during our fieldwork, we observed substantial uncertainty over how to report thefts of its passports to our country.

- Even when lost and stolen passport data is properly reported to the U.S. and entered into U.S. lookout systems, some passports reported as stolen may still be used to enter the United States. We have confirmed that stolen passports have been used to enter the United States, even after September 11, 2001.

- In cases where inspectors identify stolen VWP passports presented by applicants who are denied entry, the fraudulent documents sometimes are returned so that the travelers may use them to return to their country of origin.

Our report contained 14 recommendations for corrective action in response to the vulnerabilities we observed in the program. Subsequent to the issuance of our report, the Border and Transportation Security (BTS) directorate has responded to our report and agreed to take corrective action in response to each recommendation.

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[1] Habib Zacarias Moussaoui used a French passport to enter the country on February 23, 2001, whereupon he began flight training in preparation for the September 11 attacks. Richard Reid used a British passport on December 22, 2001, to board a flight to the US on which he attempted to detonate explosives concealed in his shoes.

The most significant corrective action responsive to the concerns stated in our report is the processing of visa waiver travelers through U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT). As implemented in December 2003, US-VISIT excluded visa waiver travelers from its scope. We strongly recommended that visa waiver travelers be added to the US-VISIT program because of the additional screening, biometric identification, and exit control features it offers. On April 21, 2004, DHS Secretary Ridge announced that BTS would begin to process visa waiver travelers through US-VISIT "...by September 30, 2004." We believe the Department is on track with its plans to meet this deadline.

A second and equally important concern from our report was the ill-defined process by which information about a country's stolen and lost passports are reported and disseminated among other countries. I should note that this is a two-way street, and our government has never had a systematic method to inform other governments of the passport numbers of the U.S. passports that have been reported lost or stolen. We were therefore pleased to learn six weeks ago of the new INTERPOL plan to consolidate and regularize reporting of lost and stolen passports. This initiative should be of great benefit when fully implemented to permit automatic checking from the checkpoint or port of entry when all nations participate. It will likely require many years before full implementation of the INTERPOL stolen passport database, however, and therefore the United States still needs to take the steps we have outlined to reduce our vulnerability.

Our report also reported that the statutorily required country reviews were delinquent, a deficiency that has since been corrected. We expect that the country review reports will be released in October.

Even with the completion of the corrective actions we recommended, the visa waiver program will always pose some security risk. As we said in our report, "The visa is more than a mere stamp in a passport. It is the end result of a rigorous screening process the bearer must undergo before travel." By the end of the visa interview DOS has collected and stored considerable information about the traveler and the traveler's planned journey. Consular Affairs has introduced biometric features into its visas, shares data from its visa records with DHS port of entry systems, and significantly increased the percentage of applicants subject to a careful interview – State now interviews approximately 70 percent of all applicants, we were recently informed. In contrast, the visa waiver traveler is interviewed for the first and only time at the POE, the time devoted to each examination is brief, and little information about the traveler is collected and maintained. Moreover, the POE inspector has less familiarity with the language and documentation of the traveler than would a consular interviewer during the visa process.

During the course of our review of the visa waiver program, we obtained information that stolen blank passports from other countries were later used to enter the United States, sometimes on multiple occasions. On the basis of this information, I asked that our Office of Inspections, Evaluations, and Special Review begin a review into this information. We do not comment on ongoing work, but we can advise you that the

review has obtained additional documentation that, while still subject to further analysis, strongly suggests that stolen passports can be used successfully to enter the United States today. We will report to you on the further results of this review as soon as we are able.

Conclusion

Mr. Chairman, this concludes my prepared statement. Again, I appreciate your time and attention and welcome any questions you or Members of the Committee might have.

Chairman TOM DAVIS. Thank you very much. I am going to start the questioning with Mr. Souder.

Mr. SOUDER. Thank you very much.

Chairman TOM DAVIS. Mr. Souder, before we start, let me just say we have received written testimony from the U.S. Chamber regarding its concerns about visa for business travelers. I ask unanimous consent this testimony be entered into the record. Without objection, so ordered.

[The information referred to follows:]

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

RANDEL K. JOHNSON
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September 9, 2004

The Honorable Tom Davis
Chairman
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Davis:

On behalf of the U.S. Chamber of Commerce, I would like to thank you for holding a hearing this week on "Creating Secure Borders and Open Doors: A Review of DHS-State Collaboration on U.S. Visa Policy." I would like to offer the Chamber's views on the issues relevant to finding the key to secure and free travel, and request that this letter be included in the hearing record.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million businesses. The Chamber's federation includes state and local chambers throughout the United States and also includes 98 American Chambers of Commerce (AMCHAMs) in 86 countries abroad, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States. Because of their role at the crossroads of international business, we believe the AMCHAMs are excellent barometers of the strength of our international relationships.

Chamber members with interest in the secure and efficient movement of legitimate travel and trade at our borders include companies and organizations in the travel and tourism industries, companies that import or export goods and services through our ports of entry, companies that do business with international customers and clients, and companies that employ an international workforce. Chamber members on both the U.S.-Mexico and U.S.-Canada borders, including local chambers of commerce and AMCHAMs that conduct business between the U.S. and other countries, also have a great interest in the implementation and efficiency of our border security.

The Chamber has been actively working with Congress and the Departments of State and Homeland Security since 2001 on improving the security and efficiency of our visa system, including testifying twice before this Committee on issues relating to border security and visa issuance. We believe that the oversight exercised by this Committee and other members of Congress has brought about some improvement in the system. For

example, for the first time, the Department of State has posted to its Web site the current wait and processing times for temporary visas at all of the visa-issuing posts around the world, so that the public can have advance notice of how long it might take to obtain a U.S. visa. However, our brief review of the waiting times indicated that many posts have waits for interviews of over 20 days, and some have waits over 100 days! Obviously, we would hope that these times could be reduced to no more than a few days for all visa posts.

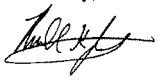
In May of this year, the Chamber's president and CEO, Tom Donohue, wrote to both Secretary Powell and Secretary Ridge expressing the Chamber's concerns over the current state of the visa processing system. The Chamber has also testified on current problems before three separate committees of the House of Representatives and it is worth noting that the committee report of the Department of Homeland Security appropriations legislation specifically expresses its concern over the "negative impact to the U.S. of increasing delays and related problems in the processing of visas," and encourages the Department of Homeland Security to work with interested parties and continue its review of the current system. On June 15, Secretary Powell responded to Mr. Donohue's letter and welcomed the "input and observations" of the Chamber of Commerce, and wrote that the State Department welcomed the opportunity for further consultation.

In August of this year, the Chamber also submitted specific recommendations to both Assistant Secretary Maura Harty of the State Department and Assistant Secretary C. Stewart Verdery of the Department of Homeland Security suggesting a variety of improvements in the visa processing system. That list of recommendations is attached to this letter for your reference.

We believe that one of the best ways to improve any process is through ongoing interactive dialogue with invested stakeholders. To that end, we would like to highlight the Chamber's suggestion, first articulated in an earlier hearing of this Committee, for the creation of a formal working group or advisory body to both the Department of State and the Department of Homeland Security on the visa process. Such a group should include organizations that can bring broad views to the table and pull from disparate interests. A formalized, ongoing dialogue could not only develop shared viable solutions to some of the difficulties of balancing security with openness in the visa process, but also develop relationships to better communicate changes with current and prospective travelers to the United States.

We look forward to continuing our work with this Committee, and with the Departments of State and Homeland Security in improving the process of visa issuance to ensure a secure and efficient system that continues to welcome legitimate travelers to our shores.

Sincerely,



Randel K. Johnson

Visa Processing Recommendations

General Recommendations:

Outreach:

- We recommend the creation of an advisory committee of private sector stakeholders to advise the Departments of Homeland Security and State on the issues facing the business community and develop cooperative solutions to ensuring both security and continued legitimate travel to the United States.

- The Departments of Homeland Security and State need an aggressive and proactive outreach and communications campaign (perhaps working with the Department of Commerce) to counteract the increasingly negative image the United States is gaining among international business and travelers.

- When appropriate, changes should be phased in gradually by country and security risk, rather than all at once.

- Create a single, easily accessible and multi-lingual Internet portal for comprehensive information on travel to the United States, including requirements for visa appointments, application, documentary burden of proof and what to expect upon arrival (visa inspection process). There is currently no easy way for a potential visitor to easily view a "timeline" or "process chart" for how to travel to the United States. For example, at what point is it necessary/prudent to make airline reservations? Some categories of visa might require a round-trip plane ticket, but travelers may be unwilling to purchase a ticket if there is a high possibility of visa denial or if it is uncertain when a visa might be issued. This information could be disseminated in cooperation with local entities including American Chambers of Commerce abroad and local Visit USA committees.

- Reinstate the Transit Without Visa ("TWOV") and International-to-International ("ITI") programs as soon as possible, consistent with national security concerns. These two programs were important connections for travelers from Latin America and Asia to the rest of the world, and generated significant income for airlines and airports operating in Miami, Los Angeles, Houston and other cities. The suspensions of these programs, which disproportionately affect Latin America and Asia (the top five transiting nationalities are Brazil, Mexico, Korea, the Philippines and Peru), are perceived as additional evidence abroad that America is "treating all nationalities as terrorists."

Resources:

- Increase funding and authorization for consular positions dedicated to visa processing, focusing on the posts that have seen the greatest increase in workload (both as a percentage and as an absolute number of cases/time to process). Authorize overtime for visa processing to meet increase in workload.

- The Departments of Homeland Security and State should develop criteria to evaluate priority classes of visa cases at consulates, such as by seasonal periods of high demand, or urgency or emergency travel needs to alleviate backlogs, and utilize resources efficiently.

- Reinstate facilitation programs by third-parties such as those previously offered through American Chambers of Commerce, or "AmChams," to qualified members in cooperation with U.S. consular posts. These programs, which were open to pre-screened members, could be redesigned by the consulate and the organization with specific criteria as to the types of companies and/or applications amenable to this facilitation. Consulates could develop a standardized AmCham and company validated information form (electronic or paper or both) which would support and expedite the visa application and renewal process. Because of the screening by the AmChams (which would not involve adjudication, but case preparation) and the qualification of the companies, the consulates could have better assurance of the bona fides of the sponsor and the applicant, and more confidence that the application will be complete and free of errors. This would allow for better allocation of scarce consular resources. Similarly, as simple a mechanism as regular meetings between top consular officers and AmCham executives and staffs would be helpful in communicating issues and policies.

- Revising visa reciprocity agreements between the United States and key sending countries to extend the duration of visas each country grants citizens of the other would reduce the number of times that visitors must renew their visas.

Specific Recommendations for Consular Processing:

Interviews:

- Reassess the policy of blanket, in-person interviews. There should be a security assessment of the validity of these interviews—as they are currently conducted—as a screening tool. It is unclear whether the resources required to conduct these interviews (which, due to high volume, are rarely more than a few minutes), is justified by significantly increased security. As recommended by the Department of State inspector general, a risk-based evaluation of the interview requirement should be conducted.

- Encourage pre-filing and screening of visa applications prior to the interview, with an opportunity to request and provide additional evidence or information prior to or at the interview. Consider an electronic filing system for applicants to submit visa applications online, similar to Australia's electronic travel authorization (ETA). Low-risk cases could be processed electronically and random and high-risk cases referred to consulates for interviews.

- Allow online visa appointment systems at consulates and embassies and allow appointments to be made while an individual is still in the United States prior to travel.

- Create a program for frequent, low-risk travelers that have proven track records, such as employees of well-vetted international companies that would reduce the need for in-person filing or additional security checks.

Process Streamlining:

- Inefficient visa-renewal processes cause lengthy delays and unpredictability for travelers. The Departments of Homeland Security and State should establish a timely process by which individuals can revalidate their visas, or at least begin the visa renewal process, before they leave the United States for business or personal travel. This would allow individuals to make reasonable assessments of their travel itineraries, in particular executives and others who travel frequently on short timetables. In most cases, because these individuals have previously been granted visas in the same category, and/or have had petitions already approved by the Department of Homeland Security, renewals should be processed expeditiously, as low-risk cases.

- There is a lack of transparency and priority-processing in the visa system. The Departments of Homeland Security and State should create processing time goals for all case types. We would suggest that most initial nonimmigrant visa applications should be able to be decided within two weeks, unless additional security checks are necessary, in which case 30 days should be the goal. Creating a mechanism by which visa applicants and their sponsors may inquire about the status of pending visa applications, and a process by which applications pending for more than these goals are given priority processing would be extremely helpful.

- The Departments of Homeland Security and State should consider the collection of biometrics at remote locations to reduce the need for personal appearance at the embassies or consulates of low-risk applicants. The Departments of Homeland Security and State should not require new biometric collection for reissuance or revalidation of previously issued visas.

- Implement a fee-collection system for the Student and Exchange Visitor Information System ("SEVIS") that allows for a variety of simple fee payment methods that are quick, safe, and secure, including payment after the individual arrives in the United States.

Security Checks:

- The Departments of Homeland Security and State should clarify and issue specific guidance to consular officers regarding which types of cases should be referred for Security Advisory Opinions. Specifically, there should be detailed training regarding the interpretation of the Technology Alert List, and requests for additional information from a sponsor or applicant to help identify whether the proposed activity is encompassed by the Technology Alert List.

- Allow businesses to assist consular officers in their duties by notifying companies, when appropriate, of the need for additional security checks and requesting specific additional

information, such as clarification of duties, scope of business or other information, that could either obviate the need for a clearance or assist in rapid processing of the clearances.

- Have a standard time frame to conduct security checks and visa issuance, with a system that requires status updates every two weeks as a "tickler" for aging cases.

- To decrease repetitive security checks that cause lengthy visa issuance delays, extend the validity of Visas Mantis security clearances from the current one-year time period to the duration of their underlying petition (for H, L, O or P nonimmigrants) or the duration of their studies (for F and J nonimmigrants) or their visit (for B1/B2 nonimmigrants).

- Individuals flagged for additional inspection or security clearances who are subsequently cleared, should have specific, rapid mechanisms for ensuring they are not repeated. There is currently no standard means by which false "hits" can be noted in any systems to prevent the same person from undergoing checks during each and every visit to the U.S. In addition to improving the service to the traveler, such strategies will reduce the amount of resources wasted on performing redundant checks on legitimate travelers.

- Previous security clearances, including export licenses, should be considered in conducting security checks, and when conducting checks for subsequent visa applications, when the underlying activities or sponsors have not changed.

Chairman TOM DAVIS. And I also ask for unanimous consent for the record to remain open to receive a written statement by the Association of American Universities and from George Washington University. And without objection, so ordered.

Ms. McCollum.

Ms. MCCOLLUM. Mr. Chair, I also have some college and university presidents that are sending letters.

Chairman TOM DAVIS. Give it to staff. We will keep the record open for that too. Thank you very much.

Ms. MCCOLLUM. Thank you.

Chairman TOM DAVIS. Thank you very much.

Mr. Souder, you are recognized.

Mr. SOUDER. Dr. Verdery, is that correct?

Mr. VERDERY. Mr. Verdery.

Mr. SOUDER. Mr. Verdery, in the Inspector General's report, and it has come up in a number of other hearings over time, the Inspector General's report alleges that DHS doesn't have a language training program or a way to try to address this question. Have you undertaken this in general? I know a lot of the services, even at our borders, are contracted out when you need somebody to do interpretation.

Is there any kind of bonus system for people to learn languages in these at-risk countries, particularly if they are going to serve tours of duty? What is your strategy of how to address the language problem? Right now, quite frankly, there could be packages that are labeled anthrax, and I am not sure anybody at our borders could read them.

Mr. VERDERY. Well, as we set about to meet the statutory requirement of having Visa Security Officers in Saudi Arabia on the day that the Memorandum of Understanding was signed between our Departments last September, we did not receive any funding for this, so we had to take it out of existing budgets, and we got very experienced law enforcement officers over there to meet that requirement; they were on the job, have been on the job ever since. Some of them do not speak the local language, as was recognized.

We do recognize over the long haul that this is a preference, of course, for people to have the language in the host country. It is difficult in some cases to find people who can do that. In addition, the training for people to give them that language skill many times would be longer than the tour of duty that they would be going on until we move to the full-time employees, as I mentioned in my statement.

Again, we are operating on TDY funds until the 2005 budget is enacted, which we again hope will be short and soon. But we do recognize this is a priority, it is just we have taken essentially the people we had available to do this responsibility, and we need to transition to the next phase of full-time employees with that capability.

Mr. SOUDER. Well, my concern is that the Department of Homeland Security needs to not only look at this in terms of the Saudi embassy and other embassies if we in fact want to use DHS as a resource for security purposes at these different embassies around the world, but also at our borders.

In other words, we have multiple language institutes that the State Department has, that the Department of Defense has, and is the Department of Homeland Security looking at interacting with these agencies? Because I don't see it just as an embassy problem and a tour of duty there, but as we know certain border crossings have a higher percentage of Arabic crossings and you need language training there.

At the northern border crossings it is amazing, we don't even have people who speak French at the Quebec border crossing. To some degree, there needs to be more sense in the Department of Homeland Security, and if you need money to do the training or to send them to the State Department or Defense Department training centers, you should specifically request that of Congress.

I also want to raise one additional point that I am sorry to have to raise at this hearing, Mr. Ervin, but I want to put it on the record, and that is regarding an issue that has nothing to do with my district and nothing to do with the politics with it, but it is regarding a lighthouse transfer in North Carolina.

We have had correspondence for over a year, we have multiple meetings for over a year, and I believe that lighthouse funds have been hijacked by the Department of Homeland Security. They have had two audits. It is clear to anybody who visits that lighthouse that the lighthouse has received more dollars in repairs than were ever taken in by any group; that they have contracted to repair the tower, and the Department of Homeland Security has been holding the funds.

The simple solution to this would have been to obligate those funds for the tower. Little kids, Boy Scout groups, visitors, all kinds of people gave the money for the lighthouse, not to have it absconded with by the Department of Homeland Security. This is transferring lighthouse transfer program, my legislation that passed; it is threatening lighthouses all over the United States.

I don't have any lighthouses in my district. The people involved in this fight, predominantly on the side that I am representing here, are Democrats. I don't have a political fight in this. I believe this is one of the biggest travesties of justice that I have seen, and it is intimidating these groups that were intended. The Coast Guard has hundreds of these.

The Department of Homeland Security is going to have a nightmare if every one of these things takes this kind of investigation; if you are going to try to figure out whether the money that they have has been used. Just obligate the funds; get it off your desk. You have far more important things to do, as this illustrates today, than worry about this lighthouse problem. And I understand that we are going to get this resolved next week.

My opinion is that the two costs of these surveys should be refunded by the Federal Government. This has been a bullying tactic and people all across the country for years have kept these lighthouse towers and buildings intact because the Federal Government wouldn't invest the funds. And then we pass a bill to try to do it.

To have it held up in this way has been a chilling effect across the whole country, and the whole Nation is watching to see how this gets resolved and whether they are going to be harassed in the same way. The Department of Interior had signed off, the Coast

Guard had signed off; every agency had signed off, until the IG Office came trotting in.

Now, I understand there was an investigation request out of the committee. It was real simple. Audit was done, agencies have cleared it. Get it out of your office. And I am looking forward to having that done.

Mr. ERVIN. Mr. Souder, I commend you for your interest in this issue. I want you to be assured that we share your interest in the issue. As you say, we have been working for quite some time on this issue, while at the same time working on counter-terrorism issues like the ones we are discussing here today. We have been very diligent about it.

I want to assure you we have a team of auditors and lawyers looking at the issue. It took quite a bit of time for OBC to conduct the required accounting. It took quite a long time for the Coast Guard to receive that. It has taken some time for the Coast Guard to review it. I want to assure you that it is the Coast Guard ultimately that is the decisionmaker here, not the Office of Inspector General.

All that having been said, the Coast Guard has now, we understand, reviewed the accounting, and we will be getting that in a very, very short period of time. We will then look at it and make our determination, and I expect, as we have told you, that we will be able to clear this up no later than 2 weeks, and probably sooner than that.

Mr. SOUDER. I want to make sure that the general public understands—and this is, if this continues, going to be the worst PR nightmare the Department of Homeland Security has ever faced to this point. If you miss a few terrorists, it will pale in comparison to that. But this is penny ante stuff. People drop money into jars, they send checks to these groups, they pay for this building to keep the towers up.

They already had audits; there are tons of paperwork that existed. Then the Department of Homeland Security required an additional audit, which is why it took so long, which is going to basically turn up the same thing that the first audit showed. This is the most highly audited, the best organized group of any that are managing 200 lighthouses. If you are going to do this for 200 lighthouses, instead of going after terrorists, when there is no question that the dollars were intended for lighthouse use and all you had to say was use it to repair the tower, which, by the way, they have a contract on, what in the world is the problem?

And, quite frankly, this has been an embarrassment, and I hope it gets resolved in a positive way, because otherwise what the Department of Homeland Security is going to have to do is manage all these hundreds of lighthouses that nobody is going to want to take because you are going to go back and give them 30,000 to 40,000. Two audits now, because they already had done one before you got involved in it, and the second audit, it would bankrupt any of the other groups.

This is the largest single lighthouse group in the country, and on the verge of going bankrupt because of your harassment. And it may be the Coast Guard, but the truth was the Coast Guard had

already signed off on it until the Inspector General's Office got involved, whether it was Coast Guard Inspector General or the other.

The fact is the Park Service, which manages it, and which I have oversight of and which I serve on Resources, and I am on Homeland Security, I find this an incredible embarrassment for the Department of Homeland Security, and to take time up at a hearing like this because I can't get responsible answers, and only under duress can we even get an answer, I just find appalling.

Mr. ERVIN. Well, actually, sir, not to prolong this, but we have been in constant contact with your staff, both in writing, on the telephone, and in person, so it is not as if you have not had an opportunity to raise this issue with us before this hearing. But, as I say, we will be resolving it very quickly, no later than 2 weeks, and a lot sooner than that, I expect.

Chairman TOM DAVIS. Thank you very much.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair. I have two questions, and I think you can tell from my opening statement how strongly I feel about working together cooperatively to solve the student visa issue. So my first question is what steps have the Department of Homeland Security and the Department of State made to address the delays in student and scholar visa processing?

The other question that I have I will set up some information before I ask it. The Department of State currently does not provide a new stamp for student or scholar visas. This possesses a problem when a student, especially, who has to go home for a temporary visit: wedding, funeral, family emergency. Such a trip home can cause the individual to be reevaluated with new background tracks having to be completed, and one student who was in his last year of medical school found himself trapped back home after going back home for a medical emergency for 4 months, disrupting his entire medical schooling.

So we know that this is a problem and I know you are aware of it, so I want to know what the Department of State is considering in a process which would allow students and scholars who have already gone through a very intensive background check, that have been granted these visas, is there a process in which they can have their visa revalidated in the United States before traveling abroad for personal business or to attend an international conference that would allow them less confusion in returning back to the United States to complete their business?

So those are my two questions, Mr. Chair.

Ms. JACOBS. Thank you very much for the question. I think that we always enjoy an opportunity to talk about the processing of students, exchange visitors, scientists, business travelers, others whose travel is very, very important to us. I want to say that the State Department certainly endorses everything that has been said here today about the importance of continuing to attract legitimate travelers to the United States.

Secretary Powell often describes the task at hand as being an effort to maintain secure borders, open doors. And while security is our first priority, we are working very, very hard at State and also with the Department of Homeland Security on trying to look at the measures that have been put into place after September 11 to

make sure that they are targeted, that they are efficient, and, most of all, predictable.

I think that is something that if people know what is going to happen to them when they go in to apply for a visa, even if it sometimes, in some cases, takes a few weeks in order to actually process the case to conclusion, as long as the process is predictable, I think people are satisfied with that. And that is what we are working very, very hard on.

The State Department, as far as students go, over a year ago we sent out instructions to all of our visa processing posts, 211 posts, telling them that they had to establish special procedures for getting students and exchange visitors in to the embassy in a timely way so that they did not miss their programs, the beginning of studies.

And I am happy to report that all of our posts do have in place, in fact, special procedures to get students, especially during the summer period, in in a timely way so that they don't miss their fall classes. We did this last year; it worked very well. We did it this year; it has also worked very well.

The vast majority of students, if they are found otherwise qualified once they have their interview at the embassy, and provided they have their documents in order and they are otherwise eligible, get their visas very quickly. There are a few overall, in about the 7 million visas that we process each year, about 2.2 percent of that number of all categories of applicants to include students are subject to some type of Washington clearance, a vetting back here by agencies in Washington.

Those, I think, are the cases that have been talked a lot about as far as delays and things being more difficult, perhaps, after September 11, and those are the very cases that we are working very, very hard on to reduce the delays. And I am happy to say that in almost all of these cases we are able to turn these clearances around now in 30 days or less.

For students, research scholars, others who might be subject to a check to guard against the transfer of sensitive technology that is often referred to as the Visa's Mantis program, I am happy to say that because of changes that have been made recently, 98 percent of those cases are now being done within 30 days or less. That is a huge improvement over where we were last year, where we were even 6 months ago.

We also have a renewed commitment from the agencies involved in the clearance process to turn these cases around quickly. We have ways now, using this new electronic system that we have for doing the name checks, of keeping track of the pending cases, and once a case reaches a certain period of time in its processing, we notify other agencies to tell them that the case is overdue. I think we are having much better results.

Some of the stories that we hear from the schools and from the business community and others I think perhaps may be based on old cases, perhaps old information. I honestly believe that we have turned a corner, that we are doing better, and the statistics that we have on both numbers of applications and issuances I think verify that. Visa applications, this fiscal year compared to last fiscal year, are up 10.4 percent. The number of overall issuances, com-

pared to last year, up 14.6 percent. For student visas, the number of applications up 9.4 percent, and the number of issuances to students up 11.2 percent over last year.

Ms. MCCOLLUM. Mr. Chair, if I could just ask a clarification.

Chairman TOM DAVIS. You may.

Ms. MCCOLLUM. Up from what year?

Ms. JACOBS. From the last fiscal year.

Ms. MCCOLLUM. Which was a negative, correct?

Ms. JACOBS. That is right. We are certainly not up to where we were before September 11, but we are, I think, now for the first time after September 11, starting to see the numbers go up again, which I think is really good news.

I think also on the student front we at State, and I know Department of Homeland Security as well, have met with a number of the academic organizations to try to explain the procedures, the things that we are trying to do to streamline, to make them better.

I think we have had a very good and open dialog with them about changes. We certainly have heard their concerns and tried to address them. We will continue to look at all of these issues, though, and work with our colleagues in the other Federal agencies, and with the schools and other organizations, in trying to make further improvements.

Chairman TOM DAVIS. She asked a second question. We will give you time to respond in writing to that.

Ms. JACOBS. Sure. The question of people who get a clearance and then come here and feel that they are not able to return home because they may be trapped for a long period of time and not able to get back, a lot of this depends on the reciprocity schedule that we have with any given government. In most cases students get multiple entry visas, and what that means is that they don't have to go and reapply for a visa every time they leave the United States.

For the ones who get limited visas, for example, a single-entry visa, who are also subject to some type of name check, we have been able to reach agreement for those who are subject to this check, the Visa's Mantis check for tech transfer concerns, for those who are in a U.S. Government sponsored program who are going to come back to the same program and there is no change in their situation, the clearance itself is now good for a year. So those people can leave, go and apply for a visa. They don't have to wait for another security check; once they get their visa, they can come back.

We are working on trying to extend those, make the clearances valid for even longer periods of time for other categories. And with the others who are subject to clearances, again, we have a commitment by all of the agencies involved in the process to turn these cases around quickly.

Chairman TOM DAVIS. Thank you very much. Thank you.

This is a question for all panelists. I will start with you, Ms. Jacobs, first. The IG has basically noted that INS has had difficulty getting permanent employees overseas because they didn't want to go there. Is there any plan to create something like the Foreign Commercial Service or Foreign Agricultural Service to provide a career track for these Visa Security Officers?

Ms. JACOBS. OK, well, I think I will defer to Mr. Verdery to answer that completely, but I think just in general, working with Homeland Security, that there has been a very serious effort to try to get Visa Security Officers overseas. We have worked very, very closely with them to do that.

Chairman TOM DAVIS. There has, but I am concerned about the lack of a career track to make it attractive to them. And I guess I will put it over to you, Mr. Verdery.

Mr. VERDERY. I think it is a very interesting concept. I think we are at a more fledgling state than that. We do not, at this point, have an army of people we need to worry about; it is a small number of individuals. We are going to be expanding in the coming months, once the fiscal year 2005 budget comes down the pike, but this is not such a large program at this point, where we are talking about a large number of people.

We are really concentrating on making the Saudi operation work well, on getting the other hub sites up and running, on getting the D.C. operations in place, on converting the TDY individuals over to full-time. Again, I am not sure I have gotten the point out here, but these are very experienced law enforcement personnel that are going over to assist essentially the entry-level folks over at the Department of State who are working on the visas, providing great value to this process. But, again, that is kind of a longer——

Chairman TOM DAVIS. But you are making investments in these people in language training and the like over the long term, and I am just thinking over the long term you want to make sure that there is an appropriate career path to attract people, go through the kind of training they are going to need to go through this. I know the program is in its infancy; I am just trying to look ahead a little bit.

Mr. VERDERY. And we are trying to look ahead as well. Again, once the funding is in place, we are actually going to be hiring full-time people. That is a very legitimate concern we need to take into account.

Mr. ERVIN. And I would just second that, Mr. Chairman. We recommended that, as you noted, and we think that the Department should definitely look at that model.

Chairman TOM DAVIS. I agree.

Also, the visa waiver review that is expected to be completed in October, is it going to provide a baseline standard? And the reason I ask that is you have some countries that, frankly, the people coming in here are not security threats. They may be threats to just disappear illegally into the country, but I am talking about Poland, I am talking about South Korea. These are countries, frankly, that aren't terrorist threats, as near as I can tell, and they have people fighting alongside us over in Iraq and the like. I think it is important that they get a road map for what it would take to gain admission to visa entry.

I was just in Korea. One of the complaints we heard from businesses, from the government there, and what I hear back in Annandale and Fairfax and my own district is the difficulty in getting visas for people that are not terrorist threats. There are other concerns with INS, and that is the people who come over here and not likely to return, and we understand that.

But if we could give these countries a road map for what it would take to gain admission to the visa entry program, that would be helpful. And I think after this report in October, maybe that could be a road map for it. Can you make a comment on that?

Mr. VERDERY. Again, I think you are right. Our priority is to get these country reviews done to make sure the countries who are already in the program are meeting their criteria, especially on lost and stolen passports responsibilities, reporting those to us so we can detect these people at ports of entry.

But there are other very important statutory criteria that Congress has passed about refusal rates, overstay rates, cooperation with law enforcement and the like, all the things you would want from a country that is given this kind of privilege. And since there is a road map for countries to understand how they will be judged, and once we get these reviews done over the next few weeks, we are then going to turn to reviewing anybody else who would like to apply.

Now, I can tell you that the criteria are fairly stringent, so I wouldn't want to give people false hope. But there is a process and we will take that on once we get through these country reviews.

Chairman TOM DAVIS. My impression is that some of the criteria are more anecdotal than they are factually based, in terms of who we are letting in and not letting in, focusing in on younger women coming in, that somehow we think they are more likely to disappear into the population than others, and the like. Will the data collected from the US-VISIT be used in evaluating countries that want to join the Visa Waiver Program?

Mr. VERDERY. Yes. The VISIT program, as you know, we are building out the exit part of VISIT with pilot programs at several airports right now that will give us better departure data than we have currently so we will be able to understand overstay rates in a more comprehensive way than we have right now. We have many departure points to go, we have to pick a technology for the exit, which is extremely complicated, but over time we will have much better overstay information that would be plugged into countries who want to apply for the Visa Waiver Program itself.

Chairman TOM DAVIS. I want to put my plug in for South Korea in particular because they have a current problem in my district with our large population coming back and forth. I don't think it is a major security issue that drives it. There are some elements of that, but getting into that peninsula is pretty tough.

Mr. VERDERY. There is both a security and a overstay issue here.

Chairman TOM DAVIS. The overstay issue I think takes dominance. I think the other we can work through.

Mr. Ervin, you wanted to comment?

Mr. ERVIN. Just one quick interjection, if I may, on the issue of countries like Poland and South Korea. I am very pleased that the country reviews are being done by the Department; I think that is very important. I agree that road maps should be provided for countries like Poland and South Korea and others that desire to become part of the program.

But just a caution, and that is that it is not necessarily the case that terrorists will always come from countries in the Middle East or Islamic countries. Increasingly, in fact, it is likely that they will

come from countries with which traditionally the United States has had very good diplomatic relations from which terrorists have not traditionally come. After all, Zacharias Moussaoui entered our country on a French passport, and Richard Reid, the shoe bomber, came on a British passport. So just a caution about that.

Chairman TOM DAVIS. Yes, but the Korean peninsula is pretty isolated. Now, I guess in theory you could have a North Korean come down and sneak down over the border and steal a passport, but we could find a way around that. To get through that peninsula, it is not like it is a porous border like the French passports where people are coming in and out.

I think, in fairness, they have troops fighting alongside us over there, and I don't want to do anything to discredit what that government has done and how important this could be with everything else going on. So that's my own view, but having been over there and seeing the amount of trade and commerce going on, the number of people going back and forth, this would be a primary, in my judgment, for a visa waiver, just make things a lot smoother.

But if you just let them know what criteria they have to meet, I think they could take some internal steps to try to meet that and hopefully meet the concerns that you have, which we think are legitimate.

Mr. ERVIN. Thank you.

Chairman TOM DAVIS. Thank you.

Mr. Tierney.

Mr. TIERNEY. Thank you. I am always fascinated by that subject. Whenever you have a waiver program, you run the risk that somebody is going to impose upon nationals of another country to do their dirty work for them.

So I think that there is always that concern, and it is sort of tough to reconcile a waiver program if security is your issue, because you are assuming that nobody is ever going to be imposed upon through blackmail or threats or anything like that to do something, and it gets difficult on that.

Ms. Jacobs, the VISIT program, there has been criticism in the past of the fact that the data bases were so large and had gotten some inaccurate data in the past that had a lot of dated information, and now we have added millions to it. Can you tell me what the report is on false positives? Are we getting a lot of false positives? Has that issue been resolved favorably?

Mr. VERDERY. I think that actually probably falls more in my camp, Congressman. There are false positives where the fingerprint does bring up somebody else, but it is extremely low, in the one-tenth of 1 percent kind of phaseout of the 8 million, and they are being resolved within a few minutes.

We have a pretty robust privacy policy within US-VISIT which we run, and to date there have been very few complaints. People have actually found the finger scanning, as we like to call it, fairly innocuous, and we have almost no privacy complaints. People see it as a great security measure. It hasn't increased the waits at all.

Mr. TIERNEY. Can either you or Ms. Jacobs tell me what was the delay on the Memorandum of Understanding? Why did it take so long to get that document done?

Mr. VERDERY. It is just extremely complicated on dividing up the responsibilities between the oversight mechanism that we play, both in Washington and overseas, and the operational responsibilities for Ms. Jacobs' consular officials and some of the touchy issues on the recognition of their diplomatic needs and these things. So this was taking some of our best lawyers, some of our best policy folks to get it done, and we think it has worked well.

I wouldn't want the hearing to close without saying that the point here is cooperation. There are probably no two departments I know of that cooperate better than we do. There is no Federal official I talk to more than Janice, and we have an incredibly strong relationship on the visa program, on VISIT, and how they mesh together, so I think it is working very well.

Mr. TIERNEY. Mr. Ervin's study indicates that many of the things that needed to be done could have been done prior to that Memorandum of Understanding being done. Was there a reason for the delay at the Department of Homeland Security in implementing what it could have done without the agreement?

Mr. VERDERY. I think we have a disagreement over the legalisms here as to when our officers were required to be deployed to Saudi Arabia, I think our lawyers and his lawyers disagree about the exact date. In our view it wouldn't have made a whole lot of sense to send them over there without having the legal framework for providing their ability to engage in the visa process, and they were there the day it was signed.

So this is a legal issue. I think it has been a year now. They are providing great value over in Saudi Arabia, have been engaged in finding people that wouldn't have been detected otherwise and engaging with the consular officials, so I think in some ways we are passed that, but there is just a debate over the statutory interpretation.

Mr. TIERNEY. I am a little concerned about some of the things I see in the report about whether or not they are being that effective when I see that 9 out of 10 of the officers served over in Saudi Arabia don't read or speak Arabic, and right on down the line.

But let me, because time is limited, go to the funding issue. Where do we stand on the funding? Is it still inadequate to complete the things that need to be completed on that? Where is it in the process? How far apart are the present numbers being proposed from what the perceived needs of the Department are?

Mr. VERDERY. Well, as you know, we are winding up fiscal year 2004. There was no money in the 2004 budget because the agreement hadn't been signed and the office hadn't been set up; there was essentially nothing to fund. So we have taken money from ICE and other parts of the Department to build this fledgling program.

There is $10 million that is in the appropriations bill that are pending here that will provide enough money to do the Washington responsibilities we talked about and turn the Saudi operation into full-time, permanent employees and at least one other hub location overseas to full-time, permanent.

Now, we are also looking, very importantly, at having enough money to deploy rapid response teams. So if we see a country where there is a security gap or we have intelligence about a potential security gap, we can get a team of experienced law enforcement

people there, maybe 30 days, 60 days, to engage, to improve the situation, to get us through a risk period, and the like. It is a different model than just sending people everywhere, but we think it is one that should be explored.

So the money is there. I would think in future years, as the program meets success and we have the fully engaged partnership developed, I would imagine they would expand beyond the $10 million, but that is what we need for this year.

Mr. TIERNEY. Thank you.

Chairman TOM DAVIS. Thank you very much.

Mr. Ruppersberger.

Mr. RUPPERSBERGER. We know what some of the issues are. We know you have a very difficult time. It is good to see that we have the Department of Homeland Security and State working together on this issue. We know what the problems are and we have attempted to set up the systems, now it is a matter of implementing and managing those systems.

I would like to talk about two different areas, if I can, in the time allotted, to get into some more specifics, and that is something that has been alluded to today. The question is about the Visa Security Officers and, second, the Biometric Visa Program, and that is the program, as we know, that requires applicants for fingerprinting, photographs, and to await clearance through the IDENT system.

Now, as it relates to the VSO or the security officers, first thing, why did we just pick Saudi Arabia? Is it a pilot program? I mean, the law basically states that we must have these VSO Security Officers in Saudi Arabia.

Mr. VERDERY. Part of the Homeland Security Act essentially said that we could not issue any visas after the date the MOU was signed unless we had the DHS Visa Security Officers in Saudi reviewing those applications.

Mr. RUPPERSBERGER. OK, now, I know.

Mr. ERVIN. May I just interject? Actually, the statute said that notwithstanding any other provision of law, that after the enactment of the act, which was January 2003, there had to be onsite DHS personnel to review visa applications in Saudi Arabia, and it was because 15 of the 19 September 11 terrorists were from Saudi Arabia.

Mr. RUPPERSBERGER. OK. Well, let me ask you this. Do we have a job description for that position, for the VSO? What is the job description? And what I am alluding to—let me go a little bit further. Do we have issues that would relate to language? What is the funding mechanism? What is the plan to go into other countries?

I mean, what this does is give a stronger security component to the visa process, but it is not just having a couple people out there and throwing them out there without training and the ability to speak the language. What do we need to do to make this a stronger program to then take this to other countries where we have just as much vulnerability as Saudi Arabia?

Mr. VERDERY. Well, there is a plan in place on training the officers, on providing the job descriptions, on moving on to other countries, the hub countries, as I mentioned. Some of these we have interim training programs in place and are moving on to more full-

time programs. For instance, we are required to train the VSOs. We have been doing that in-house.

We are now going to be working with FLETC, Federal Law Enforcement Training Center, to provide that professional training to the VSOs as they are deployed overseas. So in some ways we have come up with interim measures that have fit the bill during this interim year. Now we are moving on to full-time employees, about the language issues and the like.

In terms of the deployment to other locations, we expect that to be done throughout fiscal year 2005 as the money comes in, to get people out to high-risk areas. We have identified five. We think we will probably do at least one in fiscal year 2005, in addition to these rapid response teams I mentioned that we would like to be able to do.

So there are plans in place. I would be not fully honest if I said this has been a difficult program to manage with no funds. So we have taken it out of——

Mr. RUPPERSBERGER. Well, my concern is this looks like a good program, but we are woefully inadequate as far as the personnel is concerned, the training is concerned. If you can't speak the language, I wonder if there is expertise in intelligence analysis, the ability to analyze what we have.

What is the integration, if we have the technology there, the integration between getting information and getting into other arenas or finding out where to get that information? I think it is a program that makes a lot of sense, but I am very concerned about what I hear today about implementing it, the technology, the training, the job descriptions, all of those areas.

Mr. VERDERY. We obviously agree. We think this is very valuable. The people who have been doing this have found it valuable. The State Department colleagues have found it to be valuable. We are finding people in the application process that would not have been found otherwise. The law enforcement experience and the access that they bring to the broader range of DHS——

Mr. RUPPERSBERGER. I am going to interrupt you because I see my yellow light is on. I want to get to the Biometric Visa Program, which really I think is a great program. I know that the GAO is expected to issue a report that there is not enough uniform guidance as far, as the management of this program, for those individuals that are adjudicating the visa applications.

The good news is that GAO is going to say that you are ahead of schedule on the implementation of the program, which is supposed to start, I think, in October 2004. My question basically is if the GAO is coming out with that recommendation, they are concerned about the uniform guidance, how do we expect to deal with that?

Ms. JACOBS. Thank you for the question. The Bio Visa Program is one that the State Department is very, very proud of. We were able to get it out to the field very quickly. We started in September 2003. We will definitely meet our October 26 deadline for having the program up and running at all of our 211 visa processing posts.

The study that the GAO did pointed to some recommendations about more policy guidance to the field, more instructions on implementing the program. In our response to the GAO report, we did

point to a number of instructions, policy guidance that was sent out to the field beginning in September 2003, when we first deployed the program, and I would be happy to provide you with sort of a list of all of those telegrams that have gone out.

Some of the issues raised in that report had to do with procedural questions that were still being worked out because it was a new program. We are really joined at the hip with DHS in implementing this program. I think it is one of the best examples of the cooperation between our two agencies.

But there were some technical systems issues that we has to address along the way, and we did keep the field informed. One of the questions was getting the result of the name check, the IDENT check back before an interview seemed to be important to the GAO investigators, and as we explained in our response, no visa can be issued until the results have been looked at by the adjudicating officer.

So it would be nice to have the information, but sometimes, given the way that the system is set up and works, that is not always possible. But the information is always available before the visa is actually adjudicated.

Mr. RUPPERSBERGER. Thank you. I think it is very important that we have a lot of oversight on the Visa Security Officers program. It is a good idea. Where it is now, I think it is really doomed for failure, and yet I think we need this type of program. So if you could report back, at least to me, if not the committee, on where we are in this program and what it needs to be successful; otherwise, I believe we are wasting money.

Chairman TOM DAVIS. Thank you very much.

Mr. VERDERY. We would be happy to. And, again, we agree this is a very key priority of Under Secretary Hutchinson, and we are going to make the most of the money that is coming our way.

Chairman TOM DAVIS. Thank you very much.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

I want to thank all the witnesses for being here. I was also pleased to hear of the cooperation between DHS and the State Department on many of these issues. I would say in our district office the overwhelming number of constituent cases that we deal with, we deal with immigration issues, both on the permanent immigration side but very often on the non-immigrant visa issue. It is the No. 1 issue with respect to constituent concerns.

And in that regard, as I understand it, we have really got a couple of processes: you can be in the Visa Waiver Program in 1 of 27 countries where you go through no visa process or a couple of the other exceptions, or you can be from a country where we are going through a much more vigorous visa application process.

And with respect to that second category of countries, my question deals with those individuals who apply for a visa, they go to the consular officer, they are determined not to be a security risk, they go through all the background checks and determine that this person has no history of any kind of wrongdoing or anything, but they are denied a visa because of a concern that they are going to overstay their visit.

And we have so many people who are trying to come here for weddings, in many cases funerals, where the individual is denied on the basis that they claim that they are going to be at risk of overstaying; not a security risk, risk of overstaying, but really given no reason in many cases, provided no argument or rationale for why this person is denied and what that person would have to show in order to meet the tests of the consular officer.

So I would appreciate it if you could address that issue, because it comes up constantly in our district office.

Ms. JACOBS. OK, I would be happy to try to address that. The section of law that you are talking about is Section 214(b) of the Immigration Act, which basically presumes that all non-immigrant applicants are intending applicants until they overcome that presumption. And 214(b) remains the primary reason that people are denied visas, more so certainly than people being suspected of being terrorists or security risks.

Section 214(b) does loom large for the vast majority of applicants. It is something that has certainly existed before September 11, and it is something that all of our consular officers receive training before they are put in a position of having to adjudicate visas, training in how to identify bona fide applicants and those who may be coming who are in fact intending to remain in the United States.

The officers who are at our embassies adjudicating visas have received a lot of other types of training, they are very familiar with the host country, the social, political, economic conditions in that country, and they really are able to tell, for the most part, applicants who really are coming for the intended purpose and those who have not been able to overcome this presumption of being an intended immigrant.

There are certain countries where there is a lot of pressure to immigrate to the United States, either to find jobs because there are family, friends here, other reasons, and in those countries, again, most of the cases are denied because of this intending immigrant presumption.

We do give officers training. I know that sometimes applicants feel that they are not given an explanation. All applicants are supposed to be given in writing the reason that the visa was denied.

We do give all kinds of suggestions about what an applicant can bring in the way of documents and otherwise to show that they have strong ties to the home country, to give proof about the purpose of the visit to the United States. So the officer looks at every case on its individual merits, looking at the case as a whole, and uses the training and the knowledge about the host country to make the best decision possible.

Mr. VAN HOLLEN. OK. Well, I would appreciate the opportunity to work with your office on some of these cases because there are some that I think we would all agree, fair-minded people would agree are cases where there was absolutely no risk of someone not returning to their homeland, a case where someone wanted to see his dying brother who had brain cancer, in fact, we were finally able to resolve it and the person went back.

But there are cases where it seems to me understandably consular officers who are the front line since September 11 are denying people far more automatically than they were before, even

where there is no issue of security. Obviously if there is any hint of a security risk, that person needs to be fully vetted and make sure that we don't allow that person to enter, but these are people who there is no finding of security risk and yet it seems that there has been an increase in denials without providing any rationale for the decision. So I hope that at least on certain cases we are able to work together.

Mr. VERDERY. Congressman, could I just add two points related to this?

One, we have been working quite closely with the business community to try to figure out better mechanisms for business travelers to avoid getting caught up in this kind of 214(b) issue. We have had very productive discussions on making sure that they provide the best documentation available, that we can work with the companies to figure out, yes, these are legitimate company employees, that kind of thing, to try to help on that front.

The second thing goes back to the point I think Congressman Tierney raised, the importance of the exit part of US-VISIT. Essentially, now, when somebody arrives, we really don't know when they are leaving, so having that capability over the next few years to be built out will really add to the value of understanding when you give somebody a visa, what does that mean; are they leaving, are they staying, what countries are problem areas, and the like. So getting that right is extremely important, but very difficult when you think of imposing that kind of requirement at airports or land borders.

So look forward to working with you on both of those.

Mr. VAN HOLLEN. Right. No, I think that is critical, being able to document who is overstaying or not. My concern is that often we are not doing it on an individual basis, we are generalizing with respect to countries.

So an individual who may have a very good individual case to come here is somehow tainted because others from that country may have overstayed. But I think you are absolutely right, it is important to get the data so that we can take a look at these things.

Chairman TOM DAVIS. And also I just hope you would consider US-VISIT information, too, in the visa process so the barriers that exist now, we are going to get a lot of information out of that, and as we talked before, not just for the Visa Waiver Program, but in some of the other areas, we want to optimize the use of this information. We will come back and revisit this when we get it.

I think that will conclude this panel. The committee will take about a 1-minute recess as we move our next panel.

Oh, Mr. Souder has one last question.

Mr. SOUDER. I am sorry. I wanted to ask Ms. Jacobs are all State Department employees required to know the language when they go into a country?

Ms. JACOBS. For the most part, yes. Our positions are language-designated or not, but in most instances consular officers do speak the language of the host country.

Mr. SOUDER. And do you have training programs for those people? Because pretty much everybody I have met has to understand the language when they are in that country as part of their training program before they go over.

Ms. JACOBS. Yes, sir, we do, we have a very intensive language program provided by our Foreign Service Institute.

Mr. SOUDER. What is your estimate of the cost of that program per person, do you have it in your budget when you figure you have to train somebody?

Ms. JACOBS. I can get back to you with that number.

Mr. SOUDER. OK, thank you.

Chairman TOM DAVIS. Thank you again. Our thanks to this panel. We will take a 1-minute recess, then we will have Jacquelyn Williams-Bridgers, Managing Director of the International Affairs and Trade Team for the Government Accountability Office, next.

[Recess.]

Chairman TOM DAVIS. We will now move to our second panel, and I want to thank Jacquelyn L. Williams-Bridgers, the Managing Director of the International Affairs and Trade Team for the Government Accountability Office for being here.

It is the policy of this committee that all witnesses be sworn. If you would rise with me and raise your right hands. Who do you have with you we need to identify?

Ms. WILLIAMS-BRIDGERS. With me is Randolph Hite, who is the Director of International Technology Architecture and Systems Issues.

Chairman TOM DAVIS. Mr. Hite, welcome. We will swear you in as well in case we have any questions.

[Witnesses sworn.]

Chairman TOM DAVIS. Thank you.

I know you know the rules. We are trying to beat a vote, so if we can get through your testimony and get through questions and hopefully, when they call the vote, we can go on for 10 minutes and then dismiss you and not have to hold you until afterwards, and that will save you some time. Thanks for being with us.

STATEMENTS OF JACQUELYN L. WILLIAMS-BRIDGERS, MANAGING DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, ACCOMPANIED BY RANDOLPH HITE, DIRECTOR OF INFORMATION TECHNOLOGY ARCHITECTURE AND SYSTEMS ISSUES

Ms. WILLIAMS-BRIDGERS. Thank you very much, Mr. Chairman and members of the committee, for having us here today to discuss the results of our report issued to you on the results of GAO's review of the Biometric Visa Program, as well as other aspects of visa and border security programs that highlight the need for joint, coordinated efforts by the Department of State and the Department of Homeland Security.

Since September 11, the U.S. Government has made a concerted effort to better protect our borders by enhancing visa issuance policies and procedures, as well as improving the screening of millions of foreign visitors who enter, stay, and exit the United States each year. State's Biometric Visa Program complements the DHS-run US-VISIT program by extending border security improvements beyond U.S. ports of entry.

The Biometrics Program requires pre-screening of visa applicants at U.S. consulates overseas to ensure that they are qualified to obtain visas. The US-VISIT program, among other things, verifies

that the same person who applied for a visa is the one who is actually entering the United States using that visa.

My statement today will focus on our observations and recommendations that call for joint collaboration of effort between State and DHS to improve border security programs specifically with regard to the Biometric Visa Program and the US-VISIT program.

In summary, State and DHS have made many improvements to visa issuance policies and border security. Nevertheless, in our reviews we have found weaknesses that both agencies need to address. For example, we found that State is implementing the Biometric Visa Program on schedule and will likely meet the mandated October 2004 deadline for issuing visas with biometric identifiers.

As of last week, State had installed program hardware and software at 201 of 207 overseas posts that issue visas, and State plans to complete installation at the remaining six posts by the end of this month. The biometric technology installation has progressed smoothly; however, DHS and State have not provided comprehensive guidance to consular posts on when and how the information on visa applicants obtained from IDENT should be considered by adjudicating officers.

In the absence of such guidance, officers may be unclear on how to optimize the use of IDENT information provided under the Biometrics Program. Therefore, we recommend in our report that DHS and State develop and provide such guidance to consular posts on how information on visa applicants available through IDENT should be used to help adjudicate visa applications.

Further, DHS has employed an initial US-VISIT operating capability, including the use of biometric, for entry at 115 airports and 14 seaports. DHS plans to expand the initial operating capability at the fiftiest busiest land ports of entry by December 2004 and to all remaining land ports of entry by December 2005. It has deployed an exit capability on a pilot basis at two airports and one seaport to enable electronic matching of biometric data collected at entry to those collected at exit.

However, earlier this year we reported that DHS's homeland security enterprise architecture had not yet been adequately defined. By this I mean DHS had not fully constructed an operational context or a blueprint to provide, for example, all US-VISIT stakeholder agencies a common frame of reference for how to implement US-VISIT in terms of such things as the desired program outcomes, the business processes, information flows, and areas of responsibility.

DHS released an initial version of its enterprise architecture in September 2003; however, we found that this architecture was missing important content. This content is needed to help verify, clarify, and optimize the relationships between US-VISIT and other homeland security programs and operations such as State's Biometric Visa Program. DHS plans to release a new version of its enterprise architecture in several weeks.

Also in 2003 we identified systemic weaknesses in another program key to homeland security: the visa revocation process. Many of the weaknesses we identified were the result of a failure of U.S.

agencies to share and effectively utilize information that was shared. Last summer we reported that information on individuals with visas revoked on terrorism grounds was not fully shared between State and appropriate immigration and law enforcement agencies.

A followup review just this summer showed that although State and DHS had made some improvements in the revocation process in response to our recommendations, some weaknesses remained. For example, in some cases, State took a week or longer to notify DHS that it had revoked visas based on potential terrorism concerns. As a result, we made additional recommendations to both agencies which they have agreed to implement.

Timely information sharing among State, DHS, and other agencies also affects the time it takes to adjudicate a visa for science students and scholars, as has been discussed during the previous panel. In some cases consular officers determine that some of these applicants must undergo the Visa's Mantis check to protect against sensitive technology transfers.

In February of this year we found that it was difficult to resolve some Visa's Mantis cases expeditiously, given the way that the information was disseminated among State, DHS and other agencies. State and DHS are currently working to implement recommendations that we have made.

In conclusion, overall our work has demonstrated that coordinated, joint actions taken by State and DHS are critical to homeland and border security. State and DHS have worked together to roll out the biometric technology to consular posts worldwide and on schedule. Moreover, their cooperation on US-VISIT has been, and will continue to be critical to ensure that information available to consulates is there and ready for them to adjudicate visa applications in a timely manner.

We recognize that it may not be feasible for each post around the world to implement biometric visas in the exact same way, given the variances in consulates' workloads, their physical facilities, the level of personnel, and security of concerns with the applicant pool. However, guidance to posts on how to optimize use of biometric information would enable posts to develop best operating procedures to identify their resource gaps and to implement mitigating actions to address their unique circumstances.

Therefore, we made a number of recommendations to State and Homeland Security to develop guidance that should address the planned uses of information generated by the Biometric Visa Program, including guidance to consular officers on when and how such information should be considered. Further, we recommend that the Secretary of State direct consular posts to develop implementing guidance. State has acknowledged there might be some lag in the guidance they have already provided by way of the 13 telegrams; however, we believe that additional action is needed.

Mr. Chairman, this concludes my prepared statement. As I mentioned, I am joined by my colleague, Randolph Hite, and would be glad to entertain any questions that you or members might have.

[The prepared statement of Ms. Williams-Bridgers follows:]

United States Government Accountability Office

GAO

Testimony
Before the Committee on Government Reform, House of Representatives

For Release on Delivery
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BORDER SECURITY

Joint, Coordinated Actions by State and DHS Needed to Guide Biometric Visas and Related Programs

Joint Statement of Jacquelyn L. Williams-Bridgers, Managing Director, International Affairs and Trade, and Randolph Hite, Director of Information Technology Architecture and Systems Issues

GAO-04-1080T

GAO

Highlights

Highlights of GAO-04-1080T, a report to the Committee on Government Reform, House of Representatives

Why GAO Did This Study

Since September 11, 2001, the U.S. government has made a concerted effort to strengthen border security by enhancing visa issuance policies and procedures, as well as expanding screening of the millions of foreign visitors who enter the United States annually. Consistent with the 9/11 Commission report that recommends a biometric entry-exit screening system for travelers, the Department of State biometric program complements the Department of Homeland Security's (DHS) United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program—a governmentwide program to better control and monitor the entry, visa status, and exit of visitors.

GAO was asked to present the findings of its report on State's Biometric Visa Program, as well as discuss other aspects of visa processing and border security that require coordinated, joint actions by State and DHS.

What We Recommend

GAO has recommended that DHS and State develop and provide guidance to consular posts on how to use information from the biometric program to adjudicate visas. In other reports, GAO has made recommendations to DHS and State to improve US-VISIT, as well as several aspects of the nonimmigrant visa process. The agencies generally agreed and are taking actions to implement our recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-1080T

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jacquelyn L. Williams-Bridgers at (202) 512-4128 or williamsbridgersj@gao.gov.

September 9, 2004

BORDER SECURITY

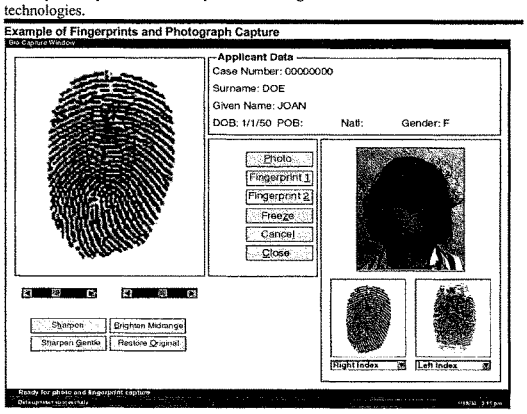
Joint, Coordinated Actions by State and DHS Needed to Guide Biometric Visas and Related Programs

What GAO Found

Our report issued today finds that State is implementing the Biometric Visa Program on schedule and will likely meet the October 26, 2004, deadline for issuing visas that include biometric indicators, as mandated by Congress. As of September 1, 2004, State had installed program hardware and software at 201 visa issuing posts overseas and plans to complete the installation at the remaining 6 posts by September 30. Technology installation has progressed smoothly, however State and DHS have not provided comprehensive guidance to consular posts on when and how information from the DHS Automated Biometric Identification System (IDENT) on visa applicants should be considered by adjudicating consular officers. In the absence of such guidance, we found that these officers are unclear on how best to use the biometric program and IDENT information.

Since September 11, State and DHS have made many improvements to visa issuance and border security policies. Nevertheless, in prior reports, we have found additional vulnerabilities that need to be addressed through joint, coordinated actions. For example, DHS has not adequately defined the operational context for US-VISIT, which affects the biometric program. In addition, we identified systemic weaknesses in information sharing between State and DHS in the visa revocation process. Moreover, we found related weaknesses in an interagency security check process aimed to prevent the illegal transfer of sensitive technologies.

Example of Fingerprints and Photograph Capture



Source: GAO analysis of State data.

Mr. Chairman and Members of the Committee:

We are pleased to be here to discuss our report[1] being issued today on the Department of State's Biometric Visa Program, which requires that all persons applying for U.S. visas have certain biometrics[2] (in this case, fingerprints) and digital photographs collected during the visa[3] application process and cleared through the Department of Homeland Security's (DHS) Automated Biometric Identification System (IDENT) before receiving a visa. In addition, we will discuss several previous GAO reports that highlight the need for joint, coordinated efforts by State and DHS on programs to enhance border security and visa processes.

Since September 11, 2001, the U.S. government has made a concerted effort to strengthen border security by enhancing visa issuance policies and procedures, as well as improving the screening of the millions of foreign visitors who enter, stay in, and exit the United States annually. State's Biometric Visa Program complements the DHS-run United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program—a governmentwide program that collects, maintains, and shares information on foreign nationals to better control and monitor the entry, visa status, and exit of visitors. The Biometric Visa Program prescreens visa applicants at U.S. consulates overseas to ensure that they are qualified to obtain visas, while the US-VISIT program, among other things, verifies that the same person who applied for a visa is the one who is entering the United States using that visa.[4] The biometric program is consistent with the July 2004 9/11 Commission report,[5] which recommends using biometric identifiers for border and transportation systems and a biometric entry-exit screening system for travelers.

Our statement today will focus on border security programs requiring joint, coordinated efforts by State and DHS. We will first discuss our observations of State's Biometric Visa Program. In addition, based on prior reports we have issued, we will discuss some of our findings and our recommendations that called for coordinated efforts between DHS and State to improve other aspects the nonimmigrant visa process (NIV) and border security, including US-VISIT.

Summary

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[1]See GAO, *BORDER SECURITY: State Department Rollout of Biometric Visas on Schedule, but Guidance Is Lagging*, GAO-04-1001 (Washington, D.C.: Sept. 9, 2004).

[2]Biometrics is a wide range of technologies that can be used to, among other things, verify a person's identity by capturing and analyzing his or her physiological characteristics. In this case, and for the purposes of this report, "biometric identifiers" refers to fingerprints. See GAO, *Technology Assessment: Using Biometrics for Border Security*, GAO-03-174 (Washington, D.C.: Nov. 14, 2002).

[3]In this report, we use the term "visa" to refer to nonimmigrant visas only. The United States also grants visas to people who intend to immigrate to the United States. A visa allows a foreign visitor to present himself or herself at a port of entry for admission to the United States.

[4]DHS currently does not have information on individuals apprehended at ports of entry when their prints and photographs did not match those captured at the consular posts for the visa they were using. On July 19, 2004, DHS implemented a system to assist in identifying such cases and indicated that it will be able to develop better information in the future.

[5]The National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington, D.C.: July 22, 2004).

We found that State is implementing the Biometric Visa Program on schedule and will likely meet the October 26, 2004, deadline for issuing visas with biometric identifiers, as mandated by Congress.[6] As of September 1, 2004, State had installed program hardware and software at 201 of 207 overseas posts that issue visas, and State plans to complete the installation at the remaining 6 posts by September 30. The biometric technology installation has progressed smoothly; however, DHS and State have not provided comprehensive guidance to consular posts on when and how information from IDENT on visa applicants should be considered by adjudicating consular officers.[7] In the absence of such guidance, officers may be unclear on how best to use the biometric program and IDENT information. Therefore, in our report issued today, we have recommended that DHS and State develop and provide comprehensive guidance to consular posts on how information on visa applicants available through IDENT should be used to help adjudicate visas. DHS concurred with our report, and State acknowledged that there may be a lag in guidance.

State and DHS have made many improvements to border security and visa issuance policies since September 11, 2001. Nevertheless, in our reviews of various aspects of border security and visa issuance, we have found weaknesses that both agencies need to address through joint, coordinated actions. For example,

- DHS has deployed an initial US-VISIT operating capability for entry to 115 airports and 14 seaports. DHS plans to expand the initial operating capability to the 50 busiest land ports of entry by December 2004, and to all remaining land ports of entry by December 2005. It has also deployed an exit capability, on a pilot basis, at two airports and one seaport.[8] However, the program's operational context, or homeland security enterprise architecture,[9] has not yet been adequately defined.[10] DHS released an initial version of its enterprise architecture in September 2003; however, we found that this architecture was missing important content. This content is needed to help clarify and optimize the relationships between US-VISIT and other homeland security programs and operations, such as State's Biometric Visa Program.

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[6]Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. No. 107-173) requires that no later than October 26, 2004, the State Department issue visas that use biometric identifiers.

[7]The Homeland Security Act of 2002 establishes DHS's role in the visa process, and a subsequent September 2003 Memorandum of Understanding between the Secretaries of State and Homeland Security further outlines the visa issuance authorities. According to the memorandum, DHS is responsible for establishing visa policy, reviewing implementation of the policy, and providing additional direction, while State is responsible for managing the visa process, managing the consular corps and its functions, and carrying out U.S. foreign policy. DHS and State share responsibility for policy and implementation of the Biometric Visa Program.

[8]These are the Baltimore/Washington International Airport, Chicago O'Hare International Airport, and the Miami Royal Caribbean seaport.

[9]An enterprise architecture provides a clear and comprehensive picture of the structure of an entity, whether an organization or a functional or mission area, including depictions of the enterprise's current or "as-is" technical and operational environments, its target or "to-be" technical and operational environments, and a plan for transitioning to the target. A properly managed enterprise architecture can clarify and help optimize the interdependencies and relationships among business operations, as well as those between these operations and the underlying information technology infrastructure and applications.

[10]See GAO, *Homeland Security: Efforts Are Underway to Develop Enterprise Architecture, But Much Work Remains*, GAO-04-777 (Washington, D.C.: Aug. 6, 2004).

- In 2003, we identified systemic weaknesses in the visa revocation process,[11] many of which were the result of a failure of U.S. agencies to share and fully utilize information.[12] We reported that information on individuals with visas revoked on terrorism grounds was not shared between State and appropriate immigration and law enforcement offices. We made several recommendations to State and DHS, which they agreed to implement. A follow-up review in summer 2004, showed that although State and DHS had made improvements in the revocation process, some weaknesses remained.[13] For instance, in some cases State took a week or longer to notify DHS that individuals with revoked visas might have been in the country. As a result, we made additional recommendations to both agencies, which they agreed to implement.

- Timely information sharing among State, DHS, and other agencies also affects the time it takes to adjudicate a visa for a science student or scholar. In some cases, consular officers determine that some of these applicants must undergo a security check, known as Visas Mantis, to protect against sensitive technology transfers.[14] In February 2004, we found that it was difficult to resolve some Visas Mantis cases expeditiously given the way in which information was disseminated among State, DHS, and other agencies.[15] Again, we addressed recommendations to both State and DHS, and they are currently implementing them.

Overall, our work has demonstrated that joint, coordinated actions by State and DHS are critical for homeland and border security.

Background

State's $162 million Biometric Visa Program is designed to work hand-in-hand with the DHS multibillion-dollar US-VISIT program. Both programs aim to improve U.S. border security by verifying the identity of persons entering the United States. Both programs rely on the DHS Automated Biographic Identification System, known as IDENT, which is a repository of fingerprints and digital photographs of persons who either have applied for U.S. visas since the inception of the program in September 2003, have entered the United States at one of 115 air or 14 sea ports of entry since January 2004, or are on a watch list—whether for previous

[11]The visa revocation process is a homeland security tool that can prevent potential terrorists from entering the United States and can help DHS officials identify and investigate potential terrorists that may have already entered the country.

[12]See GAO, *BORDER SECURITY: New Policies and Procedures Are Needed to Fill Gaps in the Visa Revocation Process*, GAO-03-798 (Washington, D.C.: June 18, 2003).

[13]See GAO, *BORDER SECURITY: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process*, GAO-04-795 (Washington, D.C.: July 13, 2004).

[14]The Visas Mantis process allows all participating agencies, including DHS, to provide information and raise any particular concerns that they may have regarding the applicant and/or the applicant's proposed activities in the United States. According to State, the key role of the Visas Mantis process is to protect U.S. national security, particularly in combating the proliferation of weapons of mass destruction, their delivery systems, and conventional weapons.

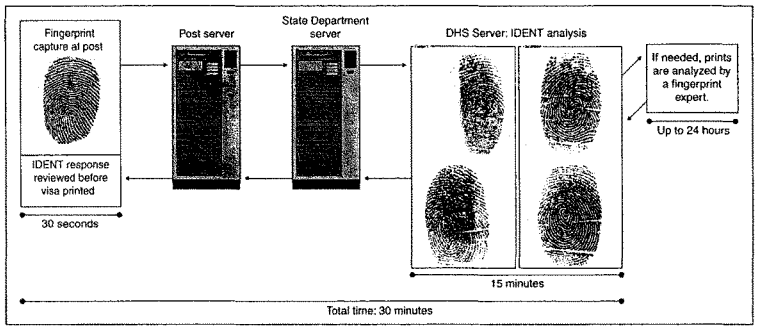
[15]See GAO, *BORDER SECURITY: Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars*, GAO-04-371 (Washington, D.C.: Feb. 25, 2004).

immigration violations or as part of the FBI's database of terrorists and individuals with felony convictions.[16]

Biometric Process at U.S. Consulates Overseas

The process for determining who will be issued a visa consists of several steps. When a person applies for a visa at a U.S. consulate, a fingerprint scan is taken of his right and left index fingers. These prints are then transmitted from the overseas post through servers[17] at State to DHS's IDENT system, which searches its records and sends a response back through State to the post.[18] A "hit" response—meaning that a match to someone previously entered in the system was found—prevents the post's computer system from printing a visa for the applicant until the information is reviewed and cleared by a consular officer. According to State data, the entire process generally takes about 30 minutes. If the computer cannot determine if two sets of prints match, IDENT refers the case to DHS fingerprint experts, who have up to 24 hours to return a response to State (see fig. 1).

Figure 1: Biometric Fingerprint Analysis Process



Sources: GAO analysis of State and DHS processes.

United States Visitor and Immigrant Status Indicator Technology Program

US-VISIT aims to enhance national security, facilitate legitimate trade and travel, contribute to the integrity of the U.S. immigration system, and adhere to U.S. privacy laws and policies by

[16]IDENT data includes FBI information on all known and suspected terrorists, selected wanted persons (foreign-born, unknown place of birth, previously arrested by DHS), and previous criminal histories for high risk countries; DHS Immigration and Customs Enforcement information on deported felons and sexual registrants; and DHS information on previous criminal histories. Information from the bureau includes fingerprints from the Integrated Automated Fingerprint Identification System.

[17]A server is a computer on a network that manages network resources, such as storing files, managing printers, managing network traffic, or processing database queries

[18]In a hit record, information is included on the person's previous entry in the system, either at a port of entry or U.S. consulate, or through the watch list.

- collecting, maintaining, and sharing information on certain foreign nationals who enter and exit the United States;
- identifying foreign nationals who (1) have overstayed or violated the terms of their visit; (2) can receive, extend, or adjust their immigration status; or (3) should be apprehended or detained by law enforcement officials;
- detecting fraudulent travel documents, verifying traveler identity, and determining traveler admissibility through the use of biometrics; and
- facilitating information sharing and coordination among appropriate agencies.

The process by which a foreign national is screened for entry is as follows: When a foreign national arrives at a port of entry to the United States, a DHS inspector scans the machine-readable travel documents. Existing records on the foreign national, including biographic lookout hits are returned. The computer presents available biographic information and a photograph and determines whether IDENT contains existing fingerprints for the foreign national. The inspector then scans the foreign national's fingerprints (left and right index fingers) and takes a photograph. This information is checked against stored fingerprints in IDENT. If no matching prints are in IDENT, the foreign national is enrolled in US-VISIT (i.e., biographic and biometric data are entered). If the foreign national's fingerprints are already in IDENT, the system performs a comparison of the fingerprint taken at the port of entry to the one on file to confirm that the person submitting the fingerprints is the person on file. If the system finds a mismatch of fingerprints or a watch list hit, the foreign national is held for further screening or processing.

Biometric Visa Implementation Nearing Completion, but Some Guidance Still Needed

State's implementation of the technology aspects of the biometric visa program is currently on schedule to meet the October 26, 2004, deadline. According to State officials, a well-planned rollout of equipment and software and fewer technical problems than anticipated led to smooth implementation of the technological aspects of the program at the 201 posts that had the program operating as of September 1, 2004. But amid the fast pace of rolling out the program to meet the deadline, DHS and State have not provided comprehensive guidance for consular posts on how the information about visa applicants made available through the Biometric Visa Program should best be used to help adjudicate visas. Indeed, we found several significant differences in the implementation of the biometric program during our visits to San Salvador, El Salvador, and Santo Domingo, Dominican Republic. State acknowledged that posts may be implementing the program in various ways across the 207 consular posts that issue nonimmigrant visas.

State Expects to Meet Implementation Deadline

According to State officials, the implementation process for the biometric program led to far fewer technical problems than expected. Early on, State had a few difficulties in transmitting data between the posts and DHS's IDENT, primarily related to server and firewall (computer

security) issues. According to State, most issues were resolved within a few days. In fact, 201 nonimmigrant visa (NIV)-issuing posts out of 207 had the software and hardware installed and were transmitting prints to IDENT for analysis as of September 1, 2004. State anticipates the completion of the installation by the October 2004 deadline.

Fingerprinting Raising Issues in Visa Process

According to State's data, from February to August 2004, the total biometric visa process averaged about 30 minutes for an applicant's prints to be sent from an overseas post to the State server, and on to DHS for IDENT analysis and then for the response to be returned through State's server to the posts. IDENT response time could affect visa issuance times because a visa cannot be issued until the post has received and reviewed the IDENT response. Our observations at posts in San Salvador and Santo Domingo demonstrated the importance of the length of time required to receive an IDENT response. We observed that most interviews average only a few minutes, but the IDENT response time currently is 30 minutes. Thus, if interviewing officers collect prints during the interview, the interview would be completed before the IDENT response would be available to consular officers. Since the visa cannot be issued until the IDENT information is considered by the consulate, potential delays in the IDENT response times could have a major effect on the visa issuance process and inconvenience visa applicants. State has encouraged consular officials to issue visas the day after interviews since part of the visa process now relies on another agency's system. This will require significant changes for posts such as Santo Domingo, which still issues same-day visas.

Guidance Lagging for Program Implementation

State has focused on implementing the Biometric Visa Program by the mandated deadline; however, our report identifies certain lags in guidance on how the program should be implemented at consular posts. State and DHS have not yet provided to posts details of how all aspects of the program will be implemented, including who should scan fingerprints, where and who should review information about applicants returned from IDENT, and response times for the IDENT system. In addition, DHS and State have not provided comprehensive guidance for consular posts on how the information about visa applicants made available through the Biometric Visa Program should be used to help adjudicate visas.

We believe that it is important for State and DHS to articulate how the program could best be implemented, providing a roadmap for posts to develop implementation plans that incorporate the guidance. We recognize, however, that the workload, personnel and facility resources vary considerably from post to post. As a result, each post may not be able to easily implement the Biometric Visa Program according to a precise set of guidelines. However, posts could develop procedures to implement the guidance, identify resource and facility constraints, and implement mitigating actions to address their own unique circumstances. Therefore, we have recommended that DHS and State provide comprehensive guidance to consular posts on how information about visa applicants that is now available from IDENT should be used to help adjudicate visas. In

responding to our recommendation, DHS generally concurred and State acknowledged that there may be a lag in guidance.

Program Implementation Varies at Consular Posts

Our work at two posts shows that, because they lack specific guidance on the system's use, consular officers at these overseas posts are uncertain how they should implement the Biometric Visa Program and are currently using the returned IDENT responses in a variety of ways. For example, we found that, in cases in which the IDENT response information is available to the overseas post by the time of the visa applicant interview, some consular officers who conduct interviews review information before the interview, some review it during the interview, and some rely instead on a designated officer or the line chief to review the information after the interview is completed and before affected visas are printed.

We found several differences in the visa operations at two posts—San Salvador, El Salvador, and Santo Domingo, Dominican Republic—that handle a large volume of visa applications. For example,

- San Salvador, one of the first posts to begin implementing the program in September 2003, has a large new embassy complex that allowed the post great flexibility in implementing the collection of biometrics. Applicants are led through outdoor security screening before entering the interview waiting room. Once in the waiting room, they immediately proceed to a fingerprint scanning window where an American officer verifies their names and photographs and scans their fingerprints. By the time they arrive at their interview windows, usually the interviewing officer has received their IDENT responses. However, the post has designated one officer to review all of the IDENT responses, so some interviewing officers do not take the time to review IDENT information on those they interview even if the information is available at the time of the interview.

- Santo Domingo's consular section is hampered by significant facility constraints. The NIV applicant waiting area is very cramped and has been even more restricted over recent months due to construction efforts. Some of the NIV applicants are forced to share space in the immigrant visa waiting area. Santo Domingo has fewer interviewing windows than San Salvador and cannot easily spare one to designate for fulltime fingerprint scanning due to high interview volume. Some interviewing officers scan applicants' fingerprints at the time of the interview, so the interview ends before the IDENT response has been returned from DHS. One consular officer is designated to review the IDENT responses for all of the applicants, and interviewing officers may not see IDENT information on the applicants they interview. In some cases, the designated officer determines if the applicant should receive a visa, and in others he brings the IDENT information back to the original interviewing officer for the case for further review.

Joint, Coordinated Actions by State and DHS Required on Many Aspects of Visa Processing and Border Security

Since September 11, 2001, we have issued reports recommending that State and DHS work together to improve several aspects of border security and the visa process, as described below. These reports show the importance of joint, coordinated actions by State and DHS to maximize program effectiveness.

US-VISIT Operating at Selected Points of Entry, but DHS Further Defining its Operational Context

The US-VISIT program supports a multifaceted, critical mission: to help protect approximately 95,000 miles of shoreline and navigable waterways through inspections of foreign nationals at U.S. ports of entry. DHS has deployed an initial operating capability for entry to 115 airports and 14 seaports. It has also deployed an exit capability, as a pilot, at two airports and one seaport. Since becoming operational, DHS reports that more than eight million foreign nationals have been processed by US-VISIT at ports of entry, resulting in hundreds being denied entry. Its scope is large and complex, connecting 16 existing information technology systems in a governmentwide process involving multiple departments and agencies.[19] In addition to these and other challenges, the program's operational context, or homeland security enterprise architecture, is not yet adequately defined.

DHS released an initial version of its enterprise architecture in September 2003; however, we found that this architecture was missing, either partially or completely, all the key elements expected in a well-defined architecture, such as descriptions of business processes, information flows among these processes, and security rules associated with these information flows.[20] DHS could benefit from such key elements to help clarify and optimize the relationships between US-VISIT and other homeland security programs operations, such as State's Biometric Visa Program, both in terms of processes and the underlying information technology infrastructure and applications. Although the biometrics program is administered by State, it falls under the overall visa policy area of the DHS Directorate of Border and Transportation Security, and is part of our national homeland security mission. State officials indicated that they are waiting for DHS to further define US-VISIT, which would help guide State's actions on the Biometric Visa Program.

[19]GAO has identified US-VISIT as a high-risk endeavor. See GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed,* GAO-03-1083 (Washington, D.C.; Sept. 19, 2003).

[20]DHS plans to release an updated version of its enterprise architecture in September 2004.

Aspects of NIV Process Require State and DHS Cooperation

Since September 11, 2001, our work has demonstrated the need for State and DHS to work together to better address potential vulnerabilities in the visa process. In June 2003, we identified systemic weaknesses in the visa revocation process, many of which were the result of a failure to share and fully utilize information. We reported that the visa revocation process was not used aggressively to share information among agencies on individuals with visas revoked on terrorism grounds.[21] It also broke down when these individuals had already entered the United States prior to revocation. Immigration officials and the Federal Bureau of Investigation (FBI) were not then routinely taking actions to investigate, locate, or resolve the cases of individuals who remained in the United States after their visas were revoked. Therefore, we recommended that DHS, in conjunction with the Departments of State and Justice, develop specific policies and procedures to ensure that appropriate agencies are notified of revocations based on terrorism grounds and take proper actions.

In July 2004, we followed up on our findings and recommendations regarding interagency coordination in the visa revocation process and found that State and DHS had taken some actions in the summer of 2003 to address these weaknesses.[22] However, our review showed that some weaknesses remained. For instance, in some cases State took a week or longer to notify DHS that individuals with revoked visas might be in the country. Without these notifications, DHS may not know to investigate those individuals. Given outstanding legal and policy issues regarding the removal of individuals based solely on their visa revocation, we recommended that the Secretaries of Homeland Security and State jointly (1) develop a written governmentwide policy that clearly defines roles and responsibilities and sets performance standards and (2) address outstanding legal and policy issues in this area or provide Congress with specific actions it could take to resolve them. State agreed to work together with DHS to address these recommendations.

In February 2004, we reported that the time it takes to adjudicate a visa for a science student or scholar depends largely on whether an applicant must undergo a security check known as Visas Mantis, which is designed to protect against sensitive technology transfers.[23] Based on a random sample of Visas Mantis cases for science students and scholars, we found it took an average of 67 days for the interagency security check to be processed and for State to notify the post. We also found that the way in which Visas Mantis information was disseminated at headquarters made it difficult to resolve some cases expeditiously. Finally, consular staff at posts we visited stated that they lacked clear guidance on the Visas Mantis program. While State and FBI officials acknowledged there had been lengthy waits, they reported having measures under way to improve the process and to identify and resolve outstanding Visas Mantis cases. We recommended that the Secretary of State, in coordination with the Director of the FBI and the Secretary of Homeland Security, develop and implement a plan to improve the Visas Mantis process. We are currently reviewing the measures these agencies have taken to improve the

[21]GAO-03-798.

[22]GAO-04-795.

[23]GAO-04-371.

Visas Mantis program made since our February report and will report on our findings at the beginning of next year.

Overall, we have reported on a number of areas in which joint, coordinated actions by DHS and State are needed to improve border security and visa processing. In commenting in our report of State's biometric program, both DHS and State have pledged their commitment to continued cooperation and joint actions. Indeed, these agencies are currently working together as part of the US-VISIT program. For example, State participates in two DHS-led groups designed to oversee and manage the US-VISIT program. First, State participates on the US-VISIT Federal Stakeholders Advisory Board, which provides guidance and direction to the US-VISIT program. State also participates as part of the US-VISIT Integrated Project Team, which meets weekly to discuss, among other things, operational issues concerning the deployment of US-VISIT.

Conclusion

Mr. Chairman, overall, our work has demonstrated that coordinated, joint actions by State and DHS are critical for homeland and border security. State and DHS have worked together to roll out the biometric technology to consular posts worldwide on schedule. Moreover, their cooperation on US-VISIT will be critical to ensure that information is available to consulates to adjudicate visa applications and prevent persons from unlawfully entering the United States. However, they have not yet provided comprehensive guidance to the posts on how the program and biometric information should be used to adjudicate visas. We recognize that it may not be feasible for each post to implement biometric visas in the same way, given the variances among posts in workload, security concerns with the applicant pool, facilities, and personnel. However, guidance to posts on how to best implement the program, including best practices, would enable posts to develop operating procedures, identify resource needs, and implement mitigating actions to address the unique circumstances at each post.

Therefore we have recommended that the Secretaries of Homeland Security and State develop and provide comprehensive guidance to consular posts on how best to implement the Biometric Visa Program. The guidance should address the planned uses for the information generated by the Biometric Visa Program at consular posts including directions to consular officers on when and how information from the IDENT database on visa applicants should be considered. Further, we have recommended that the Secretary of State direct consular posts to develop an implementation plan based on this guidance. DHS generally concurred with our recommendations, stating that GAO's identification of areas where improvements are needed in the Biometric Visa Program will contribute to ongoing efforts to strengthen the visa process. State acknowledged that there may be a lag in guidance. Regarding US-VISIT, we made an earlier recommendation that the Secretary for Homeland Security clarify the operational context in which US-VISIT is to operate. DHS agreed with our recommendation and plans to issue the next version of their enterprise architecture in September of 2004. This is an essential component in establishing biometric policy and creating consistency between the DHS-run US-VISIT program and State's Biometric Visa program.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or other members of the committee may have.

Contacts and Acknowledgments

For questions regarding this testimony, please call Jess Ford at (202) 512-4128. Other key contributors to this statement were John Brummet, Sharron Candon, Deborah Davis, Kathryn Hartsburg, David Hinchman, and David Noone.

(320313)

Chairman TOM DAVIS. Thank you very much. Let me start. In your testimony you mentioned that the DHS enterprise architecture is missing important content relating to US-VISIT. Can you elaborate on that concern?

Mr. HITE. If I could, Mr. Chairman.

Chairman TOM DAVIS. Mr. Hite.

Mr. HITE. It is missing content with respect to US-VISIT and all homeland security programs, because the enterprise architecture is designed to define how homeland security is supposed to function, both in operational and technical terms, not just within the Department of Homeland Security, but across all Federal agencies that are involved in homeland security, and it extends to State and local governments as well.

So what we did was use accepted criteria that are out in the public domain concerning what the content of an enterprise architecture should include. We had 34 criteria governing the target architecture, the target environment that you want to move toward, and then we also had 5 criteria governing what should be in the transition plan, which moves you from your current environment to your target.

And basically what we found was that it partially satisfied about 60 percent of those criteria, those key elements, and had not satisfied 40 percent. So it is clearly a work in process that right now didn't have the level of detail and depth and scope of coverage that would allow programs to be implemented in a way so that they interoperate and optimize cross-organizational performance.

Chairman TOM DAVIS. Could you comment on the necessity for the State Department to identify IDENT information retrieval time requirements for optimal visa interviews so that DHS can appropriately set the systems requirements necessary for US-VISIT?

Ms. WILLIAMS-BRIDGERS. Yes. What we found was, unlike what was mentioned in the prior panel, adjudicating officers, those officers at posts who actually conducted the interviews of visa applicants, do not always have all of the information that is returned from an IDENT search.

For example, in one of the posts that we visited, there is one consular officer who will review an IDENT response once fingerprints have been taken and another consular officer who conducts the interview. So, for example, information that may be returned in an IDENT response that is not clearly derogatory, meaning that it is not a hit on a watch list, but may be relevant or even contradictory to information obtained by an interviewing officer, is not always made available to that interviewing officer. Therefore, we believe that sometimes decisions can be made by an adjudicating officer without the benefit of all the information that may be contained in the IDENT response.

Chairman TOM DAVIS. Also there have been some concerns about facility limitations, the use of Americans outside the hard line to collect finger scans and the use of Foreign Service Nationals to collect biometric data. How could these challenges impede on the optimal workflow for obtaining IDENT information prior to a visa interview?

Ms. WILLIAMS-BRIDGERS. In those posts where there is enough physical space in the consulate to allow for the collection of finger-

print data, allow for the applicants to wait in an environment so that the IDENT information can be processed and then, given a 15 or 30 minute turnaround in the IDENT response, to be given to the adjudicating officer, it would allow the adjudicating officer to have all the information available to them.

In those consulates where there is not the physical space to allow the number of applicants to wait while the IDENT responses are returned to the consulate, it does not allow for that timely and expeditious consideration of the information. Therefore, an interviewing officer may complete the interview before the IDENT response is made available to them, therefore prolonging the whole of the visa consideration process.

Chairman TOM DAVIS. Thank you very much.

Mr. Tierney, any questions?

Mr. TIERNEY. Thank you. I read your report, and it is very thorough and I appreciate it. Let me ask you a general question. Do you find that the Department of Homeland Security and the Department of State are generally receptive to your recommendations and attempt to work with them, or are they resistant and disputing those recommendations with you?

Ms. WILLIAMS-BRIDGERS. I would characterize the Department of Homeland Security and State as being receptive to our recommendations. They have generally concurred with the recommendations that we have made on the visa policy and process; however, there are some outstanding steps that we think would improve the ability of the consular officers to make best use of the information generated from the Biometrics Visa Program.

Mr. TIERNEY. Do you have indications that the Department of Homeland Security and Department of State are going to act on those outstanding issues or are they still unresolved?

Ms. WILLIAMS-BRIDGERS. There are some unresolved issues as of the report that was just issued today, though, but we are quite hopeful that over time, and we will followup with them——

Mr. TIERNEY. I am sorry, I didn't mean to interrupt you. I am sorry.

Ms. WILLIAMS-BRIDGERS. I am sorry. And we will followup with them in ongoing work that we have looking at outstanding visa vulnerabilities.

Mr. TIERNEY. Because they have actually seen your report before you issued it today; you gave them a copy for their response.

Ms. WILLIAMS-BRIDGERS. Yes. And their comments are incorporated.

Mr. TIERNEY. Right. So when you say they are unresolved, do their comments indicate that they dispute them or that they intend to try to work with you to try to resolve the issues?

Ms. WILLIAMS-BRIDGERS. State and DHS have disagreed with our recommendation of the need for additional implementing guidance to be issued to consulates. They believe that the overall policy, as Ms. Jacobs referred to earlier, contained in the 13 telegrams allow general operating guidance to the consulates, but then allow additional flexibility for the consulates given the types of physical constraints that they may have, the number of personnel, and the language capabilities that result in them relying on Foreign Service

nationals to integrate into the whole of the visa adjudication process.

So both the DHS and State have agreed in concept to many of the recommendations, but they have not agreed to that part of the outstanding recommendation that we believe is so important to providing actual direction and guidance to the consulates.

Mr. TIERNEY. Now, you went out and made field inspections after what they perceived to be adequate guidance had already been issued to the field.

Ms. WILLIAMS-BRIDGERS. That is correct.

Mr. TIERNEY. And found it to be inadequate.

Ms. WILLIAMS-BRIDGERS. That is correct.

Mr. TIERNEY. And gave us the examples in your report, and you cited in your testimony today, of what can happen in those situations.

Ms. WILLIAMS-BRIDGERS. That is correct.

Mr. TIERNEY. Thank you.

Mr. Chairman, I think that probably warrants, we probably should have done this in the reverse order, because I would like to have now asked questions of the Department of State and Department of Homeland Security. Perhaps we can followup with some written questions.

Chairman TOM DAVIS. That would be fine.

Ms. WILLIAMS-BRIDGERS. I would be glad to respond.

Mr. TIERNEY. Not necessarily of this witness, but the other witnesses with respect to their disagreements.

Thank you very much for your testimony. I appreciate it.

Chairman TOM DAVIS. Thank you.

Mr. Souder.

Mr. SOUDER. I want to make a brief comment. I congratulate you on your report. Our ultimate security is dependent on knowing who is coming in and being able to establish and follow them if they are at risk, and this program is critical to that. Thank you for your input on that and the report. Anybody who ever goes to an admittance desk knows this tremendous tradeoff of wanting to bring people into America, whether they be students or visitors, encouraging that trade in that aspect, and at the same time we need to make sure we are secure.

One of the things we heard on the drug issue down in the Caribbean was a number of the countries there that particularly are part of the European countries, whether it be Dutch or French, that they then can get a European visa if they live there a certain number of years, and that Libya had in fact been putting in people who were establishing residency so they could get a European passport with which to come in to the United States via Puerto Rico.

And if we don't have systems to make sure we can track this, it isn't just the countries involved, but people who come in from other countries. In Colombia, watching Venezuelans in a Venezuelan embassy watching that Colombians don't come through in the drug trade. We are vulnerable on these categories. We have time, but we need to systematically work at it, and I thank you for your input and advice to Congress and the agencies.

Ms. WILLIAMS-BRIDGERS. Thank you very much, Mr. Souder.

Chairman TOM DAVIS. Sounds like you are getting away easy, but we have a vote on, so we are going to dismiss you. Thank you very much for your testimony and your report that are included in the record, and we may have some followup. Thank you.

The hearing is adjourned.

[Whereupon, at 11:53 a.m., the committee was adjourned.]

[NOTE.—Additional information is on file with the committee.]

[The prepared statement of Hon. Henry A. Waxman and additional information submitted for the hearing record follow:]

Statement of Rep. Henry Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on
"Creating Secure Borders and Open Doors:
A Review of DHS Collaboration on U.S. Visa Policy"

September 9, 2004

Since the September 11 attacks, Congress and the executive branch tightened the process for issuing visas to foreign visitors. This was for good reason. GAO found that at least 13 of the September 11 hijackers had never been interviewed before being granted visas. It also found that, for 15 hijackers whose files could be found, none had properly completed their applications.

Congress addressed concerns about the visa process in the Homeland Security Act. This law merged 22 different agencies into a new Homeland Security Department. Section 428 of that law placed the new Secretary of Homeland Security in charge of visa policy and immigration enforcement. Although the State Department would continue to perform its traditional consular functions, the Homeland Security Department would develop standards, create an expert corps of Visa Security Officers, and provide training to State Department officers and others involved in the visa process.

The Homeland Security Department's Inspector General is here today to report that the Department has accomplished very little of that. It has not fully developed a plan to improve the training of consular officers to spot potential terrorists. It has not established performance standards to evaluate consular officers. And the list goes on.

GAO is also here to testify about the State Department's performance in meeting its deadline to set up a new biometric visa program for all 211 consulates around the world. GAO has given the Department generally good marks, and found that it is ahead of schedule and likely to meet its October 26 deadline. The Department has not, however, done a good enough job issuing uniform guidance on the program, which could slow the process of adjudicating visas.

Homeland security is an important national interest, but it is not the only national interest at stake in the visa process. We are a nation that values international trade, tourism, and the free flow of scientific and technical knowledge. To accomplish this, foreign visitors who wish to travel on business, for tourism, and as students and scholars must be able to get visas without facing long bureaucratic delays. But visa delays and denials, according to a recent survey of leading international trade associations, cost U.S. companies an estimated $30.7 billion in losses between July 2002 and March 2004. Leading U.S. educational

institutions point to similar problems. According to former CIA director Robert Gates, who now heads Texas A&M University, visa barriers have driven down applications from international students at 90% of American colleges and universities.

A lot of these problems are the result of a lengthy, unpredictable, and opaque Security Advisory Opinion process. This interagency security review, which is triggered by applicants who come from countries of concern or who work with sensitive technologies, is necessary. But we need to find a way to impose speed and good sense on this process.

I look forward to hearing the testimony of our witnesses today.

ASSOCIATION OF AMERICAN UNIVERSITIES

Brandeis University
Brown University
California Institute of Technology
Carnegie Mellon University
Case Western Reserve University
Columbia University
Cornell University
Duke University
Emory University
Harvard University
Indiana University
Iowa State University
The Johns Hopkins University
Massachusetts Institute of Technology
McGill University
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New York University
Northwestern University
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University of Pennsylvania
University of Pittsburgh
University of Rochester
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The University of Texas at Austin
University of Toronto
University of Virginia
University of Washington
The University of Wisconsin-Madison
Vanderbilt University
Washington University in St. Louis
Yale University

September 21, 2004

Honorable Tom Davis
Chairman
House Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Davis,

Thank you for holding the hearing on September 9 on "Creating Secure Borders and Open Doors: A Review of DHS-State Collaboration on U.S. Visa Policy." The Association of American Universities, an association of 60 leading research universities in the United States and 2 in Canada, has been working closely with the Department of Homeland Security and the Department of State for the last two years on this issue, and we deeply appreciated the invitation to submit testimony for the record on this subject.

Our testimony is attached. The American Council on Education and the National Association of State Universities and Land-Grant Colleges have endorsed it as well. If AAU can provide any additional information, please do not hesitate to let us know. The appropriate staff contact is Kathie Bailey Mathae, and she can be reached at kathie_bailey_mathae@aau.edu or 202-408-7500.

Thank you for this opportunity.

Cordially,

Nils Hasselmo

Nils Hasselmo
President, Association of American Universities

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Testimony Submitted by
Nils Hasselmo, President
Association of American Universities

On Behalf of
American Council on Education
and
National Association on State Universities and Land-Grant Colleges

to the
House Government Reform Committee

September 20, 2004

Thank you for this opportunity to submit testimony for the record. AAU, ACE, and NASULGC collectively represent the majority of higher education institutions in this country engaged in educating international students. Our three organizations – in collaboration with other organizations – have been working with the federal government and its representatives to try to achieve what we all consider a fundamental goal: to combine homeland security and openness. Both are essential to our nation.

AAU, ACE and NASULGC deeply appreciate the willingness of federal government representatives at the Department of Homeland Security (DHS), the State Department, the Office of Science and Technology Policy (OSTP) to work with us on visa policy issues.

We recognize that legitimate security requirements exist and must be met. Since the September 11 terrorist attacks, all of us agree that we must assure our homeland security. For three reasons, these new security requirements must be met in a way that does not damage the very important flow of international talent either to this country and its universities or to continuing collaborations and exchanges involving the United States and international scholars and scientists.

First, collaboration and exchange are essential components of modern science and scholarship. Science is now a global enterprise. The rapid developments in information technology that fueled economic growth in the 1990s benefited enormously from students and scholars from Southeast Asia. Similarly, the advances in biomedical research that are beginning to yield dividends in the treatment of diseases and that hold so much promise for improving the duration and quality of life are, to a great extent, the product of collaborative efforts between U.S. and foreign-born researchers now taking place in U.S. laboratories.

R&D spending and business investments regularly cross national borders in search of available talent. Talented people cross borders in search of challenging and lucrative work,

and employers recruit and move employees internationally. In its own national interest, as well as in the interest of the global community, the United States needs to make every effort to facilitate that flow, that collaboration, and that exchange.

Second, international students contribute to national security. When we provide an opportunity for the best and brightest international students to study in America, we give them a chance to understand American values and the American way of life. These are people who will become leaders in their nations one day, often in the government, business or education sector. The experience they gain with our democratic system and our values gives them a better understanding of what America is and who Americans are.

Several years ago, a small delegation from the University of Minnesota presented an honorary degree to Professor Tang Peisong in Beijing. He was a member of the Chinese Academy of Science, and in his homeland often has been referred to as "the father of plant pathology in China." He had been a student at the University of Minnesota in the mid-1920s. Almost 70 years later, he received an honorary degree in his hospital bed in Beijing where he was being treated for heart problems. As he was presented with the degree, this scientist who had been showered with honors throughout his long career exclaimed: "This is the greatest honor I have ever received!" He spoke about the professors who had taught him, and about the Minnesota family that had invited him to share their Thanksgiving dinner in 1926. These were vivid memories by someone whose scientific career was shaped at an American university, who had served his homeland well, and who had nourished and held an abiding affection for America.

Third, international students contribute nearly $12 billion dollars annually to the United States' economy, through their expenditures on tuition and living expenses. Department of Commerce data describe U.S. higher education as the country's fifth largest service sector export, as international students and scholars bring money into the national economy and provide revenue to their host states for living expenses, including room/board, books and supplies, transportation, health insurance, support for accompanying family members, and other miscellaneous items.

If we want to make sure that the flow of international talent does not bypass our shores, we cannot rely on our nation's traditional dominance in science, technology and education. We should also be mindful that this preeminence did not come about accidentally or because of scientific isolation. Especially now in the face of significant competition from other countries for the talent involved, we must maintain through both words and deeds our commitment to the Administration's policy of "Open Doors, Secure Borders".

National leaders should make clear and frequent statements that the nation treasures and welcomes international students, scholars, and scientists, and the visa process should identify and focus on possible problem cases rather than creating unnecessary bureaucracy and paperwork. We do not believe it serves our national or homeland security to waste unnecessary bureaucratic resources on individuals who have demonstrated that they pose no threat and have a legitimate purpose here. Those are resources better spent on detecting and

keeping out those who pose a threat. When we create unnecessary barriers, we not only damage our economy and research enterprise, we also harm our nation's security.

There are, unfortunately, strong indications that the flow, collaboration, and exchange of international students and scholars have been hampered.

- A survey conducted last February by the American Council on Education (ACE), the Association of American Universities (AAU), the Council of Graduate Schools (CGS), NAFSA: Association of International Educators, and the National Association of State Universities and Land-Grant Colleges (NASULGC) revealed that from fall 2003 to fall 2004, nearly half (47%) of the 530 responding universities had experienced a decline in graduate applications from international students.

- Among the 25 research institutions that enroll the most international students, all indicated declines in international graduate applications. Nine indicated a decrease of 30% or more; six reported a decrease of between 11 and 30%.

Meanwhile, the international competition is gaining ground.

- Asian countries are now investing more than ever before in higher education, especially in graduate programs in science and technology, and the quality of those programs is improving rapidly.

  One of the top priorities for Taiwan is to allocate the equivalent of roughly $1.6 billion US dollars over five years to a selected group of universities, as an incentive for them to reach – or draw closer to – the caliber of major US research institutions. China, Hong Kong, and South Korea are developing similar strategies to keep their talent at home – or attract it back from abroad.

- Major competitors for international students – such as the United Kingdom, Canada, and Australia – are gaining market share while the United States is losing.

  The number of Chinese and Indian students going to universities in Australia last fall was up by 25 and 31 percent, respectively, and the comparable increases for Chinese and Indian students going to England are 36 and 16 percent, respectively. It is worth noting that these two countries have security concerns similar to ours, but they also have national policies that help in the recruitment of international students.

To address our problems in regard to the international flow of talent, a set of visa policy recommendations were drafted and endorsed this past May by a group of more than 30 educational, scientific, and professional associations and societies, including our three organizations, the National Academies, and the American Association for the Advancement of Science. Action has already been taken on some of the community's recommendations.

- The Department of State has improved tracking of applications, increased consular training, and provided additional staffing, and has also given priority to interviews for international students because of the problem of getting them into the country in time for the beginning of the fall term.

- DHS provided special facilitating services at major entry points for international students and scholars as they arrived in the fall of 2003 and 2004.

- The SEVIS fee collection rule, issued by DHS on July 1, did indeed allow several payment options suggested by the university community. Naturally, we want to continue to work with DHS officials as we monitor university experiences with the SEVIS fee collection process.

We greatly appreciate all these efforts, but we feel additional changes are still needed.

- **The validity of Visa Mantis security clearances should be extended** for international students, scholars, and scientists from the current one-year time period to the duration of their course of study or academic appointment. This would prevent the need for repetitive security checks that cause visa issuance delays.

- **A timely process should be established** by which exchange visitors holding F (student) and J (scholars/scientists) visas can **revalidate their visas**, or at least begin the visa renewal process, before they leave the United States to attend academic and scientific conferences, visit family, or attend to personal business.

- **Visa reciprocity agreements should be revised** between the United States and key sending countries, such as China and Russia, to **extend the duration of visas** each country grants citizens of the other, thereby reducing the number of times that visiting international students, scholars, and scientists must renew their visas. In this, we obviously need to work with the countries involved; it is not an issue that can be resolved entirely by the United States alone.

- DHS and the State Department should move forward on a proposed pilot study in **China and India** in which the State Department would collect the SEVIS fee directly from international students and scholars in those countries. This is a method of payment strongly supported by the academic community.

We stand ready to continue our collaboration with federal government officials in ensuring security with openness, and appreciate their willingness to work with us on this issue. Your interest in visa policy and the flow of international students is also deeply appreciated. Thank you.

OFFICE OF THE PRESIDENT

COMMITTEE ON GOVERNMENT REFORM
OVERSIGHT HEARING

"Creating Secure Borders and Open Doors:
A Review of DHS-State Collaboration on U.S. Visa Policy"

SEPTEMBER 9, 2004

ROOM 2154 RAYBURN HOUSE OFFICE BUILDING

Testimony Submitted for the Record
By Stephen Joel Trachtenberg, President
The George Washington University
September 21, 2004

Mr. Chairman and distinguished Members of the committee, I am Stephen Joel Trachtenberg, President of The George Washington University. I appreciate this opportunity to submit for the record testimony regarding the problems facing international students and scholars.

George Washington University is an independent research institution in Washington, D.C. We offer undergraduate and graduate levels of study and research to more than 23,000 students, including an international student population of approximately 2,000. In addition to an active foreign student program, GW also sponsors foreign faculty and advanced researchers. We take great pride in our mission to support the objectives of public diplomacy by fostering opportunities for the sharing and appreciation of cultural differences in the global community.

There is great concern within the higher education community that the growing administrative burdens being imposed by the U.S. government on the activities of international educational exchange may begin to inadvertently undermine the kind of exchange of ideas so essential for our country to remain a world leader.

POLICY BACKGROUND.

I would like to explain the policy background that is fundamental to the broad interests and concerns that I will outline in this testimony. Motivated by institutional and public policy concerns, universities compete for the best and brightest students, faculty and researchers from around the world. These students and scholars contribute to a culturally diverse learning environment and enrich the quality of teaching and research on U.S. campuses. They have a

positive impact on the U.S. economy, as well. Last year, foreign students enrolled at U.S. colleges spent approximately $12 billion on tuition and living expenses, according to the Institute for International Education.

As history has shown, the long-term foreign policy objectives of the United States are fostered by relationships that promote mutual understanding between American and foreign students. International friendships build ties with citizens of other nations, many of whom become ambassadors for democratic ideas and customers for U.S. products and services.

The importance of international friendships has never been more important than in the post-9/11 world, an environment in which we find ourselves engaged in a war of ideas. Foreign students who come to America will return abroad with first hand experience of our values and our culture. Many of the world leaders today were educated in the U.S. The insights they gained as students in the U.S. have contributed to constructive and collaborative relationships between the United States and most other countries around the world.

U.S. campuses are enriched by the knowledge and perspective of foreign scientists who come to our institutions to engage in teaching and research. As teachers, they broaden the perspective of American students. In their role as researchers, foreign faculty have a long history of collaborating with American researchers to expand knowledge in ways that benefit the entire human race. Without international exchange among scholars, U.S. higher education could not have achieved its position of leadership in the advancement of scientific and technological innovation. Consequently, the concerns expressed below are motivated by these institutional and public policy interests

VISA PROCESSING.

The challenges facing GW in attracting and retaining international students and scholars in the post 9-11 world have been significantly affected by lengthy delays in issuing visas to students, researchers, and teaching faculty. Before a U.S. consular official can approve or deny a visa application for students and scholars who come from various countries or who study in certain fields, the U.S. embassy must obtain a Security Advisory Opinion from the Department of State, Visa Office in Washington, D.C.

The Security Advisory Opinion process requires input and sign-off from multiple U.S. law enforcement and intelligence agencies. The Department of State coordinates this process, but is not in control of it – thus, it does not have the ability to impose time lines or penalties on agencies that drag their feet. Reasons for the delay in timely compliance by participating agencies appear to be technological limitations and insufficient staffing resources. The process can take anywhere from two weeks to several months.

We continue to hear reports from students who got stuck abroad while waiting to be issued a new visa and are not able to return in a timely manner to resume classes. Most of the time, these students will ultimately be granted the visa, but they may miss classes or even a semester. Overall, their lives can be disrupted in significant ways.

Similarly, foreign faculty are often unable to travel abroad to visit family or to attend international conferences hosted in a third country for fear that they will not be able to obtain a new visa to return in time to fulfill their teaching and research responsibilities. In many cases, these restrictions could impact the careers of young faculty who must build their academic credentials to be eligible for tenure. More important, these faculty are unable to participate in the kinds of collaboration with other scientists from around the world that have traditionally brought rich rewards to the American research enterprise.

We are concerned about the unique problems with visa issuance for citizens of certain countries such as China and Russia due a combination of factors. Chinese and Russian nationals are more likely to be subject to a lengthy security clearance process. Secondly, due to the visa reciprocity agreements with China and Russia, U.S. visas issued to Chinese or Russian citizens are only valid for a brief period. (E.g., student visas issued to Chinese citizens have a 6-month validity period, while those issued to Russians have a 12-month validity period.).

The higher education community has provided Congress and the administration with detailed recommendations to help improve the visa process. In general we advocate a more streamlined approach that will allow a more efficient and timely process. We suggest that a procedure be put in place that will give priority processing to cases that have been pending for more than 30 days. Further, we respectfully request that the U.S. pursue negotiations with countries such as China and Russia to revise the visa reciprocity agreements to extend the duration of visas that each country grants to citizens of the other. This would reduce the number of times that visiting international students and scholars must renew their visas. Our country needs a visa process that can provide the kind of effective screening that is necessary for national security, yet this process must be efficient and timely in order to meet broader national interests, as well.

SOCIAL SECURITY.

While the purview of this hearing is visa processing, it may be helpful to understand the broader problems that our foreign students, scholars, and their dependents now face when they choose to come to the U.S. to pursue studies, research, or teaching. New government requirements have been motivated by concerns about potential abuse by those who wish to do us harm. Nonetheless, there have been unintended consequences for the legitimate visitors whom we truly want to welcome to this country.

The Social Security Administration has tightened up significantly regarding the issuance of social security numbers. For example, F-1 students must now demonstrate that they have a specific job on campus even though the immigration regulations permit part time, temporary employment on campus and do not require a specific job. Previously, the international office on campus simply had to verify that the student was in valid F-1 status and therefore is eligible for on campus employment. This creates an unnecessary layer of bureaucracy.

Our greater concern is the human factor. Our government has made decisions to control the social security card without any plan for the fallout. While the social security number was created with a limited purpose, it has become a passport to our society and our way of life. The

restrictions may have limited the activities of our enemies, but we have created great burdens for those we consider our friends.

Without a social security number, landlords refuse to rent apartments, local governments refuse to issue a driver's license, telephone companies deny service, and the list goes on. Generally, the foreign spouses are tasked with enrolling their children in schools. We regularly receive reports from the spouses of our students and scholars about the difficulties they encounter when they are ineligible for a social security number. Local schools have refused to enroll their children in school. And without a social security number, spouses cannot obtain a driver's license needed to function in our society.

Even health insurance companies have denied policies in cases where the spouse of an exchange scholar does not have a social security number. The irony is that Department of State regulations require all exchange visitors and their dependents to maintain health insurance as a condition of their legal status in the U.S. These are just a few examples of the unintended consequences of new government requirements. The result is that our welcomed guests encounter hardships that seem to mount to a point where their experience in the U.S. is tarnished in ways that our government never intended. There is great concern in higher education that these growing requirements may become such a disincentive that students and scholars will choose to study and work in other countries.

The need to protect the safety and security of our nation is acknowledged and understood by the higher education community. Our challenge is to find the right balance through efficient processes to address security while facilitating the entry of legitimate visitors. We recognize and appreciate the efforts of both the Department of Homeland Security and the Department of State to facilitate the entry of legitimate visitors. Progress has been made in the past year. Yet, more work must be done to ensure that the best and brightest students and scholars feel welcome in the U.S. and that America remains their primary destination of choice.

In conclusion, the higher education community recognizes the legitimate need to protect national security. Yet, the long term best interests of the United States also necessitate that we remain an open and welcoming nation. Achieving the right balance will be a challenging task indeed. Nonetheless, this is our mutual obligation and our shared responsibility. After all, what is more fundamental to our American heritage than our tradition of seeking balanced solutions to challenging problems?

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#1)
Committee on Government Reform
September 9, 2004

Question:

During this Committee's hearing on the implementation of US-VISIT on March, 4, 2004, DHS Undersecretary Asa Hutchinson and Assistant Secretary Maura Harty told us that both departments were working to give consular officers access to all the databases (including law enforcement databases) that DHS checks so that visa security officers in Saudi Arabia would be free to conduct more law enforcement liaison activities and intelligence work. What progress is being made in this area? When are consular officers expected to gain access to the DHS databases? What progress is being made in obtaining consular officers access to National Crime Information Center data?

Answer:

We are working with DHS to ensure that visa applicants are checked against all available information that could affect visa eligibility. This can be a difficult undertaking because the solution of making systems interoperable can involve some complex data transfer issues. We will continue working cooperatively with DHS on this undertaking because we share as a top priority the effective screening of all visa applicants.

As for NCIC information, starting in May 2002 the FBI transferred NCIC data into the CLASS system. At present there are more than eight million names from the FBI in CLASS.

Question for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#2)
Committee on Government Reform
September 9, 2004

Question:

The GAO and members of the Committee staff who have visited several overseas posts have identified the potential for US-VISIT information (hits from the IDENT database) to be useful in consular interviews for purposes such as verifying an applicant's story about previous travel to the United States or identifying a person who might be of special interest. How does State plan the use of US-VISIT information in the visa process so that consular officers have the appropriate information at the time of the applicant interview?

Answer:

In order to meet the legislative deadline of October 26, 2004, for issuance of biometric visas, the deployment of the Biometric Visa Program required that in most posts the fingerscans be performed at the visa interview window under the direction of the consular officer, who then proceeds to conduct the visa interview. We realize this does not allow the consular officer to see results from the IDENT check prior to the interview. However, the visa system is locked and the visa cannot be issued until all IDENT results are returned and reviewed. Within the operational constraints that exist at most posts, we are studying all possible ways to optimize use of information returned from IDENT.

Question for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#3)
Committee on Government Reform
September 9, 2004

Question:

Currently, the visa application workflow differs somewhat from post to post, particularly with regard to when biometric data is collected in the workflow and when IDENT hits are reviewed. Will State provide "best practices" to posts to guide them in designing workflows that optimize information collection and use in a visa application interview?

Answer:

Now that we have achieved our fundamental objective of deploying the Biometric Visa Program worldwide, our posts are accumulating a few months of experience with collecting biometrics and reviewing IDENT hits, which can serve as the basis for further refining collection and review methods. We certainly intend to study and learn from specific biometric collection and review experiences in order to provide "best practices" guidance to our posts worldwide.

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#4)
Committee on Government Reform
September 9, 2004

Question:

According to correspondence with this Committee and a cable sent to the field, State has instructed that only American Foreign Service Officers and eligible family members should be collecting fingerprints. However, the DHS report on the use of Foreign Service Nationals (FSNs) states that FSNs are also involved in taking fingerscans. Has State reconsidered the role of FSNs in taking fingerscans? If so, how will the use of FSNs affect visa application workflows so that fingerscans can be taken sufficiently early in the application process so that consular officers will have access to database hits at the time of the interview?

Answer:

The only country where FSNs are collecting fingerprints is Mexico. FSNs have been collecting fingerprints in Mexico over the past five years as part of the Border Crossing Card process. In Mexico, due to the high volume of applicants and the availability of adequate infrastructure, the workflow process already included stations outside the traditional "hard line" where FSNs collect fingerprints to the applicant being interviewed by a Consular Officer. For the biometric visa program, we have developed software for use in Mexico to allow the Consular Officer "verify" an applicant's fingerprints. Any applicant whose fingerprints fail verification has them collected again by the Consular Officer. In all other NIV issuing

posts, only Consular Officers and cleared eligible family members (EFMs) are collecting biometrics at the interview windows. We are not contemplating changes to this procedure at this time; however, as the program is under continuing review, we remain open to considering other options at a later date.

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#5)
Committee on Government Reform
September 9, 2004

Question:

The GAO has testified that State needs to identify IDENT information retrieval time requirements for the optimal use of information for visa interviews so that DHS can appropriately set the systems requirements for the US-VISIT integration contract. Does State plan to implement this recommendation? If so, when will State complete this evaluation and present its requirements to DHS?

Answer:

In July 2003 at the very first meeting between State and DHS to discuss the connection between the Biometric Visa (BioVisa) Program and IDENT it was agreed that IDENT would process BioVisa fingerprints and send "no record" replies back to State within 15 minutes. For BioVisa fingerprints that need to be sent to a fingerprint examiner, which are less than one percent of submissions, the turnaround time was set at 24 hours. Since January 2004 when State began submitting BioVisa fingerprints to IDENT, DHS has been able to comply with the agreed turnaround times. A draft Memorandum of Understanding presently under review by State and DHS would set these same turnaround times of 15 minutes and 24 hours,

which allow consular section to effectively establish their operational standards, and which also allow DHS to plan for future IDENT operations.

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#6)
Committee on Government Reform
September 9, 2004

Question:

According to Cable 253978, sent to overseas posts in September 2003, State commented that it was preparing for the possible necessity to collect eight or ten fingerscans as part of the Biometric Visa Program. What is the status of this preparation? How is State coordinating with DHS in this effort?

Answer:

Cable 253978 of September 2003 referred to a concern at that time, prior to the onset of the Biometric Visa and US-VISIT Programs, that the size of the IDENT fingerprint database would reach a point in the future at which it would return too many false positives that would need to be reviewed by fingerprint examiners, and the solution to the false positive problem would be to collect eight fingerprints instead of two. A year later, however, over seven million sets of fingerprints have been enrolled in the US-VISIT database and the number of false positives is being effectively managed. The performance of the US-VISIT IDENT system is monitored closely by DHS. There is currently no need to collect more than two fingerprints.

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#7)
Committee on Government Reform
September 9, 2004

Question:

In previous correspondence with this Committee, State has said that increasing the number of required fingerscans to eight or ten might require major facility modifications at some posts and that State was looking into the possibility of conducting biometric data collection off-site. What post would require major facility modifications? What is the status of the plan to migrate biometric data offsite?

Answer:

As we have previously advised the Committee, the transition to 8 or 10 fingerprints will require software and hardware changes as well as adjustments to staffing and facilities to accommodate the more complicated, more labor intensive and more time consuming process. We would hope to accommodate this 8-10 fingerprint collection at most posts with modifications to existing facilities and staffing. In our highest volume posts, particularly those with limited physical plants, this might not be possible and might require migration to an offsite facility. In cases where the fingerprints are collected offsite, our plan is to verify the applicant's identity at the time of interview by an American consular officer using the 2-print scanners already installed in the consulates.

For the present, we are not planning to migrate to 8 or 10 prints. We have engaged in some preliminary planning to identify the posts where we would likely have to move offsite. Among the most seriously constrained would be Seoul, Bogota, Manila, Chennai, Taipei, Beijing, London, Mumbai, Tel Aviv and Lima. If the decision is made to increase the number of fingerprints collected, we would work with the regional bureaus, Diplomatic Security, the Bureau of Overseas Building Operations (OBO) and posts to assess feasibility and cost of identifying and re-outfitting leased or purchased space in those countries where an offsite facility is required.

Questions for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Chairman, Tom Davis (#8)
Committee on Government Reform
September 9, 2004

Question:

What plans are in place to use US-VISIT entry-exit data to conduct validation studies to examine generally recognized consular officer assumptions, such as judgments about determining whether an applicant has overcome the "intention to immigrate" burden under section 214(b) of the Immigration and Nationality Act?

Answer:

The Department of State and Department of Homeland Security are working to make entry-exit data available to consular officers as part of the US-VISIT program. Entry-exit data will greatly facilitate the ability of consular officers to conduct worthwhile validation studies. The Department of State has recommended validation studies to consular officers for several years as a means of testing whether adjudication decisions are in line with the travel patterns of visaed populations. A telegram (04 State 172283) was recently transmitted to all overseas posts establishing this practice as a standard operating procedure and providing further guidance on facilitating the completion of such studies. Currently, US-VISIT entry data is only available since January 2004 and only through a follow-up IDENT check,

while almost no exit data is available to consular officers. Therefore validation studies rely on labor-intensive and sometimes unreliable methods to contact applicants, primarily via telephone, to learn whether they have traveled and returned within the parameters of their visas. Full availability of entry and exit data will allow consular officers to measure travel patterns of visa recipients more easily and reliably, providing helpful information for future adjudication decisions.

House Committee on Government Reform March 4, 2004, hearing on:
United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program
Written Follow-Up Questions for Under Secretary Asa Hutchinson

As requested by the Committee, below are the Department's responses to the follow-up questions to the March 4 hearing:

1. **How is the Department of Homeland Security getting the word out about US-VISIT? Are there mechanisms in place to see if the message is in fact getting across to foreign visitors, governments, and companies?**

The US-VISIT outreach campaign is designed to inform and educate domestic and international audiences about US-VISIT. The integrated campaign includes a comprehensive suite of materials and media/stakeholder outreach to heighten awareness about US-VISIT and its role in enhancing the security of U.S. citizens and visitors, while facilitating legitimate travel and trade. Current mechanisms in place are:

Materials

The US-VISIT Outreach Team created a strong brand for US-VISIT, including logo, tagline, graphics, and an overall look and feel that integrates the materials and makes the program easily recognizable to international travelers. These outreach materials are being developed in multiple languages, including English, Spanish, Portuguese, Japanese, Mandarin, Korean, Arabic, Haitian/Creole, Russian, Polish, Hebrew, Ukrainian, Vietnamese, French, and German. The campaign currently includes the following materials:

- Informational brochures, in print and electronic versions
- Airport posters and other signage
- Video public service announcements
- In-flight animated videos
- Boarding cards
- Exit cards
- Tool kits and press kits
- www.dhs.gov/us-visit

Media Relations

The Outreach Team effectively leveraged the media to spread the word about US-VISIT to critical constituents. Early in 2004, US-VISIT dominated the news media and coverage surrounding the January 5 launch was overwhelmingly positive. Ongoing media relations activities include:

- Editorial board briefings with selected domestic and foreign press
- Daily media monitoring and analysis
- Rapid response, when appropriate, in the form of op eds and letters to the editor
- Digital video conferences and other briefings with foreign press
- Briefings at the New York and Washington Foreign Press Centers

- Selected events to spotlight US-VISIT technologies and simple, fast procedures for travelers

External Stakeholder Outreach

The Outreach Team created a comprehensive relationship management system to keep all major stakeholders aware, informed, and educated about ongoing developments, and to assure US-VISIT responsiveness to their needs and interests. Key components consist of:

- Stakeholder Relationship Management Database -- A dynamic database used to organize and manage external stakeholder relationships on an ongoing basis, including the names and contact information for nearly 3,000 organizations -- federal, state, and local government; businesses and industry associations, organizations, and groups; community and special interest organizations; think tanks; academic institutions; and others. US-VISIT uses it to:

  - manage regular proactive communications and interactions through telephone calls and e-mail news alerts
  - track stakeholder requests for, and delivery of, information
  - manage a calendar of stakeholder events, programs, and speaker requests
  - identify and respond to requests for specific follow-up on questions or issues

The database also contains a comprehensive news media contact management system with the names of more than 5,000 journalist contacts and a database of media coverage.

- Stakeholder Meetings -- US-VISIT schedules periodic meetings, presentations, and updates to stakeholder groups, e.g., airlines, airport authorities, travel groups, industry, and trade associations.

Internal Stakeholder Outreach

The US-VISIT outreach campaign also includes strategies to inform and educate internal audiences and other government agencies. On a weekly basis, representatives from dozens of agencies, most notably the Departments of State, Justice, and Transportation, and our bureaus of Customs and Border Protection (CBP), the Transportation Security Administration (TSA), Immigration and Customs Enforcement (ICE), and Citizenship and Immigration Services (CIS), meet to discuss US-VISIT status and updates. Other internal communications activities include:

- Newsletter articles
- E-mails
- Internal video
- Tool kits

Performance Measurement

There are a number of metrics being used to measure the effectiveness of this campaign.

Media Relations

The Department measures the effectiveness of media relations by benchmarking and tracking the extent to which desired messages are communicated in news articles and broadcast coverage. This is done by reading and statistically coding national and major international media, and media in the top 30 United States markets. Coverage will be reviewed throughout 2004. It will also be coded and scored to track changes in message pull-through and tone. By statistically analyzing the media coverage, DHS can measure changes over time, assess how messages are being communicated to specific target audiences, and illustrate the extent to which specific outreach strategies (such as events) impact the media coverage and tone.

Stakeholder Outreach

Our US-VISIT stakeholder database currently includes more than 1,000 external stakeholders who have been personally contacted about US-VISIT. Stakeholders include domestic and international business groups, educational organizations, the travel and tourism community, privacy and immigration advocates, and trade associations, who combined reach millions of people in targeted audience groups. In just the first few months, more than 30 percent have used provided materials (such as newsletter copy and web links) to inform and educate their constituents about US-VISIT and more than 10 percent have opted to receive regular e-mail updates about US-VISIT. The Department anticipates that the automatic email list under the US-VISIT stakeholder database used for all announced changes will more than double in size in 2004 to include nearly 400 organizations.

The Department also tracks third party quotes and comments about US-VISIT in media coverage. DHS has in place a mechanism to monitor and measure positive, negative, and neutral comments provided to reporters by these stakeholder groups and will analyze the extent that stakeholder outreach strategies can impact the tone of commentary.

2. When will instructional videos be produced and distributed to airlines and ports of entry?

The US-VISIT Outreach Team created an in-flight animated video that educates visitors on the US-VISIT process. The video was produced immediately following the January 5 launch date. In collaboration with the International Air Transport Association (IATA), it was offered to all international airlines operating U.S. bound flights. The video has been distributed to over 50 airline carriers and several embassies, consulates, and ports. Many airlines are already screening the video to passengers on all of their U.S. bound flights.

The in-flight animated video is available in 15 languages including: English, Spanish, Portuguese, French, German, Polish, Hebrew, Russian, Ukrainian, Arabic, Tagalog,

Japanese, Korean, Mandarin, and Vietnamese. It is also available in multiple video formats to accommodate the media standards of each specific country.

3. What is the status of the discussions regarding expanding US-VISIT to include travelers from countries that participate in the Visa Waiver Program?

In March 2004, with the Department of State, DHS recommended that legislation be enacted to delay the October 26 deadline two years for current Visa Waiver Program (VWP) countries to produce International Civil Aviation Organization (ICAO) compliant biometric passports. Concurrent with this proposal, DHS announced that it will process VWP visitors in US-VISIT beginning September 30, 2004, at air and sea POEs. DHS will also process VWP travelers through US-VISIT as the system is expanded to the land border POEs.

4. Please comment on the Homeland Security Select Committee's minority report, "America at Risk, Closing the Security Gaps." Specifically, are these concerns better addressed through the newly created DHS or could these problems have been resolved without DHS?

Before the creation of DHS, no single government entity was responsible for homeland security. Responsibilities for homeland security were dispersed among two dozen government agencies. These departments did not always share information about potential threats because their computer networks could not communicate with one another. As a result, each department analyzed its own data. No one entity was tasked or responsible for conducting a comprehensive analysis of all incoming intelligence information and other key data regarding potential threats. This diffusion of responsibility and the incompatibility of systems and technologies used by these departments was exploited by terrorists, and made it easier for terrorists to enter the country.

It is clear that the tragic events on September 11, 2001, exposed the dire need for a centralized authority to oversee homeland security. Through the mechanisms established by DHS, the U.S. has realigned the confusing patchwork of government responsibilities under one leadership with a primary mission and sole commitment to aggressively and vigorously target terrorists and invest in policies that will intercept terrorists before they have an opportunity to enter into our country. The Select Committee's minority report, *America at Risk, Closing the Security Gaps*, provides ample framework to address the many issues associated with terrorism and the effects terrorism can have on preserving the values of freedom and privacy enjoyed by Americans and our allies here and abroad. Under DHS, there is now unity and a clearly defined leadership in border management and terrorist interdiction that prior to September 11, 2001, simply did not exist. An immediate byproduct and success of the newly created DHS, the US-VISIT program, has already provided immediate results toward achieving greater security for our citizens and visitors while facilitating legitimate travel and trade across our borders.

5. US-VISIT is currently in the process of selecting a firm to act as the prime

integrator to create the upcoming increments of the US-VISIT program. Please provide an update on where you are in the selection process. Do you expect to be able to make an award on schedule?

The proposal review process is nearly complete and we are on schedule to make a timely contract award.

6. Is DHS setting into place a plan that will provide Congress timely information on actual processing times at airports and land borders so that we can gauge for ourselves how well the systems are functioning? When can we expect to receive this sort of data?

To ensure that wait times are reasonable, DHS is tracking and monitoring passenger and cargo traffic at all POEs and making wait times available to the public. By means of the Interagency Border Inspection System (IBIS), air POEs report flight block times (used in calculating flight processing times and queue wait times) daily. At land POEs, wait times are calculated manually by such means as questioning travelers and tracking license plates in IBIS. Land POEs can report wait times in any given hour.

7. What steps is DHS taking to ensure that information that already exists in databases owned by the State Department and DHS, and information that is being collected under US-VISIT, will be shared so that the frontline officers in consulates and at the borders will have the right information at the right time to make the best decisions?

US-VISIT established several formal structures to ensure mission requirements and technical solutions developed to meet Congressional and other mandates are fully integrated. Representation on the US-VISIT Federal Stakeholders Advisory Board, Interagency Program Team, and integrated Project Teams based on project increments include a full range of our components and other federal agency representation, primarily the Departments of State, Justice, and Transportation.

For Increment 1, US-VISIT focused on integrating and enhancing existing systems to provide enhanced information and mission capability to our officers and State Department Consular Officers. Now, information sources that had been discrete and not interoperable are available as an integrated resource in primary inspection areas and in real-time. This enhanced mission capability provides a seamless and usable presentation of data that includes travel related biographic data, related biographic lookout records, visa data and photo and biometric data (finger scan) with associated lookout records.

State Department Consular Officers now have the benefit of an interface with US-VISIT for biometric watchlist and identity data when issuing non-immigrant and immigrant visas at approximately 150 posts, with this capability expanding to all posts by October 2004. Upon issuance of a visa, the State Department now shares visa information and biometric enrollment information with US-VISIT. CBP officers conducting primary inspections of visa holders at air and sea POEs now have visa data from the State

Department that includes a photograph for verifying the validity of the visa. CBP officers can now conduct biometric watchlist and identity verification checks based on biometrics collected by the State Department at the time of visa issuance

Specific data sources integrated into this effort include either direct access or interfaces from the following:

- Treasury Enforcement Communications System (TECS) that includes the Interagency Border Inspection System (IBIS) and the Advance Passenger Information System (APIS)
- Biographic lookout data in TECS
- Arrival and Departure Information System (ADIS)
- Consolidated Consular Database (CCD)
  - Biographic and Biometric Visa Data
- Biometric Data in IDENT
  - US-VISIT Enrollment Data
  - IDENT Lookout Data

In addition, interfaces are now in place with CLAIMS and SEVIS for status update data.

8. DHS used an expedited rulemaking process when it adopted the Interim final rule on US-VISIT. This process is useful where time is critical to allow an agency to quickly establish a policy. In hindsight, was this the right approach? Does DHS have plans to reopen a public comment period after the rule has been in effect for a period of time?

The Department understands the concern for its use of the expedited rulemaking process to adopt the US-VISIT interim final rule. Wherever possible, we prefer to use proposed rulemaking, allowing for appropriate notice and comment. Unfortunately, DHS is unable to use this process for the US-VISIT rulemaking while ensuring that DHS would timely achieve compliance with the statutory requirements for implementation of US-VISIT.

Although this was an expedited rulemaking, DHS still received a significant number of comments on the rule. The Department is very pleased with the quality and thoughtfulness of the comments received and does not currently have plans to reopen a public comment period. However, we are currently relooking at this issue in conjunction with other near term US-VISIT initiatives such as the inclusion of Visa Waiver Travelers in US-VISIT at air and sea ports starting September 30, 2004.

9. Other stakeholders in the US-VISIT program are concerned about staffing at land and air border crossings.

a. How does DHS plan to staff the entry and exit facilities at land and air border crossings?

CBP will utilize existing staff at entry ports. Since the March 1, 2003 CBP has been working to create maximum force capability through primary unification training. All CBP Officers are in the process of receiving training that will enable them to work at the primary inspection points previously staffed exclusively by CBP Immigration Officers.

b. Do you foresee using US-VISIT staff only or will you rely on other resources?

CBP is the agency responsible for admissions into the United States at the borders, DHS will use existing staff in our continuing efforts to enhance security for our citizens and visitors while facilitating legitimate travel and trade across our borders.

c. How will DHS ensure that there are adequately trained personnel available to ensure that US-VISIT remains as small an intrusion as possible into the traveler's day?

All CBP Officers assigned to work primary inspection booths at air and sea ports of entry have been trained to utilize US-VISIT. CBP has incorporated US-VISIT training into the training curriculum for new Officers at the Federal Law Enforcement Training Center. This is in addition to the training developed for current Officers in the field and supplemental training. All methods of training have been incorporated, including classroom, train-the-trainers, web-based training and on-the-job training. Training plans are already being developed for implementation of US-VISIT at the land borders.

d. Referring to ACI-NA President David Plavin's written testimony, it is evident that the number of international airline passengers traveling on a visa can as much as double during the summer months compared to the first few months of the calendar year. With this in mind, how does DHS plan to prepare for this surge (in terms of monitoring the efficiency and customer service of the entry process, and deploying additional staff when needed at airports)?

An analysis of the number of projected travelers arriving on visas has been reviewed and CBP does not anticipate any delays resulting from processing visa travelers for US-VISIT this summer. The US-VISIT process has been incorporated into the pre-existing primary inspection process so that its processing time can be absorbed with minimum time added to the overall inspection.

10. The 115 airports that are implementing the US-VISIT program are tremendously varied in their age, space constraints, and needs regarding staffing for entry and exit functions. What steps are you taking to make sure that US-VISIT fits into each airport affected in a way that is most appropriate for that airport?

Implementation of exit pilots or interim solutions will be worked with individual port authorities and transportation companies to ensure concerns and issues are addressed, such as not employing a "cookie cutter" approach to all sites. This approach was

successful for deploying exit kiosk pilots at the Baltimore-Washington International Airport and Royal Caribbean Cruise Terminal in Miami, Florida. Final placement of the kiosks was determined based on input from the ports and transportation companies, along with assessments and computer modeling completed by the US-VISIT office.

The computer models were used to simulate and analyze the deployment of US-VISIT at the airports. A model was created for each airport using variables specific to the airport such as passenger volume, numbers of inspectors, and scheduled flight arrival and departure times. The models were therefore customized to the unique characteristics of each airport.

Public notices were published in the Federal Register and several national and local newspapers notifying the public that the environmental assessment and proposed finding of no significant impact were available for public review and comment. At the close of the comment period we received only one comment, which was favorable to the proposed action.

In addition, the US-VISIT program office hosts biweekly meetings with entities that represent a majority of the port authorities and transportation companies, such as the Airports Council International (ACI) and Air Transport Association (ATA), for purposes of deciding such issues.

11. The aviation industry is concerned that government funding for US-VISIT will fail to cover the costs of full implementation. With the exit information collection system still to be decided, can DHS confirm that enough funding has been allocated, even without knowing what the exit portions of the US-VISIT program will manifest at each airport?

Currently, US-VISIT has identified $45 million in the FY 2004 expenditure plan to implement the exit process to include a pilot program at 15 air and sea locations this year. Depending on the alternative(s) that are selected from the pilot, there may be sufficient funds to provide full deployment to all 80 air and 12 sea locations out of the FY 2004 expenditure plan. If additional funds are required to complete air and sea exit, then it will be requested as part of future expenditure plans.

12. In the January hearing before the Select Committee on Homeland Security you discussed contingency plans that could be activated if wait times become too long at a port of entry. Have you had cause to activate these plans to date? Who would make the call to implement such a plan, and could you describe how these plans would work if they were implemented?

Since January 5, 2004, four national mitigation requests have been requested and all of. these requests were a result of automated system and telecommunication outages. The contingency plans that were put in place, before January 5, were developed to deal with

the potential for long lines due to US-VISIT processes being added to the current process. In fact, the wait times have not increased so this contingency plan has not been activated except for reasons associated with downtime of the automated system and telecommunications facilities. The contingency plan, however, did call for shifting of staff and several other management actions prior to any "turning off" of US-VISIT.

All of the contingency plan procedures are thus incremental and were to be initiated only when delays exceed a certain level and reversed as soon as processing times return to acceptable levels. When the threat condition is green, blue or yellow, the decision to implement the mitigation is made by the Director, Field Operations for ports within their jurisdiction. The Executive Director, Border Security and Facilitation at CBP headquarters must approve mitigation during threat conditions orange or red. Again, the only activation of these procedures have been for reasons associated with system outages. All of these systems are being examined or will be examined to ensure adequate capacity as the US-VISIT system is expanded and improved.

Congress
of the
United States
House of Representatives
JOHN F. TIERNEY
MASSACHUSETTS
SIXTH DISTRICT

September 22, 2004

The Honorable Janice Jacobs
Assistant Secretary for Visa Services
U.S. Department of State
2210 C Street, NW
Washington, D.C. 20520

Dear Ms. Jacobs:

On September 9, 2004, you appeared before the House Committee on Government Reform as part of our hearing "Creating Secure Borders and Open Doors: A Review of DHS-State Collaboration on U.S. Visa Policy."

Based on testimony given at the hearing, I have enclosed follow-up questions for your attention. Please direct your response to the Committee for inclusion in the final hearing record, as well as to my office.

Should you have any questions, please feel free to contact Jonathan Heafitz in my office at (202) 225-8020. Your prompt response within two weeks is appreciated.

Sincerely,

John F. Tierney
Member of Congress

CC: The Honorable Tom Davis
Chairman of the House Committee on Government Reform
The Honorable Henry Waxman
Ranking Member of the House Committee on Government Reform

Enclosure

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Creating Secure Borders and Open Doors:
A Review of DHS-State Collaboration
On U.S. Visa Policy

September 9, 2004
Congressman John F. Tierney

Q: Follow-up Question for Janice Jacobs, Assistant Secretary for Visa Services, Department of State:

According to the GAO report "Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance is Lagging" released today (Sept 9, 2004), while State's implementation of the technology aspects of the biometric visa program is on schedule, "*DHS and State have not developed and not provided comprehensive guidance to consular posts that included directions to consular officers on when in the visa process prints are to be scanned and when and how information from the IDENT database on visa applicants should be considered by consular officers in adjudicating visas.*"[1]

In addition, I understand that of the 13 telegrams that the State Department has sent to consular posts explaining the Biometric Visa Program, guidance was never given on how data on applicants' travel patterns and/or previous enrollment in the database should be considered by adjudicating officers, nor who should review and clear information returned from IDENT on applicants prior to visa issuance.[2]

While I am pleased to see that the State Department has acknowledged the lag in guidance of the Biometric Visa Program, what steps has State taken to address this lag? Please explain what technical guidance the State Department has provided to consular posts in implementing the Biometric Visa Program, including guidance of such aspects of the implementation process as who should scan fingerprints, where and who should review information about applicants, and how the US-VISIT program and biometric information should be used to adjudicate visas. What consideration has been given to the resources available to consular posts in order to accommodate the need for such guidance at <u>all</u> posts?

Q: Follow-up Question for Janice Jacobs, Assistant Secretary for Visa Services, Department of State:

A 2003 GAO report identifying the systemic weaknesses in the visa revocation process reported that information on individuals with visas revoked on terrorism grounds was not shared between the State Department and appropriate immigration and law enforcement offices. In a follow up report in July of this year, GAO recommended "*State and DHS conduct periodic interagency assessments to determine whether information is being shared among the agencies involved in the visa revocation process and appropriate follow-up action is being taken to reconcile data differences if they occur.*"[3] Has the sharing of information between State, DHS, and appropriate immigration and law enforcement agencies improved since the GAO's 2004 review? What specific measures has State implemented to address GAO's recommendations and to prevent future such occurrences?

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[1] United States Government Accountability Office. "Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance Is Lagging" GAO-04-1001
[2] Ibid.
[3] United States Government Accountability Office. "Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process" GAO-04-795

Question for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Representative John F. Tierney (#1)
Committee on Government Reform
September 9, 2004

Question:

According to the GAO report "Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance is Lagging" released today (Sept. 9, 2004), while State's implementation of the technology aspects of the biometric visa program is on schedule, *"DHS and State have not developed and not provided comprehensive guidance to consular posts that included directions to consular officers on when in the visa process prints are to be scanned and when and how information from the IDENT database on visa applicants should be considered by consular officers in adjudicating visas."*

In addition, I understand that of the 13 telegrams that the State Department has sent to consular posts explaining the Biometric Visa Program, guidance was never given on how data on applicants' travel patterns and/or previous enrollment in the database should be considered by adjudicating officers, nor who should review and clear information returned from IDENT on applicants prior to visa issuance.

While I am pleased to see that the State Department has acknowledged the lag in guidance of the Biometric Visa Program, what steps has State taken to address this lag? Please explain what technical guidance the State Department has provided to consular posts in implementing the Biometric Visa Program, including guidance of such aspects of the implementation process as who should scan fingerprints, where and who should review information about applicants, and how the US-VISIT program and biometric information should be used to adjudicate visas. What consideration has been given to the resources available to consular posts in order to accommodate the need for such guidance at all posts?

Answer:

The Biometric Visa Program is an unprecedented global biometric enrollment and clearance program that was deployed rapidly to meet a legislative deadline. Under such circumstances, it was not practical to formulate all the guidance for the program in advance of its deployment. This was a learning experience for everyone involved, both in Washington and in the field. Therefore, our 22-paragraph telegram on the procedures related to the IDENT fingerprint system was not sent to posts worldwide until July, even though some posts had started clearing fingerprints through IDENT as early as January. In that January-July period we were able to come to understand the variety of issues connected with IDENT and thus we were able to provide posts with appropriate instructions based on experience. In the interim, however, posts did not want for guidance. We sent an IDENT Rollout telegram in February and another telegram concerning IDENT in April. Moreover, posts were informed in the earliest telegrams on the Biometric Visa Program sent in September-October 2003 to send any requests for guidance by email to the Consular Affairs Overseas Support Desk and to key officers in the Visa Office and the Consular Systems Division. The Support Desk and the key officers have handled hundreds of

email inquiries about the Biometric Visa Program. In this sense, there has been no lag in guidance whatsoever.

We have advised consular officers that prints are to be scanned prior to visa interview in all cases, and we reinforce this point in on-site training provided at every visa-issuing post. Since a refused applicant has no incentive to return to provide a fingerprint scan, and since we require fingerprint scans for all applicants including those we refuse, there is no alternative to this approach.

At most posts fingerscans are performed at the visa interview window under the direction of the consular officer, who then proceeds to conduct the visa interview. At some others, a family member of a U.S. government employee, who must be an American citizen with a Secret level security clearance, collects the fingerprints, in all cases prior to the visa interview. The visa system is locked and the visa cannot be issued until all IDENT results are returned and reviewed. When an IDENT check returns information that may show identity fraud, criminal records, or immigration violations pertaining to an applicant, that applicant is called back in for a second interview and possible visa refusal.

In establishing the Biometric Visa Program we have purposely allowed posts flexibility to use personnel resources most effectively to meet the challenges of the additional workload created by the program. Different posts have thus adopted different approaches to reviewing IDENT results. We are studying these different approaches and how well each one contributes to achieving the objectives of the Biometric Visa Program. If we find compelling reasons for one particular approach to be adopted by all posts, we will send instructions for posts to all adopt the same approach.

The IDENT system returns three types of hits on biometric visa fingerprint submissions, which are labeled: Type: WATCHLIST; Type: US-VISIT ENTRY; Type: BIOVISA. The watchlist hits are of course the most important in determining visa eligibility. The US-VISIT entry hits show previous entries that the visa applicant has made to the U.S., which may sometimes be useful information to either confirm or contradict what the applicant has said about previous travel. The BioVisa hits show that the person has previously applied for a visa. Guidance has been sent to all posts about understanding IDENT hits. GAO has raised the issue that at some posts the officer reviewing the IDENT hits may not be the same officer who conducted the interview. However, if information about a US-VISIT entry would be important to the adjudication of a particular visa case, the consular

officer conducting the interview could always point that out to the officer reviewing the IDENT hits, or ask to personally review the hits for that particular case. As explained above, we built flexibility into the system for the initial deployment of the Biometric Visa Program, and we are reviewing the different approaches being used at posts to determine if it would be preferable to have all posts following the same approach. We will continue to send instructions to posts as we gain additional experience with this complex global biometric enrollment and clearance program.

Question for the Record Submitted to
Deputy Assistant Secretary Janice Jacobs by
Representative John F. Tierney (#2)
Committee on Government Reform
September 9, 2004

Question:

A 2003 GAO report identifying the systemic weaknesses in the visa revocation process reported that information on individuals with visas revoked on terrorism grounds was not shared between the State Department and appropriate immigration and law enforcement offices. In a follow up report in July of this year, GAO recommended "*State and DHS conduct periodic interagency assessments to determine whether information is being shared among the agencies involved in the visa revocation process and appropriate follow-up action is being taken to reconcile data differences if they occur.*" Has the sharing of information between State, DHS and appropriate immigration and law enforcement agencies improved since GAO's 2004 review? What specific measures has State implemented to address GAO's Recommendations and to prevent future such occurrences?

Answer:

The State Department has developed a cohesive policy with TSC and DHS for handling visa revocations. The three agencies are in full agreement on the various steps in the process and which agency has responsibility for action in each step. DHS has produced a flow chart that shows how the process works. The Department has developed an automated service connected to the Consular Consolidated Database (CCD) through which the three agencies will each be able to input and access information about revocation actions taken. The service is currently up and running. The service will also provide each agency with accurate revocation records and

statistics. Meanwhile, the agencies are in contact once a week to ensure that each agency has exactly the same records of revocation actions taken.

Congress
of the
United States
House of Representatives
JOHN F. TIERNEY
MASSACHUSETTS
SIXTH DISTRICT

September 22, 2004

The Hon. C. Stewart Verdery
Assistant Secretary for Border and Transportation Security Policy and Planning
U.S. Department of Homeland Security
Nebraska Avenue Center
Washington, D.C. 20528

Dear The Hon. Verdery:

On September 9, 2004, you appeared before the House Committee on Government Reform as part of our hearing "Creating Secure Borders and Open Doors: A Review of DHS-State Collaboration on U.S. Visa Policy."

Based on testimony given at the hearing, I have enclosed follow-up questions for your attention. Please direct your response to the Committee for inclusion in the final hearing record, as well as to my office.

Should you have any questions, please feel free to contact Jonathan Heafitz in my office at (202) 225-8020. Your prompt response within two weeks is appreciated.

Sincerely,

John F. Tierney
Member of Congress

CC: The Honorable Tom Davis
Chairman of the House Committee on Government Reform
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Enclosure

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Creating Secure Borders and Open Doors:
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September 9, 2004
Congressman John F. Tierney

Q: **Follow-up Question for C. Stewart Verdery, Jr., Assistant Secretary for Border and Transportation Security Policy and Planning, Department of Homeland Security:**

Jacquelyn L. Williams-Bridgers, Managing Director of the International Affairs and Trade Team of the Government Accountability Office, testified before the Committee on Government Reform on September 9, 2004, regarding the implementation of the IDENT system at consular posts overseas. Ms. Williams-Bridgers stated, *"[A]mid the fast pace of rolling out the program to meet the deadline, DHS and State have not provided comprehensive guidance for consular posts on how the information about visa applicants made available through the Biometric Visa Program should best be used to help adjudicate visas."*[1]

Please explain the current DHS guidance at consular posts, including guidance of such aspects of the implementation process as who should scan fingerprints, where and who should review information about applicants returned from IDENT, response times for the IDENT system, and how the US-VISIT program and biometric information should be used to adjudicate visas. What consideration has been given to the resources available to consular posts in order to accommodate the need for such guidance at all posts?

According to Ms. Williams-Bridgers, the operational context of the US-VISIT program has not been adequately defined. She stated that more detailed content *"is needed to help clarify and optimize the relationships between US-VISIT and other homeland security programs and operations, such as State's Biometric Visa Program."*[2]

In implementing the US-VISIT program, what efforts have been made to identify best practices? Operating procedures? Resource needs? Has DHS revised its enterprise architecture for the US-VISIT program based on GAO's recommendations? If so, where in the process is DHS in implementing the GAO recommendations?

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[1] United States Government Accountability Office. "Joint Coordinated Actions by State and DHS Needed to Guide Biometric Visas and Related Programs" GAO-04-1080T
[2] Ibid

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