

**AILA- CHICAGO CHAPTER &
CBP FIELD OFFICE LIAISON MEETING**
May 12, 2017

AILA Chicago Chapter Committee Members Present:

Nell Barker, Co-Chair
Tzu-Kai Lo, Co-Chair
Leah Duckett
Maria Kallmeyer
Susan MacLean
Tejas Shah
Fazila Vaid
Pawel E. Boruch

1. Personnel

Have there been any personnel changes of senior management at the Chicago Ports of Entry?
Have there been any significant changes in these assignments?

CBP Officers at Chicago Field Office

Robert White, Director of Field Operations (12 state region)
Steven T. Artino, Assistant Director (Border Security), Chicago Field Office
Brett Sturgeon, Admissibility and Passenger Programs Manager, Chicago Field Office
Robert Harris, Program Manager, Chicago Field Office

CBP Officers at Ports of Entry

O'Hare Airport

Matthew Davies, Area Port Director
Michael Pfeiffer, Assistant Port Director, Passenger Operations
Hans Leiterman, Assistant Port Director, Tactical Operations
Paolo Bellantuono Chief Officer – Secondary Inspection, Deferred Inspection
Patrick Salgado, Chief Officer – Deferred Inspection
Gwen Flowers, Chief Officer
Peter Manno, Watch Commander
Jeffrey Toland, Chief Officer
Brian Bell, Watch Commander
Brian Henke, Watch Commander
Jaime Gray, Watch Commander
Marcos Jones, Chief Officer - Overnight
Timothy Borden, Chief Officer - Overnight
Ralph Piccirilli, Chief Officer
Corey Scudder, Chief Officer
James Saunders, new PSM, james.saunders@cbp.dhs.gov

Midway Airport

Joseph Chavez, Chief
Florian Moran, Supervisor
Vijender Sawal, Supervisor
Sean Gillis, Supervisor

Deferred Inspection

Val Parks, Supervisor, valiant.parks@cbp.dhs.gov

2. Staffing Level

Through Executive Orders, President has instituted a federal hiring freeze and subsequently lifted the hiring freeze with conditions. In light of the enhanced admission screening, which inevitably leads to prolonged wait time in the arrival hall, has Chicago CBP been able to increase its staffing level to reduce the processing time?

Yes, Chicago CBP is still able to hire and fill open positions.

A. What's the current processing time for passengers arriving Chicago O'Hare?

There have not been any changes compared to last year in Chicago. Complete statistics are available on the GAO web site.

B. Is there any noticeable increase or decrease of volume of passengers processed through Chicago CBP?

There has been a single digit increase in daily passenger flow compared to last year at O'Hare. Midway is the same as last year. Milwaukee has added a regular international arrival flight, and South Bend will be getting an Officer who is funded by user fees.

3. Current Passenger Admission Process

A. What are the standard procedures when an electronic device is searched but not seized at the airport? Is that search performed in front of the traveler? Is there any notice provided to traveler?

A form notice is given to anyone whose electronic device is searched, and then a report is made of the search. Searches are typically performed in secondary inspection in front of the traveler unless there is a security reason not to do it in front of the passenger. The search may occur at the counter in the general waiting area within the secondary inspection area. Passengers may request a private screening, but it may not always be possible. The electronic searches can happen wherever the inspection is happening whether that be at the front counter, or in a separate inspection room within secondary. Sworn statements are usually taken in a separate room, but electronic device searches may happen before a sworn statement is taken. CBP is sensitive to privacy concerns of passengers, and will accommodate those concerns whenever possible.

B. Members are reporting an increase in searching of electronic devices. We know the search of electronic device policy has existed for quite some time. Has there been an increase in searches of electronic devices? Can you confirm that, absent any corroboration of unlawful activity, a traveler should not be denied entry for his or her opinion or social media comments regarding the President?

CBP confirmed that there has not been an increase in electronic device searching. Political opinions are not a basis for denial. CBP officers are held to a standard of professionalism and are not supposed to engage in political dialogue with passengers. Inappropriate comments should be brought to the attention of the Professionalism Service Manager.

- C. Assuming that an individual's U.S. immigration documents/visa are valid, unexpired and appropriate for the visit, we would like to know what travelers should expect when they arrive if they have travelled to Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen, but do not hold a passport from one of those countries.

Would those travelers be automatically subject to extra scrutiny in the following scenarios:

- If they had travelled to the one of the above mentioned countries?
- If they have a visa stamp from one of those countries?
- If they have a second passport/nationality that is one from one of those countries, but they are travelling on a passport from another country that is not on the list?

Travel to one of these countries is not, on its own, a reason for additional scrutiny and will not cause an automatic referral to secondary. It will always be based on the totality of the circumstances for each individual traveler.

A second passport from one of those countries is not a reason for automatic referral either.

- D. In the event that CBP determines if it is necessary to search a traveler's electronic device, but the traveler has refused to surrender the electronic device or provide passcode to unlock the device. What's CBP's current operational procedure in the following scenarios:

- If the traveler is a US citizen, would the traveler be detained while CBP obtains a search warrant?
- What if the traveler is a lawful permanent resident?
- What if the traveler is a nonimmigrant visa holder, would the traveler be subject to expedited removal with their visa cancelled?

CBP does not need a search warrant, regardless of the nationality of individual. Mere suspicion is the standard.

If a nonimmigrant refuses to allow a search, they may be found inadmissible if CBP cannot verify the information they were concerned with. They may be subject to expedited removal or CBP may offer them to withdraw their request for admission.

A USC or LPR will be allowed to enter the U.S. but CBP can keep the device to complete the inspection process. In this case, they would issue a Form 6051D, and notify the passenger that the device will be detained until after the inspection is completed. Note: A USC phone seizure is not about admissibility. It is usually about some other investigation that CBP may be aware of through other law enforcement partnerships.

- E. It was reported that the Department of State provisionally cancelled more than 10,000 visas for visa holders from the above mentioned countries. If a visa holder from any of these seven countries was not notified of the cancellation and travels to the US and if his or her visa was indeed cancelled, would the traveler be able to utilize this visa to enter the US? Would the CBP officer advise the traveler the visa has been cancelled and authorize the documentation waiver to allow the traveler to enter the US?

If CBP encountered a visa that was revoked in the system, they would coordinate with the Department of State as to why. Depending on the circumstances a document waiver may or may not be available.

- F. Has the port provided any guidance to officers regarding discretion available to them regarding interrogating family members in the waiting area of Terminal 5?

CBP has always had the authority to speak to people in Terminal 5, and it happens from time to time. However, it is not a policy to patrol at random.

- G. Aside from unaccompanied minors, are there other situations where it would be typical to approach non-travelling family members?

CBP does not have a policy of approaching family members of unaccompanied minors unless there is some other reason for concern that arose in secondary inspection.

In general, questioning family members in Terminal 5 may stem from information obtained in while a passenger was in secondary.

4. The Ending of Wet/Dry Foot Policy for Cuban Nationals

In light of President Obamas ending "dry foot, wet foot" policy, if an adjustment applicant based on Cuban Adjustment Act travels internationally pursuant to Advance Parole issued based on pending Adjustment, will that applicant be paroled in based on pending adjustment?

Yes, as long as the Advance Parole document is still valid.

5. H-1B Visa Holder Admission

- A. For H-1B visa holders seeking admission to the U.S., please confirm the required or preferred documents that an H-1B visa holder should present.

The following documents are required:

- I-797 – copy acceptable -
- Valid passport
- Valid visa

Beyond these, other documents may be requested based on the totality of the circumstances.

- B. Please confirm whether a Labor Condition Application is required during the inspection process.

No, it is not a required admission document, but it does sometimes help clarify questions that CBP has. Some secondary inspection officers are trained in LCA requirements and how to look for H-1B fraud. From time to time, they also help other agencies with investigations.

- C. As USCIS has temporarily suspended Premium Processing for H-1B visa applications, H-1B amended petitions are now taking 6 to 8 months for review and adjudication. If an H-1B amended petition has been timely filed due to change of employment location, the H-1B visa holder is in possession of a valid H-1B visa stamp, I-797 Approval, and

an I-797 Receipt Notice, please confirm if there is any additional document that an H-1B visa holder needs to present to explain the amendment filed due to change of employment location.

The individual needs to be able to explain that an amendment is pending. They may be sent to secondary inspection so an officer clarify the circumstances.

6. LPR with DUI

A member has reported that a lawful permanent resident with a DUI conviction from five years ago has been referred to secondary inspection for further evaluation. Please confirm if this is a new admission procedure for LPR who was convicted of non-removal offense. Please also confirm if an LPR with any criminal conviction must carry the final court disposition during the inspection process.

The system was updated two years ago. So now criminal records come up for CBP on primary inspection. With this new system, an individual who has a criminal "hit" will be sent to secondary inspection for further review. In secondary, the CBP officer can remove the biometric alert so it doesn't trigger secondary referral every time if there is no admissibility issue.

7. Global Entry for LPR

For Global Entry participants who possess an expired green card, but who have a sticker showing an extension of their green card while their green card renewal application is pending, is there any way to update their status with Global Entry so that they are not referred to Secondary Inspection every time they are readmitted to the U.S. (since the kiosk cannot scan the extension sticker)? If an update is not possible with Global Entry, is it recommended that affected LPRs seek admission in the regular lanes to avoid the referral to Secondary Inspection?

Yes, this can be updated through the enrollment system, GOES.

8. F-1 Student with OPT

- A. If a former student, who timely applied for post-completion OPT, the I-765 is still pending, and student, after graduation needs to travel outside the U.S. Assume, the I-765 was approved while former student was abroad. Will that former student be admitted to the U.S. for the purpose of beginning work pursuant to OPT without actual EAD in hand?

If the EAD is approved they would be expected to have it in hand, but a CIS system check could verify the approval of the card.

- B. If I-765 is still pending at the time of seeking admission, can that former student be admitted to the U.S. while waiting for I-765 Approval?

Yes, with a valid I-20, passport and visa.

- C. If the F-1 student is in possession of an I-765 and is returning to the US after some brief international travel abroad, but has not commenced employment relationship with any US employer, would the F-1 student be permitted to return to the US?

CBP will look at whether the individual has exhausted the period of unemployment time that is available to them under the rule.

9. Name Order for Certain Foreign Nationals with no First or Last Name

We have seen recently a number of cases where the CBP officer has inputted the foreign national's name in the CBP database based on the convention of FIRST/ LAST name shown on the visa instead of the passport bio page. Please confirm if CBP officer is instructed to utilize the name order from the visa or the passport biographical page.

The system will first default to the passport, but if the passport is not machine readable, an officer may use another document to scan the person into the system such as the visa. If the passport only has one name, the CBP system defaults into last name field.

10. Communication Protocols

Please confirm the following communication protocols remain accurate and updated.

The below is up to date.

Passenger Issues at O'Hare

- For an inquiry regarding a passenger currently at Terminal 5, **please call first**, asking to speak to an "SIU Supervisor on Duty," with the option of escalating to the Watch Commander.
 - Terminal 5 CBP office, **773-686-2800** and ask for Supervisor on duty at SIU/Watch Commander.
 - ChicagoWatchCommander@cbp.dhs.gov

Deferred Inspection/I-94 correction issues:

- 1) Try I-94 email correction, or appear in person. i94chi@cbp.dhs.gov (please attach your G28, client passport bio page and any other relevant documents)
- 2) After 48 business hours, you can follow up with Jesus Ortiz or Samuel Merritt, Supervisors located at Chicago O'Hare Airport. JESUS.ORTIZ@CBP.DHS.GOV SAMUEL.MERRITT@cbp.dhs.gov
- 3) If your issue is not being addressed/resolved and you have first tried to contact Supervisors Ortiz and/or Merritt, further follow up can be done with Watch Commander Peter Manno, who oversees Deferred Inspection, peter.manno@cbp.dhs.gov

General Policy Inquiry or Midway Specific Issue

If you have a general CBP policy inquiry for the local port, please contact Chief Joseph Chavez, he is our *primary liaison*. You can also reach out to Chief Chavez for any Midway specific issues.

Chief CBP Officer Joseph Chavez
Midway International Airport

Phone: 773-948-6330
Cell: 312-933-6093; Fax: 773-948-6239
JOSEPH.A.CHAVEZ@CBP.DHS.GOV

Allegations of Unprofessional Conduct by CBP

James Saunders, Professionalism Service Manager, james.j.saunders@cbp.dhs.gov

Follow-up:

- If you have not received a reasonable response, please contact Chief Paolo Bellantuono via email: PAOLO.BELLANTUONO@CBP.DHS.GOV