



# **DEPARTMENT OF STATE**

**WRITTEN STATEMENT  
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**BEFORE THE  
UNITED STATES SENATE  
HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE**

**HEARING  
ON  
THE VISA WAIVER PROGRAM: IMPLICATIONS FOR U.S. NATIONAL  
SECURITY  
MARCH 12, 2015**

Good morning Chairman Johnson, Ranking Member Carper, and distinguished Members of the Committee. I thank you for calling this hearing today and for your unwavering commitment to the Department's twofold mission to keep America safe while welcoming legitimate visitors who grow the U.S. economy and create jobs. The Visa Waiver Program is a vital part of our strategy to safely and effectively achieve both of these national interests, and I thank you for the opportunity to elaborate how this important program enhances the security of the United States.

### **State's Role in the Visa Waiver Program Structure**

DHS is the lead agency for determining a country's eligibility for the Visa Waiver Program (VWP). Working in close cooperation with DHS, the Department of State's role in the process is to nominate countries for participation once they have met all the statutory requirements of the program. We will not nominate any country for VWP membership until all the conditions of U.S. law have been fulfilled. The Department is also usually the agency a candidate country reaches out to first in order to express interest in VWP, often through one of our missions abroad. We explain the VWP requirements that must be met before a country can be considered and facilitate communication between the host country and DHS. We play this role throughout the nomination and assessment process.

Once a country is in the VWP, its continued participation depends upon successful completion of a DHS-led review, done at least once every two years, of the security of its travel documents, its border controls, immigration and nationality laws, law enforcement policies and practices, other law enforcement, immigration, and national security concerns, as well as how wider political, social, and economic conditions impact the security environment.

### **Pushing Borders Out**

Since 9/11, a risk-based approach grounded on greater and more effective domestic and international information sharing has become a key principle of visa processing policy. This approach enables the United States to channel more resources toward the prevention of high-risk travel while simultaneously increasing the number of legitimate visitors arriving by land, air, and sea. The VWP operates in concert with the U.S. Government's interagency watchlisting and screening enterprise, our increasingly automated and secure visa adjudication process, and DHS's multiple screening initiatives to enhance our national security.

The Electronic System for Travel Authorization (ESTA) for VWP travelers, which is administered by DHS, is an example of how U.S. agencies effectively use information collected from visitors in advance of travel to prevent terrorists and serious criminals from boarding a flight headed to the United States. Intending VWP travelers must first receive approval through ESTA. This involves filling out an online questionnaire with biographic information and paying an administrative fee, after which, similar to a visa application, ESTA screens against interagency databases for watchlisted individuals. If there is a positive match, DHS may deny the authorization, meaning the individual cannot utilize the VWP to board a U.S.-bound air or sea carrier. An individual denied an ESTA authorization must apply and be issued a U.S. visa in order to enter the United States. State and DHS recently collaborated on an enhanced list of questions for VWP travelers through the ESTA program. These questions will help to identify possible high-risk individuals attempting to travel through the VWP regime, without introducing an onerous administrative burden or privacy infringement on a potential traveler.

Individuals denied an ESTA authorization are not permitted to travel to the United States under the VWP and are referred to the appropriate U.S. Embassy or Consulate for visa screening. Should the would-be traveler wish to pursue travel to the United States by applying for a U.S. visa, he or she would undergo the comprehensive biographic, biometric, and interagency screening applied to all U.S. visa applicants. Consular officers review the results of Consular Lookout and Support System namechecks, 10-print fingerprints, facial recognition checks, Kingfisher Expansion counterterrorism checks, and, as it deploys around the world, DHS PATRIOT vetting, which will further improve the extensive information-sharing agreement that our two departments already manage.

Should the results of any of these checks or a consular officer determination so warrant, an interagency Security Advisory Opinion request would be transmitted to Washington and further action on the visa application would be suspended pending resolution of the particular concern.

This process ensures that a would-be traveler with a VWP-eligible passport cannot avoid vigorous interagency counterterrorism screening; it allows us to focus our scrutiny where it is most warranted; and it fosters the most efficient use of our homeland security resources.

### **Layered Security and the Added Value of International Data Sharing**

The Department embraces a layered approach to border security screening. The data we obtain through information-sharing agreements required by the VWP is a key element in this approach. In the Implementing Recommendations of the 9/11 Commission Act of 2007 Congress amended the primary VWP provisions of the Immigration and Nationality Act to require several enhanced security measures for participating countries, including more robust information sharing between the United States and its VWP partners. This is achieved through the completion of both a Preventing and Combating Serious Crime (PCSC) Agreement and a Homeland Security Presidential Directive-6 (HSPD-6) arrangement or their equivalent instruments with our VWP partner nations.

Under HSPD-6, issued in 2003, the U.S. Government was tasked with creating a plan to engage foreign partners, beginning with those in the VWP, to obtain information on known or suspected terrorists. The plan, submitted to the President in 2005, envisioned the Department engaging foreign partners to exchange terrorism screening information, and assigned the Terrorist Screening Center (TSC) to implement these agreements. In 2009, a National Security Staff-led Transborder Security Interagency Policy Committee reaffirmed that PCSC and HSPD-6 agreements are appropriate vehicles for satisfying the statutory information-sharing requirements in the 9/11 Act. Section 711 of the Act requires, among other actions, that the United States strengthen the security of the VWP by adding requirements that partner nations actively cooperate with the United States to prevent terrorist travel, including sharing counterterrorism and law enforcement information. To date, the U.S. Government has negotiated over 40 agreements with foreign partners to exchange terrorist screening information through the HSPD-6 model.

The Department coordinates closely with DHS on information sharing and border security programs with VWP partners, in order to provide our foreign partners the most comprehensive package to screen and interdict terrorist travel at the borders and ports. With our interagency counterparts, the Department has also engaged numerous VWP countries to better identify and counter foreign terrorist fighter threats.

### **Countering Violent Extremism with our International Partners**

In its countering violent extremism (CVE) initiatives and programming abroad, the State Department focuses on and supports counter-radicalization, counter-recruitment and counter-messaging. In its multilateral CVE initiatives, in particular, State collaborates with DHS to both (1) design capacity building

activities, and (2) integrate DHS 's domestic CVE expertise and experience into those capacity building activities so that the expertise and experience are shared with international partners.

## **Conclusion**

The Department recognizes that the United States' long-term interests and security are served by continuing the flow of commerce and ideas that are the foundations of our prosperity and security. We also recognize the need to ensure that this flow does not include anyone who seeks to do us harm. The Visa Waiver Program is the key to protecting both of these vital pillars of our national security, enabling ever-increasing numbers of visitors to experience U.S. culture and contribute to our economy, while identifying those who pose a threat to our nation before they seek to board a plane. We have built strong partnerships throughout the interagency and with our international partners to ensure the real-time flow of information necessary for keeping our borders secure.

This concludes my testimony today. I will be pleased to take your questions.