

Minutes from AILA-CBP Liaison Meeting

Meeting on January 29, 2021

AILA CBP liaison committee members in attendance:

Mercedes Badia-Tavas
Nell Barker
Nicholas Coenen
Kristen Harris
Maria Kallmeyer
Jacqueline Lentini McCullough
Kathryn Weber

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?

See updated in red below.

CBP Officers at Chicago Field Office

Robert White, Director of Field Operations (12 state region) (retired; new Director not yet appointed)

Steven T. Artino, Assistant Director (Border Security), Chicago Field Office

Brett Sturgeon, Admissibility and Passenger Programs Manager, Chicago Field Office

CBP Officers at Ports of Entry

O'Hare Airport

Shane Campbell, Area Port Director

Michael Pfeiffer, Assistant Area Port Director (Passenger Operations)

Hans Leiterman, Assistant Port Director, Tactical Operations

Patrick Salgado, Chief Officer – Secondary Inspection (Admissibility)

~~Issac Thomas, Chief Officer – Secondary Inspection (Admissibility)~~ (now at Deferred Inspections)

Robert Harris, Acting Chief of Border Security

~~Gwen Flowers, Chief Officer~~ (now at Midway)

Jeffrey Toland, Chief Officer, Deferred Inspection

Brian Bell, Watch Commander

~~Brian Henke, Watch Commander~~ (now at Field Office)

Jaime Gray, Watch Commander

Damian Montes, Watch Commander
Marcos Jones, Chief Officer
Timothy Borden, Chief Officer
Ralph Picarilli, Watch Commander
Sean Gillis, Supervisor
Phillip Rodriguez, Overnight Supervisor
Tamika Craig, Overnight Supervisor
Juan C. Rodriguez, Professionalism Service Manager

Midway Airport

Joseph Chavez, Chief
Gwen Flowers, Chief
Florian Moran, Supervisor
Tommy Miller, Agriculture Supervisor

Deferred Inspection

Michael Lambermont, Supervisor
Isaac Thomas, Chief

Communication Protocols

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

Confirmed. See updates in red below.

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 Michael Lambermont (MICHAEL.B.LAMBERMONT@CBP.DHS.GOV) is the supervisor at Deferred Inspection. The contact information is:

536 S. Clark Street, Suite 1035

Chicago, Illinois 60605

Phone #: 312-886-3356

Fax #: 312-886-3363

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

I-94 correction issues

- a. I-94 correction email: i94chi@cbp.dhs.gov (Please attach your G-28, client passport biographic page, visa, admission stamp, I-94 record, and any other relevant documents), or appear in person at Chicago Deferred Inspections.
- b. After 48 business hours, you can follow up with SCBPO Michael Lambermont (MICHAEL.B.LAMBERMONT@CBP.DHS.GOV).
- c. If the issue is not resolved, please contact **Chief Officer Isaac Thomas** Isaac.Thomas@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 Officer Gwen Flowers** for any Midway specific issues.

Chief CBP Officer Gwen Flowers

Midway International Airport

Phone: 312-296-6691

Gwen.D.Flowers@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 Assistant Area Port Director Michael Pfeiffer at

Michael.J.Pfeiffer@cbp.dhs.gov.

Facility Updates

3. Are there any updates on O'Hare Terminal 5 renovations?

ORD facility renovations are expected to be completed by August 2022. The train to the terminal is not yet in operation. Buses are operational and available for transport among the terminals. Terminal 5 may be reached by shuttle bus. Frontier and Southwest airlines are now departing from Terminal 5.

Policy Changes

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

CBP priorities have not changed. However, funding for its priorities has decreased due to the decrease in fees received from airline ticket sales and cross border travel.

5. Are there any updates you would like to share on the implementation of the Air Exit biometric program or other technology rollouts at our local ports?

CBP is continuing to move forward with the Air Exit biometric program, and is proactively encouraging airlines to participate. Airline participation in the program is voluntary at present, and receptivity to the program has been mixed. The Chicago Department of Aviation (CDA) has been very supportive.

Airport COVID Screening Protocols:

6. When we last met CBP reported that travelers who report suspected COVID symptoms or who CBP notices to be ill are referred to a designated area for CDC health screening located in the area past the luggage carousels before leaving the area. Does this continue to be the current practice? Have any enhancements been introduced?

Yes, this continues to be the current practice. Airlines are responsible for COVID test verification prior to boarding.

7. Does CBP provide arriving travelers with any information regarding current Illinois or Chicago quarantine requirements?

No, CBP is not involved in relaying this information. This is a preboarding matter between CDC and the airlines. If the CDA (Chicago Department of Aviation) or the FIS

(Federal Inspection Service) wish to become involved with such notification in future, then the matter would be taken up by such agencies at that time.

LPRs Issues

8. Our members are hearing from clients who are LPRs currently outside the U.S. who are either in countries where they cannot leave (i.e., flights do not exist, or the government has instituted travel restrictions) or have made personal decisions that it is not safe for them to travel at this time. This is likely to increase the number of residents returning after unexpectedly long absences. Are you seeing an increase in such cases and is COVID-19 the most common reason given by such returning residents in recent cases?

Chicago CBP has not seen an increase in LPRs returning from abroad after absences of one year or more. Many of those LPRs that have recently returned after lengthy absences have cited the COVID-19 pandemic as the reason for their extended stay abroad. These cases are reviewed on a case-by-case basis for admissibility.

We understand that these admissions are handled on a case-by-case basis. In trying to understand how best to prepare our clients, we ask the following two questions regarding probability:

9. In the case of LPRs returning from absences of 6 months or more but less than 1 year, are these typically handled at primary inspection?

These cases are reviewed on a case-by-case basis for admissibility at either primary or secondary inspection.

As a change in local CBP policy and procedure, the presentation and processing of a Form I-407 (Record of Abandonment of Lawful Permanent Resident Status) will now require review by a second-line CBP supervisor.

10. If an LPR is returning from a trip of 1 year or more, should they expect to go to secondary inspection. Or, if they present clear documentation of their delay due to COVID-related travel and/or health issues, is such an admission able to be completed at primary inspection?

Yes, an LPR who has been abroad for more than a year will be referred to the Secondary Inspection Unit as a matter of course.

11. Are you able to assist with boarding a passenger that the airline has decided not to board based on a 1-year or more absence?

The airlines decide who is allowed to board. Airlines may consult with CBP abroad (e.g. Immigration Advisory Program – IAP) or the Regional Liaison Carrier Group (RLCG), but this is not a matter for local CBP Chicago.

Presidential Proclamations and National Interest Exceptions

We have received feedback from quite a few of our members that CBP Chicago has been very responsive to National Interest Exception (NIE) requests. We would like to thank CBP for your willingness to work with our members in this area. This is such a stressful time for our traveling clients and your openness as a partner has helped tremendously.

As you can imagine, our members continue to be bombarded with questions regarding NIEs.

12. How is NIE processing going generally? Can you provide some light as to the volume of requests that you are receiving and percentages of approval, i.e., can you relay the approximate number of NIE applications submitted to the Chicago Port of Entry from our last liaison meeting in early August to present? How many of those have been granted?

Chicago has seen an abnormally high number of requests compared to those submitted to other Ports of Entry (328 in the United States). CBP would like to see requesters following the guidance provided in early January 2021 and submit proof that an NIE was first filed with a U.S. Consulate abroad and that this request remains pending after reasonable follow-up. See guidance CBP January 2021 guidance below:

Effective Friday, January 1, 2021, all Presidential Proclamation 9984 (China), 9992 (Iran), 9993 (Schengen countries), 9994 (Ireland and U.K.), and 9994 (Brazil) waiver requests **must first be submitted through a Department of State (DOS) Consulate for consideration. All waiver requests then sent to CBP must include proof that a travel proclamation waiver request has been submitted to DOS and a 14-day period has passed.** This requirement applies to both travelers with nonimmigrant/immigrant visas and individuals who intend to travel under the Visa Waiver Program (VWP/ESTA). The only exceptions for this 14-day requirement are true emergencies or urgent humanitarian issues.

In order to be considered by CBP, waiver requests must meet the following criteria:

- 1) Applicant must be subject to one of the following Presidential Proclamations –
 - 9984 – travel from China
 - 9992 – travel from Iran
 - 9993 – travel from Schengen countries
 - 9994 – travel from Ireland and U.K.
 - 9994 – travel from Brazil

- 2) Applicant must already possess valid entry documents (unexpired passport, nonimmigrant/immigrant visa, ESTA approval, etc.).
- 3) Applicants traveling with a nonimmigrant visa or ESTA approval must include proof that a travel proclamation waiver request has been submitted to DOS and a 14-day period has passed.
 - If you have received no response from DOS after 14 days from the date of your request, you may submit your request to the Chicago Field Office with the proper documentation. You must show proof you have attempted to follow up with DOS after your initial request.
 - Emergencies or urgent humanitarian issues may still be submitted directly to the Chicago Field Office with proper documentation.

All requests (with entry at either ORD or MDW) directed to CBP should still be routed to Supervisory CBP Officer Michael Lambermont and must include:

- 1) The subject line must state “212(f) Waiver Request / (Name of Traveler)”
- 2) Statement explaining why the applicant’s entry into the United States falls under any of the below exceptions included in the Presidential Proclamations –
 - The alien is an infant, a young child who falls under the Proclamation, but traveling with individuals who are not subject to the Proclamation.
 - Failure to issue a waiver would render the child an unaccompanied minor.
 - An individual needing urgent medical care.
 - The alien seeks to enter the United States to visit or reside with a close family member and the denial of entry of the alien, would cause the alien, undue hardship;
 - The US family member is other than one identified in Sec. 2(ii)-(v) a U.S. citizen, LPR, an alien lawfully admitted on a valid nonimmigrant visa.
 - The alien seeks to enter the United States for significant business or professional obligations and the denial of entry would impair those obligations.
 - Where other important national interests justify waiving the Proclamation and the alien does not pose a significant risk of introducing, transmitting, or spreading the 2019 novel coronavirus.
- 3) Scanned copy of the biographic page(s) of all persons for whom the request is being made.
- 4) Scanned copy of any nonimmigrant/immigrant visas that the individual(s) may possess or ESTA approval.
- 5) Any supporting documentation such as an invitation letter explaining why the applicant’s presence in the United States is “essential,” petitions, certificates, etc.
- 6) Airline reservations showing an arrival at an airport within the Chicago Field Office area of responsibility (Chicago O’Hare International Airport or Chicago Midway International Airport).
 - Requests must be sent to SCBPO Lambermont no later than 4 business days prior to travel.

The attached email template is to be used for all requests. Once a travel proclamation waiver has been submitted, you will receive an acknowledgement receipt. A follow-up email will be sent to the requestor with either an approval or denial disposition, as well as a reference number. It is the sole responsibility of the requestor to provide all of the information needed for the traveler, including but not limited to: biographical information, document information, and travel itinerary. Omission of any information may result in the delay of processing your request.”

In cases of emergency or urgent humanitarian issues, the NIE may be provided directly to CBP Chicago. These requests must be true emergencies to qualify for consideration. Personal tourism, for example, is not an emergency. Additionally, documentation submitted should demonstrate that the individual is truly needed overseas and that such travel and re-entry is in the national interest. CBP recommends the NIE request be submitted before the individual departs from the U.S. on the emergent travel. Once a foreign national departs from the United States, any subsequent requests submitted while abroad will fall within the jurisdiction of the U.S. Department of State rather than CBP.

13. We understand that these are adjudicated on a case-by-case basis. Are there any best practices that you can suggest? What are the key attributes of successful NIE applications?

The template provided to AILA Chicago Chapter members in January 2021 is the preferred approach for these requests. Successful requests will reflect the true need for foreign travel and re-entry.

CBP responded that there is a national policy on CBP adjudication of NIEs. The current Port Director in Chicago helped create it when he was at Headquarters. However, it is still open to some interpretation at the port level, and that is why we may see differences in how ports adjudicate NIEs.

14. From the time an NIE is submitted to CBP, how long should we allow before following up?

Please allow a couple of days after submitting the NIE request before following up.

15. When DOS issues an NIE, what does CBP see in the system? For example, is the NIE specific to a one of the Presidential Proclamations? Is there typically a specific timeline noted?

On the Department of State side, the Consulates determine NIE validity in terms of Presidential Proclamation and timeframe. CBP has noticed inconsistency in how Consulates issue NIEs. However, CBP will follow what the DOS puts in the system.

16. When a nonimmigrant traveler (e.g., O-1) who has been granted an NIE by CBP or an Embassy/Consulate arrives at O'Hare, we understand that they must go through secondary inspection. Is that understanding correct? If so, is the secondary inspection review a relatively quick process (i.e., generally speaking is it more akin to review of someone arriving on an Advance Parole rather than someone with a substantive admissibility issue)?

An NIE does not necessarily require the foreign national to be referred to the Secondary Inspection Unit. Flight loads are only at 50% capacity compared to pre-pandemic travel. As a result of lower passenger volume, CBP frontline offices can often process individuals arriving with NIE annotations at primary inspection.

17. In May 2020, DHS issued an order exempting certain foreign professional athletes who compete in professional sporting events organized by certain leagues from Presidential Proclamations 9984, 9992, 9993, and 9996. The order also exempts their support staff and coaches. How does this order work procedurally? Do members need to reach out to CBP to notify the agency regarding foreign professional athlete travel so CBP can make an indication in the system? Or can we assume that if the visa is sponsored by a professional sports team, this order is automatically in place? Is the answer different for support staff versus actual players?

The Presidential Proclamation exemption for athletes provides blanket authority, and the eligible passengers are being identified readily and entering without issues. CBP officers are aware of exemptions for categories of individuals. Issues only arise when non-qualifying individuals, who are not athletes or related staff, seek to arrive under the exemption.

RCLG – Passenger Liaison:

18. In the current COVID environment, travelers are subject to a variety of travel bans and restrictions as well as national interest exceptions to those restrictions. The ability to travel to the U.S. often hinges on communications between CBP and the carriers through the Regional Carrier Liaison Group (RCLG). The public (and their attorneys) are not able to communicate directly with the RCLG. Would the Chicago Port of Entry consider designating an individual (e.g., someone in Passenger Relations) or dedicated email address to help facilitate passenger liaison with the RCLG with respect to international flights terminating at the Chicago Port of Entry?

When foreign nationals are overseas, they are beyond the reach of CBP Chicago. There is no designated RCLG person in Chicago. There are three RCLG offices, none of which are in the Chicago area. Airlines contact the designated RCLG for any incidents, rather than contacting local CBP. CBP does not work with RCLG directly.

If airlines are not boarding passengers, alert CBP Headquarters to have RCLG reach out to them

F-1s:

19. At our last meeting, CBP confirmed that new F-1 students could prove that their course of study was not entirely online by providing their Forms I-20 and, in some cases, a letter from their DSO. CBP also confirmed that this information was often documented in the SEVIS system. Is there any change to CBP's policy on required documentation for new F-1 students?

There has been no change to this policy or procedure. CBP is accepting electronic forms. A Form I-515A (Notice to Student or Exchange Visitor) is issued if the student does not have a Form I-20 in hand at inspection. The student can obtain the I-20 and present it within 30 days of entry. The student is required to obtain a new I-20 from his/her DSO and submit the same it to CBP HQ in Washington DC.

20. Our members have received reports from a number of F-1 students who left the U.S. in March 2020 without an updated travel authorization signature on their I-20 documents, due to the rush to go home because of the COVID-19 outbreak. What procedure should F-1 students follow in this circumstance?

Student should contact their Designated School Official and obtain an electronic form I-20 with a DSO signature.

Private Planes – Passenger Arrivals:

21. Private planes arrive regularly into the U.S. from all over the world. We understand that pilots of all private aircraft arriving to or departing the United States from a foreign port or place are required to submit Advance Passenger Information System (e-APIS) manifest information electronically to CBP for each individual traveling aboard the aircraft. APIS regulations also require that electronic notices of arrival and departure and electronic manifests relative to travelers be submitted to CBP within specific timeframes. These specific CBP regulations for reporting are called the Advance Information on Private Aircraft Arriving and Departing the United States. The manifest that the pilot must submit within the designated timeframe (no later than 60 minutes prior to departure for flights arriving in or departing from

the United States) must provide passenger information including *DHS approved travel documents*. See 19 CFR § 122.22.

- A. Do private planes land at Chicago O’Hare International and/or Midway International?

Private planes arrive at both ORD and Midway. These entries require foreign nationals to have a boarding foil, also called a “visa stamp.” CBP will process the passengers arriving via private plane. The pilot is responsible to ensure that passengers have properly issued visas before permitting them to board the plane.

- B. What is the definition of a *DHS approved travel document* for a foreign national arriving on a private plane?

See above.

- C. Can a foreign national who is a citizen of a Visa Waiver country with ESTA clearance use their valid foreign passport with ESTA clearance to enter the U.S. on a private plane landing at O’Hare International, Midway International or any other airport in the U.S. or is a visa required when traveling via private plane?

A foreign national cannot use the VWP to enter the United States when entering by private plane. An individual must have a valid and unexpired visa stamp in his/her passport to enter the United States by private plane. If the flight is operated as a charter, may be able to use the VWP. If passengers do not have the required visa, they can apply for a document waiver (Form I-193).

Pilots are aware of these rules and CBP has observed compliance with these requirements.

Admission of “Follow-to-Join” Asylees

22. In the past, when “follow-to-join” asylees (derivatives of asylees who enter after the principal family member is granted asylum in the United States) entered the United States with their boarding foils, CBP would admit them as asylees and give them hard copy I-94s as proof of their indefinite asylee status. CBP I-94 correction recently informed one of our members that hard copy I-94s are no longer issued, including to asylees. Is this correct? When did this procedure change?

Follow-to-join asylees would be processed in the Secondary Inspection Unit and issued hard copy, paper I-94s. Refugees are not provided paper I-94s.

After meeting comments:

Anything CBP wants us to know?

23. There are two COVID testing sites at O'Hare. One is in the Bus Shuttle Center (walk-up, pre-security site adjacent the terminal core). The other is in Lot H (drive-up site in a remote parking lot). Hours are 6 am to 6 pm, seven days a week. Only the rapid antigen testing is provided at these sites. The cost of the test is \$120.

There is also a COVID-19 Testing Site at Midway. It is a walk-up, pre-security site in the Terminal Parking Garage. It is also a rapid antigen test and also has a cost of \$120.

24. There have been sixteen COVID-related deaths of CBP Officers nationwide from March 2020 to present.