

**AILA Chicago Chapter Liaison Meeting with CBP Field Office**

**November 3, 2017**

**AILA CBP committee members present:**

Kai Lo, Co-Chair  
Kathryn R. Weber, Co-Chair  
Nell Barker, EB Representative  
Maria Kallmeyer  
Pawel E. Boruch  
Julie T. Emerick  
Edyta Salata  
Lindsay Wunrow  
Gretchen Ekerdt  
Meredith C. Ritchie

**Personnel**

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

**Yes. Supervisor Vijender Sawal at Midway Airport has retired. There is no replacement at this time.**

**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  
**Patrick Salgado** Chief Officer – Secondary Inspection, Deferred Inspection  
**Paolo Bellantuono**, Chief Officer – Overnight  
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  
Ralph Piccirilli, Chief Officer

Corey Scudder, Chief Officer  
James Saunders, Professionalism Service Manager

### **Secondary Inspection Unit (SIU) (PPC)**

Patrick Salgado, Chief, [Patrick.salgado@cbp.dhs.gov](mailto:Patrick.salgado@cbp.dhs.gov)  
Mona Burwell, Supervisor, Morning  
Nelson Durant, Supervisor, Morning  
James Coghlan, Supervisor, Afternoon  
Jesse Ortiz, Supervisor, Afternoon

### **Midway Airport**

Joseph Chavez, Chief, [joseph.a.chavez@cbp.dhs.gov](mailto:joseph.a.chavez@cbp.dhs.gov)  
Val Parks, Supervisor, Morning  
Juan Rodriguez, Supervisor, Morning  
Tommy Miller, Supervisor, Afternoon  
Florian Moran, Supervisor, Afternoon

### **Deferred Inspection**

Samuel Merritt, Supervisor, [Samuel.merritt@cbp.dhs.gov](mailto:Samuel.merritt@cbp.dhs.gov)

### Facial Recognition Biometric Exit Technology:

2. How has the implementation of facial recognition biometric exit technology affected noncitizen travelers? What processes have changed as a result?

Currently, in the pilot phase there is a one flight per day – an American Airlines flight to Heathrow Airport in London (LHR). So far there have been no major issues. There are no fingerprints taken, only a photograph of the passenger, taken from a camera located above. The pictures taken are matched with: (1) for U.S. Citizens – databases shared by Department of State from passport applications; (2) for LPRs – with USCIS databases; (3) for nonimmigrants – CBP's own database. The picture is matched against who was supposed to be on the flight.

If there is no need to be referred to the officer, the person is allowed to board the plane. There have been only a small number of people who failed to match. Informational tear sheets are provided for passengers wanting more information regarding the process.

- a. Is there any news on CBP I-94 / Travel History lookup on CBP's website?

There is a change to the travel history information on CBP's website (<https://i94.cbp.dhs.gov/I94>). The site now allows Lawful Permanent Residents to check their travel history for the past 5 years.

- b. Are there any other pilots/programs being implemented by Chicago Area Port?

It is expected that in January of 2018 there will be a new process of enrolling in the Global Entry program. Conditionally approved enrollees will be processed for Global Entry upon arrival from an international trip. There will be separate booths designated for this process at Midway and O'Hare. So far, CBP has seen over 90,000 enrollments in Global Entry. It is expected that Global Entry will be expanded to 50 airports in the United States.

#### I-94 Issues:

3. AILA has observed a trend relating to electronic I-94s and online travel histories. In an increasing number of cases, nonimmigrant visa holders' travel history is updated at the time of entry, but not the I-94. It appears that the two are not being matched or updated simultaneously. Are these records created simultaneously?

The travel history is generated from multiple systems. The I-94 should be generated by CBP automatically upon entry. CBP confirms that there are inconsistencies when comparing the travel history and the I-94.

4. The discrepancy between the validity date entered into the SAVE system at the issuance of an I-94 and the validity date of a corrected I-94 can prevent the issuance of a driver's license by State agencies that rely only on SAVE. Does CBP have the ability to update the SAVE system after correcting an I-94?

No. CBP does not have access to update SAVE. It is up to USCIS to update SAVE. The current solution is to have CBP correct it, then send client to an Infopass for CIS to correct and update it. This would be a good question to pose to USCIS.

#### Deferred Inspections:

5. AILA recently learned that the telephone number for the Chicago Deferred Inspection site has changed. The new number is 312-542-4928. This number has not been updated on the U.S. CBP website – list of deferred inspection sites, found at the following link: [https://www.cbp.gov/sites/default/files/assets/documents/2017-Jun/deferred\\_inspection\\_sites\\_060817.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2017-Jun/deferred_inspection_sites_060817.pdf). Is USCBP planning to update this list with the current contact information? Has the fax number changed as well?

CBP confirmed that they are aware about the need for the phone number to be updated on the website but this is not controlled by the local port. Also, the listed fax number is not functional. As there will be a change in deferred inspection staffing in January 2018, and another in September 2018, it is advisable to use a general e-mail address, not e-mails of specific officers. CBP will consider creating a new e-mail address specifically for Deferred Inspection inquiries. For

now, we recommend sending an e-mail to Supervisor Samuel Merritt at [Samuel.merritt@cbp.dhs.gov](mailto:Samuel.merritt@cbp.dhs.gov)

6. Thank you for continuing to allow attorneys to be present in Deferred Inspections. Some attorneys have reported that they have not been permitted to go beyond the window to accompany their clients in interview rooms at Deferred Inspection appointments. Can you confirm that attorneys are permitted to be present with clients at Deferred Inspection appointments, including during interviews that take place in individual interview rooms?

Attorneys will no longer be permitted to go beyond the window to accompany their clients into the interview rooms at the Chicago Deferred Inspections Office. This policy is consistent with Secondary Inspections in Chicago and other Deferred Inspections offices around the country. There is no entitlement to attorney representation in the Deferred Inspection process. Attorneys may continue to accompany their clients to the Deferred Inspections waiting area, speak with officers at the window, and provide documentation to the officers. If you have an issue regarding Deferred Inspections that cannot be resolved by calling the office, please email Deferred Inspection Supervisor whose contact information is listed at the end of the minutes.

7. Are specific officers assigned to cases in Deferred Inspection? Is there a way for counsel to directly communicate with a particular Deferred Inspection officer regarding a case?

Currently there is no way for counsel to directly communicate with a particular officer. CBP prefers communication to be directed through the supervisor. If you have an upcoming appointment, send documents to Supervisor ahead of time. CBP will consider creating a new e-mail address specifically for Deferred Inspection inquiries.

#### Secondary Inspections:

8. CBP at O'Hare and Midway has previously accepted telephone inquiries from attorneys, based upon a faxed G-28, for individuals, including Permanent Residents, who are sent to secondary inspection. Has there been any change to this policy?

There has been no change. Send a G-28 before calling. When calling, ask for the Watch Commander. If there is an issue at Midway, send email to Joe Chavez, since there is no watch commander for that airport. In general, emailing the watch commander is preferable.

This communication is not to be used to try to influence the inspection. Emailing is only to obtain or share information.

#### TN processing:

9. Has there been any change to CBP Chicago's willingness to accept for review documentation in support of a TN application in advance of the individual's arrival at

Midway? Previously, documentation on more challenging cases such as Computer Systems Analysts, Management Consultants, and Scientific Technicians has been submitted to CBP for consideration as a courtesy to facilitate processing with the understanding that CBP only adjudicates a TN application when a Canadian national is appearing for inspection.

The Watch Commander email address should be used to provide any documents/information before the arrival of a TN applicant. CBP is willing to accept documents in advance if they help with adjudication of the case.

10. Has there been any policy change regarding required documentation, especially educational documents, for initial TN applicants? What about for TN extension or change-of-employer applicants?

There has been no policy change. Extension or change-of-employer applicants are treated similarly to initial applicants. Officers review each application as if it is brand new, regardless of whether the TN describes it as a “renewal.” The application should be filed with all the same documents regardless of how many times it has previously been submitted. The TN applicant should have all required documents, for example, original educational documents (an original transcript with a copy of the diploma would suffice).

11. Will the office admit a TN applicant who presents with a letter from their employer that indicates the U.S. employment will begin “upon approval” rather than a date certain?

CBP’s preference is to have a specified period of time. But the offer/contract can also state, “An effective date of employment will be established on or after (fill in a date in the near future) and also upon CBP approval.” If it’s contemporary, that’s the best way to provide those specific dates. If the TN applicant is arriving earlier than specified date, the TN applicant might be admitted earlier, if based on totality of circumstances it will be warranted. As an example, arriving 7-10 days earlier than the requested date should be treated as reasonable. CBP also understands that delays may exist with travel plans and would not normally question the validity/viability of the offer if the applicant appears a few days after the requested start date.

To contact CBP ahead of time to submit documents, send an email to the watch commander or Joe Chavez.

#### B-2 issues:

12. 9 FAM 402.2-4(B)(5) allows for cohabitating partners of long-term nonimmigrants, who are not eligible for derivative status, to come to the U.S. on B-2 visas for the duration of the partner's nonimmigrant status. The same FAM section advises foreign nationals to

ask CBP for a one-year stay at the time they apply for admission. There used to be a similar provision in CBP's Inspectors Field Manual.

- a. Is that provision still in the CBP Officer's Reference Tool (ORT)?

There was no change.

- b. In practice, B-2 cohabitating only get a six-month stay each time they enter? Is there a CBP policy against giving full year? If not, is there something you recommend foreign nationals carry to explain that they are eligible for the full year on each entry.

There is no policy change. The officer needs to be made aware that the applicant is requesting one year. Therefore, the foreign national shall request full-year admission of the inspecting officer, and present any supporting documentation to support request. He can also ask to speak to the supervisor, and be processed through secondary inspection. There is no need for supervisory approval to extend the admission period up to one year, as opposed to the need of having supervisory approval to cut the admission time to less than 6 months.

If there is an annotation on the visa, the officer takes it prima facie. If the applicant has a regular visa, then there will be more inquiry into determining if the one-year admission is warranted.

Inadvertently getting 6 months could possibly be corrected, but it is best to advise applicants ahead of time. Note that a foreign national desiring one-year admission should NOT use the kiosk during admission process, and should speak to an officer. The kiosk default is 6 months.

- c. Do you only honor this cohabitating partner rule if the Consulate puts a notation on the visa stamp, or could a foreign national ask for it with a regular valid B visa with no annotation?

No, the admission is based on the totality of the circumstances.

- d. Has anything changed about this rule from CBP's perspective since the new administration?

No change.

DACA-based advance parole travel documents:

13. Has CBP received any special instruction regarding the parole of individuals with DACA-based I-512s? Is there any change in how CBP is paroling these individuals at O'Hare or Midway?

CBP does not question the basis of Advance Parole. All holders of a valid I-512 document are treated in the same manner.

K-1 issues:

14. Please confirm that a K-1, who has not yet married or applied for permanent resident status, may bring personal and household belongings to the U.S. as described here: [https://help.cbp.gov/app/answers/detail/a\\_id/107/~/~moving-to-u.s.---household-and-personal-effects%2C-packing-%2F-inventory-list](https://help.cbp.gov/app/answers/detail/a_id/107/~/~moving-to-u.s.---household-and-personal-effects%2C-packing-%2F-inventory-list).

As long as the belongings are the K-1's personal items, it's fine, assuming they have the customs clearance. At a land entry, these travelers may be referred to cargo if they have a very large quantity of items.

FOIA:

15. What data does CBP share with the Office of Biometric Identity Management (OBIM)?

Both agencies are part of the DHS. Any instance of sharing information is happening in Headquarters, not locally.

16. Does CBP consult with OBIM before responding to a FOIA request?

Both of these agencies are part of DHS. Therefore, information can flow between without much interplay locally. Most of the investigation is through Headquarters. When a FOIA request is received, it gets parsed out to the different ports that are applicable. There is a designated person at the local office to whom these requests are forwarded applicable to Chicago. That person is James Saunders, Professionalism Service Manager.

Prosecutorial Discretion:

17. In what manner/forms may CBP exercise prosecutorial discretion? Does CBP have discretion as to whether to issue a Notice to Appear? Does CBP exercise discretion in its treatment of LPRs returning after a prolonged absence?

The exercise of Prosecutorial Discretion is based on the totality of the circumstances, on a case-by-case basis. It is not common to exercise discretion where there has been a violation. If the traveler is inadmissible, CBP will work with ICE Counsel to determine whether it is still appropriate to pursue an NTA or not. It used to be exclusively in ICE Counsel's discretion, but now there is more

for room for CBP to use discretion. The new collaboration process between ICE counsel and CBP is meant to address the issue of whether to pursue charges.

If an officer knows that an LPR is returning after a prolonged absence, he will review the totality of the circumstances and use discretion to determine whether to issue an NTA. A returning LPR should demonstrate that it is now her intent to return permanently to the United States. Attorneys are welcome to reach out to the watch commander in advance regarding these types of travelers, preferably a week in advance of the trip.

LPR admission under 8 CFR § 211.1(b):

18. 8 CFR § 211.1(b) allows for admission of the less-than-two-year-old child of an LPR mother without a visa on the LPR parent's first return to the United States following the child's birth, but how does CBP apply this rule to children born via surrogate? Will CBP will look beyond the birth certificate? Is a surrogacy agreement sufficient to demonstrate the relationship between the LPR mother and the child for the child to be admitted as a new LPR pursuant to 8 CFR § 211.1(b)?

If attorneys have specific cases such as this, it is recommended to reach out to CBP in advance. In this particular case, CBP recommended the LPR apply and obtain an Immigrant Visa for the child from the appropriate US Embassy or Consulate prior to seeking admission into the US. CBP will not issue an official answer to this, because it would be making a policy statement.

Communication Protocols:

19. Please confirm that the following communication protocols remain accurate and updated.

**Confirmed.**

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](mailto:ChicagoWatchCommander@cbp.dhs.gov).

Deferred Inspection

SCBPO Samuel Merritt [Samuel.merritt@cbp.dhs.gov](mailto:Samuel.merritt@cbp.dhs.gov) is the supervisor at Deferred Inspection.

The contact information is:

536 S. Clark Street, Suite 1035

Chicago, Illinois 60605

312-542-4928

Hours are 8:00 a.m. - 3:00 p.m., Monday - Friday

### **I-94 correction issues**

- 1) Try I-94 email correction, or appear in person at Chicago Deferred Inspections. [i94chi@cbp.dhs.gov](mailto: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 Samuel Merritt, [SAMUEL.MERRITT@cbp.dhs.gov](mailto:SAMUEL.MERRITT@cbp.dhs.gov)
- 3) If issues are still not resolved, please contact Supervisor Mona Burwell, [Mona.r.burwell@cbp.dhs.gov](mailto:Mona.r.burwell@cbp.dhs.gov) or Nelson Durant [Nelson.j.durant@cbp.dhs.gov](mailto:Nelson.j.durant@cbp.dhs.gov).
- 3) If your issue is not being addressed/resolved and you have first tried to contact Supervisor Burwell or Durant, further follow up can be done with Watch Commander Peter Manno, who oversees Deferred Inspection, [PETER.MANNO@cbp.dhs.gov](mailto: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](mailto:JOSEPH.A.CHAVEZ@cbp.dhs.gov)

### **Allegations of Unprofessional Conduct by CBP**

James Saunders, Professionalism Service Manager, [James.Saunders@cbp.dhs.gov](mailto:James.Saunders@cbp.dhs.gov)

### **Follow-up:**

If you have not received a reasonable response, please contact via email:

Chief Patrick Salgado [patrick.salgado@cbp.dhs.gov](mailto:patrick.salgado@cbp.dhs.gov)