

**LOS ANGELES COUNTY BAR ASSOCIATION, IMMIGRATION SECTION
AILA, SOUTHERN CALIFORNIA CHAPTER
AGENDA FOR
CBP LIAISON MEETING**

January 10, 2007

QUESTIONS AND ANSWERS

The following are CBP agenda items proposed by members of the Los Angeles County Bar Association, Immigration Section, and the American Immigration Lawyers Association, Southern California Chapter:

1- What is the policy and procedure with respect to the North Koreans who enter the US and seek Asylum at the POE? Who determines the credible fear? Is it decided locally or is it reviewed and decided by the headquarters in Washington? Also, who determines the Bond Eligibility for these applicants?

A: A nonimmigrant applicant for entry who is found inadmissible at a POE and claims credible fear, is processed for expedited removal or placed in removal proceedings and turned over to ICE Detention and Removals (DRO) for a hearing before an asylum officer. The asylum officer makes the determination of whether credible fear is established. Bond eligibility is determined by DRO.

2- Is a copy of the Receipt Notice for 1-751, Petition to Remove Conditions on Residence, acceptable for entry purposes? Would the airlines allow passengers to board with that Receipt Notice? It is reported that some clients have not been allowed to board the flight with a copy of that Receipt Notice.

A: This question would be best asked of the airline that has refused to accept an original of the receipt notice for the 1-751. For CBP purposes, the original receipt notice (assuming it is within its period of validity) along with the conditional permanent resident card is sufficient for entry purposes.

3- What is the CBP policy with regard to the amount of time issued to E visa holders upon entry into the US? Our understanding was that the visa holders would be issued two years upon arrival if their passport was valid for more than 6 months, regardless of the validity of the underlying E Visa Petition. However, it appears that in some instances, applicants are given up to the validity of the petition. In such cases, what is the proper

procedure to correct the 1-94 without having to leave and re-enter the country?

A: The period of admission for an E nonimmigrant is two years. The passport however must be valid for 6 months past the "admitted until" date (unless the alien is a citizen of a country listed in 9 FAM 41.104 Exhibit I, commonly known as the six-month club). The provision that a passport be valid for six months at time of entry does not apply to E nonimmigrants. Corrections to CBP admission errors can be made by visiting the nearest CBP deferred inspection office.

4- Pursuant to the NSEERS program, foreign nationals born in one of the designated countries are required to register their departure at the airport. If they fail to do so, the next time they attempt to enter the US on Visa Waiver, they are handcuffed, detained overnight and turned back to their respective countries. Are there any specific guidelines for processing these individuals? How can this situation be rectified so that the visitor can return on Visa Waiver again without facing these harsh consequences?

A: If an NSEERS registrant fails to record his or her departure from the US, they are inadmissible on their next entry. CBP will for good cause on the first entry following a failure to record departure allow the traveler to be admitted. If the applicant fails to record their departure a second time, subsequent entries will result in a refusal of entry. Applicants who are refused entry will be returned foreign on the next available flight. Normal detention procedures are followed for all inadmissible travelers.

5- Would the LPRs in possession of the old Green cards with no expiration dates, ever be required to renew them or would they continue to be accepted by CBP?

A: Informal inquiries with CIS reveal no indication of any Green Card Replacement Program similar to the one used to replace the Form 1-151 during the 1990's. Any such initiative would probably require a Notice of Proposed Rulemaking in the Federal Register.

6- Some members have been informed by their clients that upon departure from the airport, they are required to swipe their passport to record their exit from the country. Is this a new policy? If so, is this procedure implemented for USCs, LPRs, or the foreign nationals?

A: There are no local requirements for US VISIT departure processing such as described. Airlines however do swipe passports during departure check in. US VISIT departure kiosks are in place at 12 airports and 2 seaports on a pilot basis (see attached pages from the DHS/US-VISIT web page).

7- What is the procedure to correct an error made by a CBP officer at the POE with regard to inputting incorrect information into the computer regarding the alien? For example, misspelling of the name or an incorrect date of birth could cause problems for the alien with other governmental agencies such as the Social Security Administration. How could this situation be rectified?

A: 1-94 arrival and departure forms are the primary means for creating the computer record for nonimmigrant travelers to the US. This document is completed by the traveler and should be completed legibly. If an error is found corrections can be made at the deferred inspection office.

8- Does the CBP have any authority to cancel a US passport for a returning US citizen in a scenario where the US citizen loses his/her passport, then applies for and obtains a new one, but later finds and attempts to enter the US with the original passport? Since the US passport is issued by the Department of State, shouldn't the authority to cancel solely rest with them?

A: 22 CFR 51.4(h)(2) invalidates any US passport that has been reported to the Department of State as lost or stolen. CBP policy requires the physical cancellation of such a passport when the US citizen to whom it was issued seeks entry with that passport. This passport may be returned to the rightful bearer after cancellation with the advice that it is no longer valid for travel and that s/he must apply for a new passport for future travel.

9. ICE recently updated its webpage on NSEERS to indicate that the following groups of nonimmigrants are subject to NSEERS at the port of entry (typos in original) -

<http://www.ice.gov/pi/specialregistration/index.htm>:

Certain citizens or nationals of Iran, Iraq, Libya, Sudan and Syria, as designated by the DHA Secretary in the Federal Register.

Nonimmigrants who have been designated by the State Department

Any other nonimmigrant, male or female regardless of nationality, identified by immigration officers at airports, seaports and land ports of entry in accordance with 8 CFR 264.1(f)(2).

The ICE website appears to indicate that "certain" not all citizens or nationals of the T5 countries are subject to NSEERS. This interpretation appears to be consistent with the manner in which CBP officers operate at the port of entry, as not all T5 nationals/citizens are made to go through NSEERS rather than US-VISIT. Please advise if this understanding of the CBP/ICE policy on T5 nationals/citizens is correct.

A: You should confirm with ICE your understanding of their website information. CBP follows the guidance issued at 8 CFR 264.1(f)(2).

10. CBP recently issued a regulation updating the permissible NSEERS ports of departure (74 Fed Reg 45061 (8/8/06)), such that the ICE walk away packets posted on the ICE website and handed out by CBP officers in doing entry/exit NSEERS processing are outdated. Is CBP doing anything to advise foreign nationals subject to NSEERS of this relevant update?

A: The version of the walk away material we are currently using is dated November 1, 2004. We anticipate an updated version of the walk away material to be issued shortly. This updated version will include the August 8, 2006 changes.

11. Does CBP have plans to implement a system to use the Advanced Passenger Information System (APIS) data to track departure records for lawful permanent residents? If so, when would CBP implement such a system?

A: Information on arriving and departing air travelers is required to be reported by the carrier to CBP. There are no special requirements beyond this reporting for lawful permanent residents. Lawful permanent residents are expected to be subject to US VISIT requirements in the future, but implementation of that requirement has not yet been established.

WESTERN HEMISPHERE TRAVEL INITIATIVE:

12. Under the WHTI, other than a passport, what other types of documents will be acceptable for air travel for US Citizens? Would LPRs require a passport or is their green card sufficient?

A: US Citizens will be required to present a US Passport for air travel to the US after January 23, 2007 (or a NEXUS air card at those ports of entry where NEXUS processing is present). Lawful permanent residents can present their permanent resident cards.

13. Under the WHTI, what happens if a Mexican or a Canadian National attempts to enter the country without a passport or appropriate travel document? Would admission be considered on a case-by-case basis? Would Mexicans be allowed to enter the US using their valid BCC?

A: During at least the first 60 days following the implementation of the initiative, travelers who **apply for entry without the **appropriate travel** documents will be informed of the document requirements, given information about the document requirements, and if otherwise admissible, allowed to enter the US. A record of the entry will be maintained.**

Mexican travelers will be required to present a passport in addition to their BCC or laser visa.

14. Can the NEXUS Air Card be used at any air location? If not, in which specific locations can they be used?

A: The NEXUS air card can only be used at those airports where the NEXUS program exists. Vancouver International Airport (preclearance) is the only current NEXUS airport. Montreal and Toronto are expected to become NEXUS airports in January of 2007 and Ottawa will become a NEXUS airport in June of 2007.

15. Under the Western Hemisphere Travel Initiative, as early as January 1, 2008, a requirement for U.S. citizens traveling between the United States and Canada, Mexico, the Caribbean and Bermuda by land or sea (including ferries), will be implemented. Under this initiative, would this require a U.S. citizen who, for example, lives in Southern California and visits Baja **California** for the day or weekend to present a **U.S. passport** to re-enter the country?

A: We believe your assumption is correct but the regulations for the implementation of the WHTI for land and sea travelers have not yet been finalized and published.

Updates

1. Have there been any staffing changes in the Los Angeles field office?

A: There have been no upper management changes at LAX.

2. Have there been any policy changes with respect to inspection and admission of foreign nationals?

A: Other than the implementation of the WHTI on January 23, 2007, no other policy changes have been implemented.

3. Are there any new or upcoming programs at CBP that affect the inspection and admission of non-US citizens?

A: No other changes other than the ones mentioned elsewhere in this agenda.

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US-VISIT: How It Works

US-VISIT >> How It Works

In many cases, US-VISIT begins overseas, at the U.S. consular offices issuing visas, where visitors' biometrics (digital fingerscans and photographs) are collected and checked against a database of known criminals and suspected terrorists. When the visitor arrives at the port of entry, we use the same biometrics – digital fingerscans – to verify the person at our port is the same person who received the visa.

What can I expect when I arrive in the U.S.?

Once at the port of entry you will find that many of the procedures remain unchanged and are familiar to you. For example, a U.S. Customs and Border Protection Officer still reviews your travel documents, such as a visa and passport. The officer still asks you questions about your stay in the U.S.

What's new under US-VISIT is that the U.S. Customs and Border Protection Officer now uses the inkless, digital fingerscanner to capture two of your fingerscans. You first place your left index finger and then your right index finger on the scanner. The officer also takes your digital photograph. These procedures add only seconds to the overall processing time.

- Download the US-VISIT Step [StepEntry Guide \(PDF, 1 page, 609 KB\)](#)
- View QS-VISIT [Entry](#) and Exit [Process Videos](#) in English and other languages

What do I need to do before I exit the U.S.?

US-VISIT Exit procedures are being tested at the following airports:

- Baltimore/Washington International
- Chicago O'Hare International
- Dallas/Fort Worth International
- Denver International
- Detroit Metropolitan Wayne County International
- Fort Lauderdale-Hollywood International
- Hartsfield-Jackson Atlanta International
- Luis Munoz Marin International in San Juan, Puerto Rico
- Newark Liberty International
- Philadelphia International
- San Francisco International
- Seattle-Tacoma International

The US-VISIT Exit procedures are also being tested at the following seaports:

- Miami International Cruise Line Terminal
- Long Beach and San Pedro seaports near Los Angeles

If you leave from one of these ports, you are required to confirm your departure using US-VISIT exit procedures. Your check out will include the scanning of your visa or passport and repeating the simple inkless fingerscanning process for first your left index finger and then your right index finger. A workstation attendant will be available if you need assistance. The exit confirmation will be added to your travel records to demonstrate compliance with the terms of your admission. Ultimately, most foreign visitors will be required to check out before leaving the United States.

- US-VISIT [Step-by-Step Exit Guide \(PDF, 1 page, 768 KB\)](#)
- View US-VISIT [Entry](#) [and Exit](#) [Process Videos](#) in English and other languages

Why do we collect this information?

The biographic and biometric data are used to match your identity against the data captured by the State Department at the time the visa was issued to ensure that you are the same person who received the visa. In addition, your digital picture that

was taken at the visa-issuing point is displayed to the U.S. Customs and Border Protection Officer for visual comparison and confirmation.

Using all these tools, the U.S. Customs and Border Protection Officer will then either admit you or conduct additional inquiries based on the verification results. These procedures reduce fraud, identity theft, and the risk that terrorists and criminals will enter the U.S. undetected or by using stolen or fraudulent documents.

Resources

- [Biometrics Catalog](#)
- [Biometrics.gov](#)