

Questions for CBP Liaison Committee

Meeting on May 31, 2019

AILA CBP liaison committee present at the meeting:

Kathryn Weber
Mercedes Badia-Tavas
Maria Kallmeyer
Pawel Boruch
Lindsay Wunrow
Jacqueline Lentini McCullough
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?

Updates in red.

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
(Matthew Davies has moved to CBP Headquarters.)

CBP Officers at Ports of Entry

O'Hare Airport

Larry Panetta, Acting Port Director *(No update on new permanent port director.)*
Michael Pfeiffer, Assistant Port Director, Passenger Operations
Hans Leiterman, Assistant Port Director, Tactical Operations
Patrick Salgado, Chief Officer – *Secondary Inspection*
Paolo Bellantuono, Chief Officer – *Secondary Inspection*
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, Chief Officer
Corey Scudder, Chief Officer

Sean Gillis, Supervisor
Nelson Durant – Overnight Supervisor
Michael Lambermont – Overnight Supervisor

James Saunders, Professionalism Service Manager

Midway Airport

Joseph Chavez, Chief
Juan Rodrigues, Supervisor at Midway in the morning
Val Parks, Supervisor at Midway in the morning
Florian Moran, Supervisor

Deferred Inspection

Khashayar Normandi, Supervisor

Communication Protocols:

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

Updates in red.

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

James Saunders, Professionalism Service Manager, James.Saunders@cbp.dhs.gov

Follow-up

If you have not received a reasonable response on any of the above types of inquiries, please contact Assistant Port Director 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?

There are no policy changes. They do have to send resources to the border for TDY (temporary duty) or to other locations as required, but this has always been a part of their duties.

Errors on the CBP Website Related to Travel History

4. Is there any update from CBP Headquarters on correcting errors in travel history data available on the CBP.GOV website?

AILA is aware that this is not controlled locally. Contractors are manning the technical part of it. Clients should keep their own records with boarding passes and itineraries. Some of the information in CBP's system is provided by the airlines, and if there is an error on the part of an airline, it would appear on this system. There is no way to correct this system at this time.

Updating an I-94 Following Passport Renewal

5. We have previously discussed that CBP will only admit a petition-based nonimmigrant (e.g. H-1B, R-1, etc.) until the expiration of his passport, even if the petition is valid beyond the validity of the passport. If the foreign national renews his passport while in the United States, will the CBP Deferred Inspection team update the I-94 record based on the petition and renewed passport to avoid having the foreign national either (a) travel and be readmitted on the new passport or (b) file a request to extend status his status with USCIS?

When a traveler arrives, CBP will only admit the traveler until the expiration of the passport. The deferred inspection team will not update the admission date because it was not an error on the part of CBP. Those NIV holders who renew their passports while in the United States must travel internationally and appear for admission with the new passport or file a request for an extension of status with USCIS.

Attorneys access to information following denial of admission

6. CBP has previously accepted telephone inquiries from attorneys based upon a faxed or emailed G-28 regarding travelers who were denied admission? Is it still preferable to email/call the Watch Commander in this situation?

Yes, calling the supervisor is still preferred, and then escalate to the Watch Commander, if necessary. If sending documents ahead of time on behalf of a client, CBP likes to see a G-28. Phone calls on behalf of a family member don't require a G-28. Email communication may follow if documentation may assist CBP in determining admissibility.

7. If an individual is not admitted, and there is a sworn statement and determination that the individual will not be admitted – can an attorney request CBP to provide a copy of those documents rather than having to file a FOIA request with CBP [which can take months or years to receive]? In the past, we were told that the documents would be at O'Hare or Midway for at least a week and CBP would be happy to send them to us, before forwarding everything to storage.
 - a. If attorneys are still permitted to request these items, to whom do we send the request?

The passenger should receive a copy of the sworn statement. CBP provides the passenger's passport and the notice that the carrier must transport the individual

directly to airline personnel. Form 259 is the notice to the carrier regarding its obligation to remove the passenger. CBP does not provide copies of sworn statements to the airline.

Attorneys may request a copy of the sworn statement from Officer James Saunders, the Professionalism Service Manager (James.Saunders@cbp.dhs.gov), but this request should be made within one week of the encounter as the records do not remain at the port for longer than one week. CBP Chicago does not keep copies of these documents. Copies of documents may be obtained through FOIA.

8. We understand that both the passport and a copy of the sworn statement are provided to the airline personnel in an envelope for the return flight abroad following denial of admission. How can we confirm that the sworn statement was actually placed into the packet? Do the airlines maintain copies of these documents in their records?

This is incorrect. CBP does not provide copies of sworn statements to the airlines. CBP will only provide the passenger's passport and Form 259 to the airline. See the response to 7.a.

B-1/B-2 travel while I-130 petition pending

9. What is the policy regarding applicants for admission as tourists who have pending/approved I-130 Petitions for Alien Relative?
 - a. Is there a difference between a traveler with a pending I-130 vs. approved I-130?

No, both are applicants for admission and admissibility will be based on the totality of the circumstances. A passenger may be referred to secondary inspection to determine admissibility and nonimmigrant intent. Passengers should carry documentation required for admission and evidence of nonimmigrant intent.

- b. Is there a difference between a preference category petition with a backlogged priority date and an immediate relative petition?

See response to 9.a. No change in analysis.

- c. Is there a difference between an ESTA/VWP traveler (who does not attend a non-immigrant visa interview) and a B1/B2 traveler (who obtained a visa prior to the filing of the I-130)?

See response to 9.a. No change in analysis.

- d. The process and wait time for the I-130 petition in the U.S. is on average 6 months or longer. Family separation is difficult, particularly on young couples and young families with children. Oftentimes, the foreign national enters the U.S.

to visit with the petitioning family member. What specific documents and/or information would be required to prove the B1/B2 traveler's intent to return to his home country after a temporary visit¹ to complete the consular process for the immigrant visa?

See response to 9.a. Passengers should carry documentation showing their intent to leave the United States following a temporary stay, including evidence of residence abroad (e.g. deed to home) and employment abroad. A return ticket is not sufficient; more evidence may be required to show nonimmigrant intent. CBP has the authority to determine nonimmigrant intent, even for travelers who recently received their B1/B2 visas from a consular post abroad.

10. Understanding that each situation will depend on the totality of the circumstances, generally, how does CBP view employees of very wealthy foreign nationals coming to the U.S. as a visitors on the Visa Waiver Program for short periods of time? An example is: A very wealthy family that employs a large number of body guards in their home country. Individual members of the family travel to the U.S. from time to time as visitors for vacation, to attend board meetings or other legitimate Visa Waiver Program activities. If they are accompanied by unarmed body guards, would CBP admit the bodyguards as visitors under the Visa Waiver Program as well, even if they continue to do their job and protect the family members in the U.S.? Or would the body guards have to apply for B-1/B-2 visas as household staff? The same question could apply to a nanny, personal assistant, really any staff member who is coming with a visitor on a short-term basis.

They would not be expected to have any additional visa. As long as the activity is B-1 permissible, they would be admitted. The B-1 exception for household staff/domestic worker would still apply to an applicant for admission under the Visa Waiver Program.

Travel while I-751 Petition Pending

11. When a conditional permanent resident travels abroad after the conditional resident card has expired but while her Form I-751 is pending, does it make a difference whether she provides to CBP upon reentry the original I-751 receipt notice or the courtesy copy generally sent to the attorney of record (stating "This is a courtesy copy, not the official notice.")?

The original I-751 receipt notice is the preferred document. CBP always verifies a passenger's status, regardless of whether the passenger shows an original or copy of a document. The passenger with a copy of the I-751 receipt may be referred to secondary inspection.

¹ 9 FAM 402.2-2(B) (U) Temporary Visitors; 9 FAM 402.2-2(C) (U) Residence Abroad; 9 FAM 402.2-2(D) (U) Temporary Period of Stay

Entry of Children Born Abroad to Lawful Permanent Residents

12. At our last meeting in November 2018, we discussed the issue of children born abroad to lawful permanent residents who enter the U.S. before their second birthday and who are deemed to be lawful permanent residents like their parents. As a follow-up to this discussion, do the airlines work with a CBP liaison on these types of cases to ensure that the child is allowed to board the aircraft? These children often do not have valid nonimmigrant visas in their passports to enter the U.S., and U.S. Consulates will not issue nonimmigrant visas to them.

CBP works with the airlines to board children in this situation, and CBP liaisons are present at certain airports. The airline and family may reach out to CBP for assistance. Attorneys may contact CBP Chicago Chief Officers Patrick Salgado (Patrick.Salgado@cbp.dhs.gov) or Paolo Bellantuono (Paolo.Bellantuono@cbp.dhs.gov) prior to travel.

Expedited Removal

13. What is the appropriate process for requesting review of an Expedited Removal order?

Send a request to Patrick Salgado through email (Patrick.Salgado@cbp.dhs.gov) or mail. No specified format. Email is preferred. If file attachment too large for email, then mail it to:

Chief Officer Patrick Salgado
US CBP
Terminal 5 – Chicago O’Hare Int’l Airport
10000 Bessie Coleman Drive
Chicago, IL 60666

The request will go up the chain of command:

1. Chief Officer Patrick Salgado; then
2. Assistant Port Director Michael Pfeiffer; then
3. Acting Port Director Larry Panetta.

14. At our May 2018 liaison meeting, CBP mentioned that it could provide local statistical patterns on expedited removals issued by the Chicago ports of entry? Would CBP be willing to share this data?

CBP records all of their actions, but can't provide statistics at the local level.

Secondary Inspection for LPRs

15. At our November 2018 meeting, AILA raised the issue that it had received reports of CBP stopping returning LPRs at POE on suspicion of marriage fraud and issuing NTAs, charging them as arriving aliens. CBP responded that it was actively looking into this matter. Is there any update?

No update at this time.

Facial Recognition Biometric Exit Technology

16. Please provide an update on the implementation and status of facial recognition biometric exit technology processing.

CBP is expanding the use of biometrics equipment and collection technology on more than one flight per day, for both inbound and outbound flights. Facial recognition was previously being done on only one flight per day. CBP is now under a mandate to expand it to 100% by 2021. This was originally introduced in IIRAIRA, and then discussed in the 2003 9/11 report and the 2017 executive order, providing further expectations regarding expanding technology. It is only recently under the CBP mandate; it was previously under US-VISIT. This program has been a work in progress for some time.

Additional questions asked at meeting:

17. We sometimes see an individual admitted on an NIV and there is a notation that says “no E/S, no A/S.” When would an officer include this notation?

This notation has no bearing on USCIS. The CBP officer is indicating that there was a secondary inspection and could have been an adverse action, but the individual was admitted, possibly for a limited period of time.

18. If a TN applicant is denied admission at the border and wants to apply at the POE in Chicago, can the applicant send the package ahead of time for review prior to flying to Chicago?

Yes, but there will be no communication giving preclearance or a positive determination. A previous denial would likely result in an adverse action at a new POE.

19. Please explain searches of outbound passengers.

CBP has this authority under the regulations. The purpose is to determine if travelers are leaving without declaring commercial merchandise, have warrants, or are carrying over \$10,000. Typically, CBP completes the process quickly to ensure that travelers do not miss any scheduled flights.