

Unofficial minutes from AILA-CBP Meeting – October 4, 2019

AILA CBP liaison committee members in attendance:

Kathryn Weber
Mercedes Badia-Tavas
Maria Kallmeyer
Victoria Carmona
Nicholas Coenen
Jacqueline Lentini McCullough
Lindsay Wunrow
Nell Barker

CBP 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?

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

Note: no new permanent Port Director; each acting port director can only serve in this capacity for 120 days.

Michael Pfeiffer, Acting Port Director, Passenger Operations

Hans Leiterman, Assistant Port Director, Tactical Operations
Patrick Salgado, Chief Officer – Secondary Inspection (**Admissibility**)
Paolo Bellantuono, Chief Officer – Secondary Inspection (**Admissibility**)
Gwen Flowers, Chief Officer
Jeffrey Toland, Chief Officer, Deferred Inspection
Brian Bell, Watch Commander
Brian Henke, Watch Commander
Jaime Gray, Watch Commander
Marcos Jones, Chief Officer
Timothy Borden, Chief Officer
Ralph Picarilli, **Watch Commander**
Corey Scudder, Chief Officer

Sean Gillis, Supervisor
Nelson Durant, Overnight Supervisor
Michael Lambermont, Overnight Supervisor
James Saunders, Supervisor
Juan C. Rodriguez, Juan.C.Rodriguez@cbp.gov, Professionalism Service Manager

Midway Airport

Joseph Chavez, Chief
Robert Holthouse, Supervisor at Midway in the morning
Val Parks, Supervisor at Midway in the morning
Florian Moran, Supervisor
Tommy Miller, Agriculture Supervisor

Deferred Inspection

Khashayar Normandi, Supervisor

Communication Protocols:

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

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.
- Note: Watch Commanders are not on duty 24/7. Emails or calls outside of normal business hours will not be answered immediately.
- Attorneys can email the Watch Commander regarding issues with passengers arriving in the near future. That is an appropriate use of the e-mail address.

Deferred Inspection

SCBPO Khashayar Normandi (Khashayar.E.Normandi@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

- a. Try I-94 email correction, or appear in person at Chicago Deferred Inspections. i94chi@cbp.dhs.gov (please attach your G-28, client passport

biographic page, visa, admission stamp, I-94 record, and any other relevant documents).

- b. After 48 business hours, you can follow up with SCBPO Khashayar Normandi (Khashayar.E.Normandi@cbp.dhs.gov).
- c. If the issue is not resolved, please contact Jeffrey Toland Jeffrey.L.Toland@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

Juan C. Rodriguez, Professionalism Service Manager, Juan.C.Rodriguez@cbp.dhs.gov

Follow-up

If you have not received a reasonable response on any of the above types of inquiries, please contact Michael Pfeiffer at Michael.J.Pfeiffer@cbp.dhs.gov.

Policy Changes

- 3. How have your priorities changed in the past 6 months? Are you reallocating resources or is there new funding for any new priorities? How are any new priorities changing your structure?

The air exit biometrics initiative will be expanded imminently at O'Hare. This involves facial recognition technology, where CBP compares the photo on the identity document with the person. With this new technology, passengers do not need to show their passports or visas because the system will automatically verify their identities upon boarding.

There is signage explaining the use of the technology, and U.S. citizen passengers may opt out. If a passenger opts out, then the airline personnel must review documentation to verify identity. Exit biometrics will cover a good portion of the international flights departing O'Hare. The program will expand to more flights in the near future.

4. Is CBP Chicago sending officers to the border to conduct credible fear and reasonable fear interviews?

CBP Chicago did send officers to the border, but they returned as of a few weeks ago. No update on future transfers.

5. Are there any updates on technology rollouts at our local ports?

See above answer to question 3.

I-94 Records

5. How long does CBP maintain electronic I-94 records? In the past, we had heard that CBP only maintains the records for 5 years. Is it possible for CBP to maintain those records longer?

Records maintenance is not the same in every system. CBP can consistently search I-94 records for an individual going back 5 years. Older records may be found based on name queries.

CBP performs most name searches under the most recent “Unified Passenger System (UPS).” This system allows CBP to access information on travel and criminal history, and may produce information beyond the last five years. CBP can also search under “all automated CBP systems,” which includes information from other agencies’ systems and older systems.

6. How far back can CBP access arrival/departure/removal records for FOIA purposes? Is this a moving timeline, as in “within the past 10 years?”

It could be more than 10 years – it depends which systems are used. In the last two years, CBP has performed most searches in the UPS (Unified Passenger System).

Admission Issues

7. We have heard reports that CBP officers have told travelers that they will be phasing out admission stamps and the electronic I-94 will be the only record of admission. Can you comment whether there are any plans in place to eliminate the physical admission stamp in the passport?

There is no plan to phase out the admission stamps in passports. CBP stopped stamping I-20s a few years ago.

8. When CBP cancels a visa at the gate upon departure from the United States, is there a specific team that handles the visa cancellation? If so, is there a contact person for inquiries?

This is not taking place at Midway, only O'Hare. There is a team that handles this. CBP recommends following up with Secondary Inspection supervisors at O'Hare with questions.

- a. Does CBP provide documentation related to the underlying basis for the visa cancellation to the foreign national?

CBP will provide documentation of the visa revocation at Secondary Inspection, unless directed by DOS to cancel the visa.

9. Is the review of Advance Parole still occurring in Secondary Inspection or is it now being handled at Primary Inspection?

This should always be done at Secondary Inspection. There are some primary inspection officers with parole stamps, but they need to ensure the document is authentic.

10. We have received several reports of R-1 visa holders being admitted in R-1 status for longer periods than permitted – in some cases for up to 3 years, or in many other cases for periods beyond their petition expiration date. These incorrect admission dates cause foreign workers much confusion about when they are required to leave. Can you confirm whether CBP officers receive specific training on admission of R-1 workers?

The officers do receive specific and recurring training on R-1 admissions, but errors sometimes occur which can be corrected using the I-94 correction email or visiting Deferred Inspection. CBP should not admit R-1 travelers for periods longer than the R-1 petition approval notice.

11. If an individual has two concurrent part-time O-1 petitions for two different employers, how does CBP notate the two employers in its system when the beneficiary enters the U.S.? Typically, the beneficiary will have one visa but will show both approval notices upon entry. Would the officer make a note of the two employers somewhere or just note the employer listed on the visa stamp? Will CBP give the longer of the dates on the two approval notices regardless of which one is listed on the visa?

The system notes both employers. When CBP scans the documents at inspection, the officer must choose one of the entries with period of O-1 validity. Ideally, the officer will choose the entry with the longer admission period. This is the same procedure for TN admissions.

12. Recently, we have noticed that I-94s for Mexican TN applicants have been cut short to the visa expiration date. In the absence of a Petition Expiration Date (PED) on the visa, what is the protocol to determine the period of admission?

It may depend on what the traveler has in his/her possession. Without the job letter or other documentation confirming employment for up to 3 years, CBP cannot admit the

traveler for the full 3-year period. Absent other documentation, CBP will only admit the traveler for the 1-year validity period of the visa.

Canadians

13. Canadian nonimmigrants seeking admission in L-1 status are frequently erroneously admitted in B-1 status. Our understanding is that this error stems from the nonimmigrants' misuse of the APC machines. However, these nonimmigrants are often directed toward the APC machines by the staff that assists with these machines. Likewise, the signage at ORD regarding the alternate line for bypassing the APC machines and meeting with a CBP officer indicates that this line is only for individuals with visas. The vast majority of Canadian nonimmigrants in L-1 status do not have visas but are not eligible to use the APC machines. This results in confusion. Can you clarify the proper procedure for these individuals to be processed for admission and admitted in the correct class?

There is new signage at O'Hare, which should help travelers enter the correct queue. The airport hires an outside queue management company to assist travelers entering the queues; CBP has no control over these workers.

Canadians entering as visitors can use the APC machines. However, they are not meant for Canadians trying to enter in L-1 status or any other nonimmigrant status. Canadians entering in L-1 status should not use the APC machines, rather they should enter the general queue for meeting a CBP officer.

14. Canadians entering the U.S. usually are processed by the CBP officers at the pre-clearance locations at Canadian airports or at the land border ports of entry. Sometimes clients have issues with CBP inspections at these locations, and their attorneys would like to discuss their cases with either the reviewing officer or the chief on duty at the time.
 - a. Does CBP Chicago maintain any direct communications with these Canadian Pre-Clearance officers and/or land border ports of entry?

CBP Chicago doesn't have a directory for contact numbers outside of what is on CBP.gov. Certain preclearance locations are harder to reach. CBP in Ottawa generally answers the phone. CBP offices in Quebec, Montreal, Vancouver and Toronto only have a general number and it may be difficult to reach an officer.

- b. Is there a means for a CBP officer (supervisor or chief) to communicate with these officers if an attorney is not able to do so during an inspection process?

CBP recommends reaching out to someone at that location in Canada.

- c. If this is not possible because of internal policies or other issues, what would be the recommended procedure to communicate effectively with the CBP Officers at these locations?

See above answer.

L-1 Nonimmigrants

15. Often, individuals in L-1B classification are admitted as L-1A and vice versa even in cases where their I-129S is clearly annotated with the correct class. Please specify what documentation an L-1 nonimmigrant should present to ensure admission in the correct classification.

Similar response to Question 10. Officers do receive training, but errors sometimes occur. There was additional training recently to ensure that officers admit Ls in the correct class. The I-129S should indicate the correct class to avoid incorrect admissions.

Public Charge

16. Does CBP use the same guidance as USCIS when making public charge determinations?

CBP does not charge travelers with being inadmissible under INA 212(a)(4)(A) (public charge), but it does charge travelers as being inadmissible for not possessing the proper documentation for the intended purpose of the trip (INA 212(a)(7)(A)).

- a. Does CBP have access to state benefits databases when making public charge determinations?

No.

I-407

17. USCIS recently eliminated the filing of I-407 at foreign field offices, and indicates that they are to be filed by mail to a U.S. location. How quickly will CBP have the ability to verify such a filing should it be necessary for admissibility issues?

LPRs who voluntarily surrendered their LPR status may return to the United States in B status. CBP can check the system for the status of an I-407, but it is unclear how quickly the system will be updated with this information. CBP has access to CLAIMS and USCIS databases and may access the information from these systems.

- a. Does the POE accept I-407s, and if so, must the applicant be travelling in order to file the form? Would the form be accepted at Deferred Inspection?

CBP can process an I-407 for a traveler at the port of entry, but not for someone already admitted in the United States. A supervisor has to review the I-407, which must be submitted voluntarily. There is sufficient supervisory oversight this process.

Notice to Appear

18. When CBP has issued a foreign national a Notice to Appear (NTA), but a long time has passed without the NTA being served on the court, is there a process to request that the NTA be withdrawn so that the foreign national does not have issues when returning after travel? If so, who is the contact person?

CBP has no control over a Notice to Appear after it is issued. The Respondent and attorney must contact ICE.

19. Does CBP routinely issue NTAs to individuals it encounters at Chicago O'Hare who are there to collect travelers?

This does not happen routinely, but CBP sometimes encounters situations where it has cause to issue an NTA to an individual who is not traveling.

Inspection Issues

20. Does CBP have a policy or standard practice regarding the questioning of an applicant for admission who has been convicted of an offense which does **not** render him inadmissible? Does it make a difference if the underlying charge, which was dismissed, was an inadmissible offense?

For an LPR, CBP will look at the entire arrest record. If there are no convictions, then the inquiry stops and the traveler would not be sent to Secondary Inspection. CBP may send an LPR to Secondary Inspection if it is unclear from the information available whether the conviction renders the LPR inadmissible. For other travelers, CBP may inquire further on pending charges, dismissed charges, or convictions.

21. Under what circumstances does CBP question a traveler regarding marijuana use?

For an LPR, CBP will look at the entire arrest record. If there are no convictions, then the inquiry stops and the traveler would not be sent to Secondary Inspection. For other travelers, if CBP sees possession charges, the officers will inquire about them.

CBP does not always have access to criminal history, as not all countries give access to criminal records.

CBP looks at the totality of the circumstances in deciding whether to question a traveler about marijuana use. If an officer sees information/photos referencing marijuana, the officer will ask about it.

22. At our May 2017 meeting, we discussed the policy if travelers refuse to allow CBP to access their electronic devices. Specifically, nonimmigrants could be found inadmissible if CBP was not able to verify certain information, whereas LPRs and USCs would be

allowed to enter but their devices could be detained until inspection of the devices was completed. Has this policy changed? Will CBP send an LPR to deferred inspection for failing to provide access to her electronic device?

This is still the policy. CBP would not send an LPR to Deferred Inspection for failing to allow access to their device. If CBP sends an LPR to Deferred Inspection, it is to determine admissibility. CBP may seize an electronic device if it finds something unlawful.

Minors Traveling with Relatives/Guardians

23. Could CBP Chicago restate its policy regarding minor U.S. citizen children traveling with a foreign national relative or guardian? It was our understanding that as long as the U.S. citizen minor child has proper travel documents (a passport) and a written temporary guardianship document legally executed by the parents, this would be sufficient to admit the child with his/her relative or guardian.
- a. If this situation would not be acceptable to admit both the U.S. citizen child and the foreign relative, please explain why?
 - b. Would the child's parents need to be physically present at the airport?
 - c. What if the parents are not in the U.S. but rather living abroad and the child is traveling to the U.S. to visit relatives? Can a parent communicate authorization for another family member to collect the child from CBP if the foreign national relative or guardian is not admitted?
 - d. If a child and guardian do not have the proper paperwork, what is the best way to provide this to CBP after CBP encounters them?

CBP Officers encounter a number of different situations on a daily basis. Many of these situations involve facts and unique circumstances that must be considered in their totality when decisions are made on a case-by-case basis.

Please see the below link with additional information pertaining to children who are traveling.

https://help.cbp.gov/app/answers/detail/a_id/3643/kw/Child%20Traveling%20alone/session/L3RpbWUvMTU2NDc2NzU0MC9zaWQvUXgyZVNpbG8%3D

CBP is primarily concerned with the safety and well-being of the child and would prefer to release the child to a parent, if the parent is available. CBP will accept documentation by email/fax/in-person to assist them in releasing a minor to a proper guardian. Parents can include a contingency plan in a written temporary guardianship document that would designate a secondary guardian if the traveling guardian is not admitted.

Other updates from October 4th meeting:

24. O'Hare Terminal 5 renovations continue, including plan to build 10 more gates. Trains should be operational by the end of December. Allow extra time to travel between terminals while trains are down. Terminal 2 will eventually be demolished.
25. CBP indicated a willingness to continue liaison with AILA. They would also be happy to host AILA for tours of T5 again in the spring.