

GAO

Report to the Chairman, Subcommittee
on National Security, Emerging
Threats, and International Relations,
Committee on Government Reform,
House of Representatives

July 2004

BORDER SECURITY

Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process





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Highlights of [GAO-04-795](#), a report to the Chairman, Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

Why GAO Did This Study

The *National Strategy for Homeland Security* calls for preventing foreign terrorists from entering our country and using all legal means to identify; halt; and where appropriate, prosecute or bring immigration or other civil charges against terrorists in the United States. GAO reported in June 2003 that the visa revocation process needed to be strengthened as an antiterrorism tool and recommended that the Department of Homeland Security (DHS), in conjunction with the Departments of State (State) and Justice, develop specific policies and procedures to ensure that appropriate agencies are notified of revocations based on terrorism grounds and take proper actions. GAO examined whether weaknesses in the visa revocation process identified in its June 2003 report were addressed.

What GAO Recommends

To improve the visa revocation process as an antiterrorism tool, GAO recommends that the Secretaries of Homeland Security and State jointly (1) develop a written governmentwide policy that clearly defines roles and responsibilities and sets performance standards and (2) address outstanding legal and policy issues in this area or provide Congress with specific actions it could take to resolve them. DHS generally concurred with the report and recommendations. State agreed to consult with DHS regarding our recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-795.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess T. Ford at (202) 512-4128 or fordj@gao.gov.

What GAO Found

GAO's analysis shows that the Departments of State and Homeland Security took some actions in the summer of 2003 to address weaknesses in the visa revocation process identified in its June 2003 report. However, GAO's review of visas revoked from October to December 2003, including a detailed review of a random sample of 35 cases, showed that weaknesses remained in the implementation of the revocation process, especially in the timely transmission of information among federal agencies. For example:

- Delays existed in matching names of suspected terrorists with names of visa holders and in forwarding necessary information to State. In at least 3 of the 35 cases, it took State 6 months or more to revoke visas after receiving a recommendation to do so.
- In 3 cases, State took a week or longer after deciding to revoke visas to post a lookout or notify DHS. Without these notifications, DHS may not know to investigate those individuals who may be in the country.
- In 10 cases, DHS either failed to notify or took several months to notify immigration investigators that individuals with revoked visas may be in the country. It then took over 2 months for immigration investigators to request field investigations of these individuals.

After GAO initiated its inquiry for this report in January 2004, additional actions were taken to improve the process, including revising procedures and reassessing the process. DHS and State believe these actions will help avoid the delays experienced in the past. In April and May, State revised its procedures and formalized its tracking system for visa revocation cases. In March, DHS developed new written procedures and acted to ensure that immigration investigators are aware of all individuals with revoked visas who may be in the country. State and DHS also took some steps to address legal and policy issues related to visa revocations. In April, the Terrorist Screening Center (TSC), an interagency group organized under the FBI, identified the visa revocation process as a potential homeland security vulnerability and developed an informal process for TSC to handle visa revocation cases. However, weaknesses remain. For example, State's and DHS's procedures are not fully coordinated and lack performance standards, such as specific time frames, for completing each step of the process. Outstanding legal and policy issues continue to exist regarding the removal of individuals based solely on their visa revocation.

Points of Delay Observed in the Visa Revocation Process

Agency	Process	Weakness observed
• Department of State • Terrorist Screening Center	Step 1: Compile intelligence on suspected or actual terrorists	
• Department of State • Terrorist Screening Center	Step 2: Identify visa holders who may be suspected or actual terrorists	• Backlog • Delays
• Department of State	Step 3: Post appropriate lookouts	• Delays
• Department of State	Step 4: Revoke visa	• Delays
• Department of State	Step 5: Notify overseas post, DHS, and others of visa revocation	• Delays
• Department of Homeland Security	Step 6: Determine if alien may already be in the United States	• Delays
• Department of Homeland Security • Federal Bureau of Investigation	Step 7: If alien is in the country, locate, investigate, and (as appropriate), remove the person	• Delays

Source: GAO.

Contents

Letter		1
	Results in Brief	3
	Background	5
	Initial Actions Taken to Address Weaknesses Were Inadequate	9
	Recent Actions Taken to Address Identified Weaknesses in the Visa Revocation Process	19
	Conclusions	22
	Recommendations for Executive Action	23
	Agency Comments and Our Evaluation	23
Appendix I	Scope and Methodology	25
Appendix II	Comments from the Department of Homeland Security	29
	GAO Comments	33
Appendix III	Comments from the Department of State	34
	GAO Comments	42
Figures		
	Figure 1: The Visa Revocation Process in Effect from October through December 2003	6
	Figure 2: Points of Delay in the Visa Revocation Process	11
	Figure 3: Inconsistencies among Agencies on Number of Visas Revoked from October through December 2003	14

Abbreviations

CBP	U.S. Customs and Border Protection
CLASS	Consular Lookout and Support System
DHS	Department of Homeland Security
FBI	Federal Bureau of Investigation
IBIS	Interagency Border Inspection System
ICE	U.S. Immigration and Customs Enforcement
NIIS	Nonimmigrant Information System
TSC	Terrorist Screening Center

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G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

July 13, 2004

The Honorable Christopher Shays
Chairman, Subcommittee on National Security, Emerging Threats, and
International Relations
Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

As stated in the President's *National Strategy for Homeland Security*,¹ the U.S. government has no more important mission than protecting the homeland from future terrorist attacks. The strategy calls for preventing the entry of foreign terrorists into our country and using all legal means to identify; halt; and, where appropriate, prosecute or initiate immigration or other proceedings against terrorists in the United States. The U.S. homeland security strategy, involving a variety of federal agencies, has multiple tools for preventing potential terrorists from entering the country and identifying potential terrorists that have already entered. The visa revocation process is one such tool.

In June 2003 we reported² that agencies lacked written procedures to ensure that appropriate personnel are notified and take specific actions when the Department of State (State) revokes visas³ on terrorism

¹Office of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: July 2002).

²U.S. General Accounting Office, *Border Security: New Policies and Procedures Are Needed to Fill Gaps in the Visa Revocation Process*, [GAO-03-798](#) (Washington, D.C.: June 18, 2003).

³In this report, we use the term "visa" to refer to nonimmigrant visas only. The United States also grants visas to people who intend to immigrate to the United States. A visa is a travel document that allows a foreign visitor to present himself or herself at a port of entry for admission to the United States.

grounds.⁴ As a result, lookouts were not always posted, other agencies were not always notified of visa revocations, and there were potential investigative gaps on individuals with visas revoked based on terrorism concerns who were in the United States.⁵ We recommended that the Secretary of Homeland Security, in conjunction with the Secretary of State and Attorney General, develop specific policies and procedures for the interagency visa revocation process to ensure that revocation notices and related information are transmitted to the appropriate immigration and law enforcement agencies in a timely manner. We also recommended that they develop a specific policy on actions that immigration and law enforcement agencies should take to investigate and locate individuals who remain in the United States after their visas are revoked.

At your request, we examined whether weaknesses in the visa revocation process identified in our June 2003 report were addressed. To accomplish our objective, we obtained information on policies and procedures put in place to improve the visa revocation process; interviewed key State and Homeland Security officials responsible for visa revocations; determined the steps taken to address policy and legal issues regarding removal of individuals with revoked visas raised in our June 2003 report; and analyzed data on all visas revoked on terrorism grounds over a 3-month period,⁶ including detailed information on a random sample of 35 cases selected from data provided by the Department of State in February 2004. This sample is not projectable because of data problems discussed in appendix I. We did not review Federal Bureau of Investigation (FBI) activities to

⁴The Department of State revokes a person's visa as a precautionary measure after it learns that person might be a suspected terrorist. The purpose of this revocation is to obtain additional information from the person to determine if they are the same person that is suspected to be a terrorist by requiring them to return to the consulate that issued their visa. According to State officials, this authority is an important and useful tool for more closely scrutinizing the individual as they reapply for a new visa. The Department of State also revokes visas for reasons other than terrorism, such as alien smuggling, drug trafficking, and misrepresentation. State officials told us that visas revoked on terrorism grounds account for the vast majority of all visas revoked on national security grounds.

⁵In this report, when we refer to individuals whose visas have been revoked, we are referring to those individuals for whom the Department of State has issued a visa revocation certificate. According to the terms of the certificate, the revocation is effective immediately on the date the certificate is signed unless the alien is already in the United States in which case the revocation becomes effective immediately upon the alien's departure from the United States.

⁶Our review covered only nonimmigrant visas that the Department of State revoked on terrorism grounds from October 1, 2003, through December 31, 2003.

investigate suspected terrorists. We conducted our evaluation in accordance with generally accepted government auditing standards.

Results in Brief

State and the Department of Homeland Security (DHS) took some actions in the summer of 2003 to address the weaknesses identified in our June 2003 report. State issued new procedures for revoking visas and notifying DHS and other agencies of the revocation, and U.S. Customs and Border Protection (CBP), a component of DHS, developed a workflow outline for determining if individuals with revoked visas are in the country and, if so, notifying officials responsible for enforcing our immigration laws. However, our analysis of visas revoked based on terrorism concerns from October through December 2003 revealed that weaknesses remained in the implementation of the visa revocation process, especially relating to the timely transmission of information among federal agencies. For instance, we found that backlogs or long delays sometimes occurred in screening names in the U.S. government's most complete database of potential terrorists (called TIPOFF) against State's database of current visa holders, in transmitting recommendations to revoke individual visas, and in revoking individual visas after receiving a recommendation to do so. We also found that agencies involved in the visa revocation process had conflicting records of how many visas were revoked for terrorism concerns between October and December 2003 and whether individuals who held these visas may be in the country. In addition, officials from DHS's Customs and Border Protection could not document that they consistently notified immigration officials of the need to locate and investigate individuals with revoked visas who were present in the United States. Additionally, we found that U.S. Immigration and Customs Enforcement (ICE), a component of DHS, requested that field offices investigate individuals with visas revoked on terrorism grounds who may be in the country more than 2 months after receiving notification of the visa revocation. Our review of visa revocations shows that DHS has located individuals in the country whose visas were revoked because they may be suspected or actual terrorists. ICE officials told us that some are still being investigated, three have been arrested on immigration charges, and others have been cleared. With respect to an alien already present in the United States, the Department of State's current visa revocation certificate makes revocation effective only upon the alien's departure. Therefore, according to DHS, if ICE special agents locate an alien in the United States for whom State has issued a revocation certificate that

states the revocation is effective upon his or her departure, ICE would be unable to place the alien in removal proceedings based solely on a visa revocation that had not yet taken place.⁷

After we initiated our inquiry for this report in January 2004, State and DHS took additional actions to address the weaknesses we identified through our analysis. DHS and State believe these actions will avoid delays experienced in the past. In April and May, State made significant revisions to its procedures⁸ and formalized its tracking system for visa revocation cases. Starting in March, CBP took steps to ensure that ICE officials are aware of individuals whose visas were revoked and who may be in the country. Also in March, ICE developed written procedures instructing personnel to determine if individuals with revoked visas are in the country and, if necessary, investigate them. Finally, State and DHS began discussing how to address the legal and policy issues regarding the removal of individuals with revoked visas. In addition, the Terrorist Screening Center (TSC), an interagency group organized under the FBI and established in December 2003, recently took some steps to improve the visa revocation process. In March 2004, TSC developed written standard operating procedures related to the screening of intelligence information and later began training additional staff to perform this function. Although the recent actions are important steps to improve the visa revocation process, additional measures are needed to further improve the process. There is no governmentwide policy regarding visa revocations, and the individual agencies' written policies and procedures often do not contain performance standards such as time frames for completing individual steps of the visa revocation process, nor do they reflect a fully coordinated approach to implementing the process. Further, State and DHS continue their discussions of the legal and policy issues, with assistance from the Department of Justice.

In light of our past work and the weaknesses we identified through our review, we are recommending that the Secretaries of Homeland Security and State work jointly and with other appropriate agencies to develop a written governmentwide policy that clearly defines the roles and responsibilities and sets performance standards for the agencies involved

⁷DHS could also attempt to remove these aliens based on the derogatory information that led State to revoke the individual's visa.

⁸State told us that, in light of the evolving relationships between State, DHS, and TSC, State revises its standard operating procedures as necessary.

in the visa revocation process. We also recommend that DHS and State address outstanding legal and policy issues or, by October 1, 2004, provide Congress with a list of specific actions that could help resolve them. We provided a draft of this report to the Departments of Homeland Security, State, and Justice for their comments. DHS generally concurred with the report and recommendations. State said it would consult with DHS regarding the recommendations, with a view to addressing GAO's concerns. The Department of Justice did not provide comments.

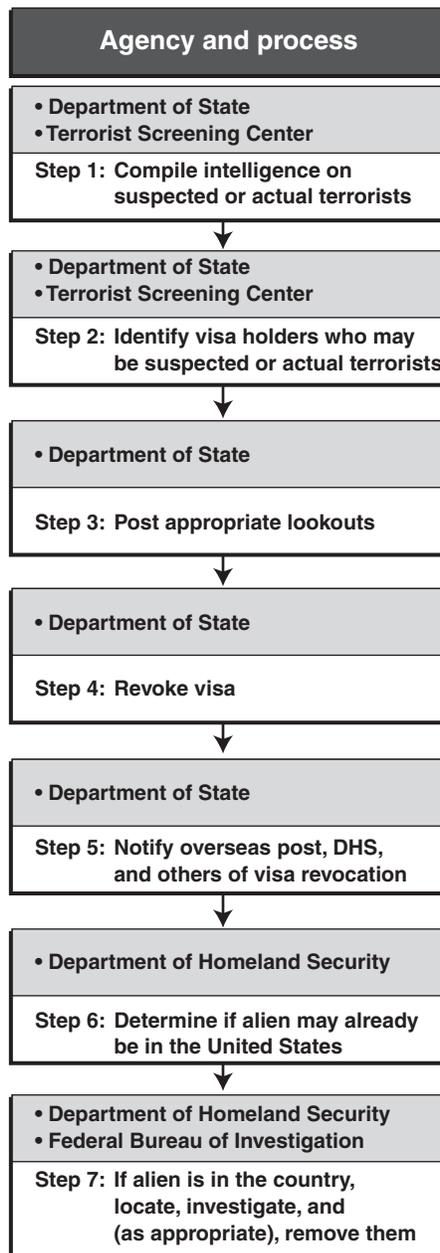
Background

Our nation's border security process includes multiple mechanisms for addressing potential terrorist threats to the United States. One of these mechanisms is the visa revocation process. The visa revocation process is a homeland security tool that can prevent potential terrorists from entering the United States and can help immigration and law enforcement officials identify and investigate potential terrorists already in the country. The visa revocation process begins after consular officers at the Department of State's overseas consular posts adjudicate visa applications for foreign nationals who wish to temporarily enter the United States for business, tourism, or other reasons. After receiving a visa, foreign nationals travel to ports of entry within the United States. At ports of entry, inspectors from DHS's Customs and Border Protection determine whether the visa holder is admitted to the United States and, if so, how long he or she may remain in the country. Once foreign nationals have entered the United States, DHS's Immigration and Customs Enforcement assumes responsibility for enforcing our immigration laws, including ensuring that foreign nationals are eligible to remain in the United States.

According to State officials, most visa revocations on terrorism grounds begin with information from the TIPOFF database, the U.S. government's primary terrorist watch list. The TIPOFF database includes individuals the U.S. government suspects may have ties to terrorism. Information in the TIPOFF database is provided by various federal agencies including the FBI, State, and others. At the time of our previous report, this information was managed by State's Bureau of Intelligence and Research. In December 2003, TSC assumed responsibility for this function. TSC was officially formed in December 2003 as a result of a presidential directive designed to increase information sharing across agencies and to facilitate better understanding between the intelligence and investigation communities. As an interagency organization under the administration of the FBI with representatives from State, DHS, and other federal agencies, part of its role is to work with federal agencies to provide access to the TIPOFF database. Figure 1 depicts the visa revocation process in effect during the

October to December 2003 time period we analyzed for this report as described in agency procedures and as explained to us by agency officials.

Figure 1: The Visa Revocation Process in Effect from October through December 2003



Source: GAO.

State uses information in TIPOFF to determine if visa holders may be suspected or actual terrorists. When TSC adds individuals in TIPOFF to the Department of State's Consular Lookout and Support System (CLASS), it provides a list of these names to Consular Affairs. State officials told us that the entry of these names into CLASS and the Interagency Border Inspection System (IBIS) should help prevent any of those individuals from entering the United States because border inspectors will be alerted to deny them entry. This lookout process does not completely address the potential vulnerability posed by individuals already in the country. Therefore, the visa revocation process is an important tool to help identify individuals whom immigration and law enforcement officials should locate and investigate. After TSC adds names to CLASS and IBIS, Consular Affairs compares these names with its database of all visa holders and sends an electronic spreadsheet back to TSC containing probable or possible matches. TSC refines this list by identifying direct matches and recommends that Consular Affairs revoke these individuals' visas. It also sends Consular Affairs an information package containing a summary of the derogatory information that led TSC to the recommendation to revoke.

After determining that the revocation is appropriate, the Consular Affairs officer posts a lookout in CLASS for the individual.⁹ According to State and DHS officials, this lookout is then accessible in near real time to DHS inspectors at border ports of entry through the IBIS database. CBP inspectors at ports of entry use IBIS to check whether foreign nationals are inadmissible and should be denied entry into the United States. When a person comes to the United States by air or by sea, CBP inspectors are required to check that person's name in IBIS before he or she is allowed to enter the country. After posting the lookout, the Consular Affairs officer writes an internal case file memo summarizing the derogatory information, creates a draft revocation certificate and cable for management review, and forwards these materials to the appropriate officials within State. Once these officials clear and sign the revocation certificate, Consular Affairs sends a cable instructing the overseas post that issued the visa to contact the visa holder, physically cancel the visa, and report all actions taken to State. State also notifies other federal agencies of visa revocations. Specifically, Consular Affairs' Visa Office faxes a copy of the revocation certificate to CBP. In addition, the Visa Office sends a copy of

⁹The lookout entry—known by the acronym VRVK—is used for all visa revocations, regardless of whether the reason for the revocation is related to terrorism or other concerns.

the cable by email that includes the wording of the revocation certificate to various other agencies, including CBP and ICE.

Upon receiving the notification from State, CBP determines whether the individual may have already legally entered the United States by electronically searching immigration records. If CBP determines that the individual may be in the country, it notifies ICE. ICE officials also attempt to determine whether the individual may be in the country. Once ICE determines that an individual with a visa revoked on national security grounds may be in the United States, ICE employees query law enforcement and open source information to attempt to locate the individual. If they determine that the individual is in the country, they conduct an additional investigation in law enforcement and intelligence databases and forward the results of this preliminary research to the appropriate Special Agent in Charge (field) office or offices. The ICE Special Agent in Charge office then coordinates with the FBI and conducts an investigation to locate the individual and determine if the alien is in compliance with all terms of his or her admission.¹⁰

FBI's Role in Border Security

While FBI investigators do not play a formal role in the visa revocation process, they play a key role in the U.S. government's overall border security efforts, including investigating suspected terrorists in the United States. The FBI supports border security by (1) working to deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity and (2) aiding in supplying information to locate, detain, prosecute, or deport any such aliens already present in the United States. According to FBI officials, the TIPOFF database is central to the FBI's efforts to track suspected terrorists in the United States. When names of suspected terrorists are added to TIPOFF, this information may originate from the FBI. When names are added to TIPOFF, the FBI may forward investigative leads to the Foreign Terrorist Tracking Task Force, which in turn may relay information to one or more of the 84 Joint Terrorist Tracking Task Forces throughout the country for investigation.

¹⁰As we have previously reported, efforts to locate aliens once they have entered the United States are often complicated by incomplete or inaccurate information provided at the time of entry. For example, see U.S. General Accounting Office, *Overstay Tracking: A Key Component of Homeland Security and a Layered Defense*, GAO-04-82 (Washington, D.C.: May 21, 2004). Additional information provided by aliens as a result of US-VISIT may help ICE special agents locate individuals whose visas are revoked after they enter the United States. US-VISIT is a governmentwide program for collecting, maintaining, and sharing information on certain foreign nationals who enter and exit the United States.

Initial Actions Taken to Address Weaknesses Were Inadequate

Following our June 2003 report, State and DHS took some actions to address weaknesses we identified in the visa revocation process, but these actions did not adequately address all of the weaknesses we found. State developed written procedures providing detailed instructions for personnel to follow when revoking visas. DHS did not develop an agencywide policy for visa revocations, but DHS's Customs and Border Protection developed a workflow outline related to its role in the visa revocation process. Our review of visas revoked from October through December 2003 showed that despite State's and CBP's initial actions, weaknesses persisted in the visa revocation process.

State Developed Initial Procedures in 2003, but DHS Did Not

After our June 2003 report, State developed written standard operating procedures for processing visa revocations. These procedures were issued on July 7, 2003, and included written instructions for consular officers to follow once they decide to revoke an individual's visa. Specifically, they included directions for posting lookouts, preparing and finalizing revocation certificates, and notifying appropriate State personnel of the action taken. Additionally, these procedures provided instructions for notifying both the overseas post that issued the visa and Homeland Security officials. State published a less detailed version of these procedures in its *Foreign Affairs Manual* on July 17, 2003, for use by consular officers.

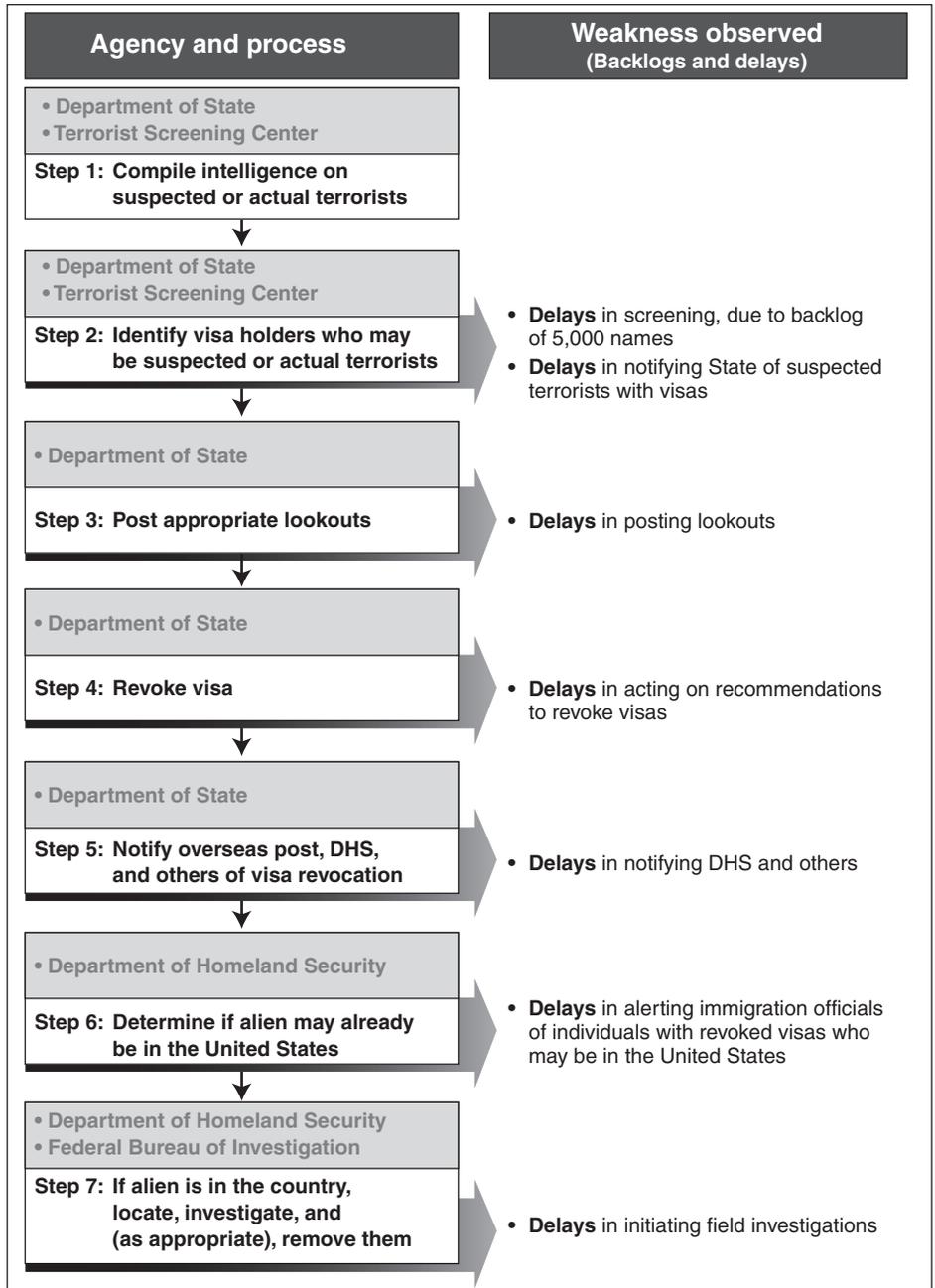
DHS did not develop an intra-agency policy regarding responsibilities for handling visa revocation cases. However, following our June 2003 report, DHS's Customs and Border Protection developed a workflow outline showing the steps for determining whether individuals with revoked visas may be in the United States and, if so, notifying ICE immigration officials to take specific actions. These procedures were designed to ensure that appropriate lookouts were recorded and that, in cases in which the visa holder had entered the United States prior to the visa revocation, all research information from CBP was immediately relayed to DHS's Immigration and Customs Enforcement for investigation.

Review of Revocation Process Identified Several Weaknesses

Our review of visas revoked based on terrorism concerns from October through December 2003 indicated that, despite State's and CBP's initial efforts, weaknesses remained in the visa revocation process. We found that backlogs in cases to be screened, delays in forwarding the appropriate intelligence to State, and delays in taking action to revoke visas all created weaknesses in the visa revocation process. (See fig. 2 for the points of delay we observed in our review of visas revoked over a 3-month period.)

We also found instances of delays in State's notification to DHS. In addition, conflicting records of how many individuals' visas were revoked for terrorism concerns during our reporting period and which of these people may be in the United States suggest a risk that agencies may have been prevented from taking appropriate action in some cases. Further, we found that ICE was not consistently or promptly notified after CBP determined that aliens with revoked visas might be in the United States. We also found that ICE officials were generally unaware of the basis for individual revocations. Additionally, we found that ICE waited more than 2 months to request that field offices investigate individuals with visas revoked on terrorism grounds who may be in the country. Finally, outstanding legal and policy issues continue to exist regarding the removal of individuals based solely on their visa revocation.

Figure 2: Points of Delay in the Visa Revocation Process



Source: GAO.

**Delays Before Revoking Visas
Posed Significant Risks**

Our review of all visas revoked on terrorism grounds from October through December 2003 showed that delays occurred in identifying individuals whose visas should be revoked. According to a State official, in August and September 2003, there was a backlog of approximately 5,000 names of suspected terrorists in TIPOFF that had not been screened to identify any visa holders. Therefore, there was a delay between identifying individuals who may be suspected terrorists and determining whether they had a visa. This official explained that the backlog developed in part because of a quadrupling in the amount of counterterrorism intelligence gathered after September 11 without a commensurate increase in staff allocated to screen this intelligence information. She added that the backlog was cleared in December 2003 following the temporary assignment of additional staff from Consular Affairs.

Our review of a sample of 35 visas revoked based on terrorism concerns showed that delays occurred in transmitting recommendations to Consular Affairs to revoke visas. To eliminate the backlog of names to be checked, Consular Affairs temporarily assigned two full-time employees to screen these intelligence data from TIPOFF. TSC officials told us that terrorism intelligence should be screened to identify visa holders as quickly as possible. A TSC contractor who typically performs this duty said that TSC normally sends an average of no more than six recommendations for visa revocation per day. However, according to a TSC official, during the time that the Consular Affairs staff were temporarily assigned to screen intelligence, these staff waited until they had collected large quantities of recommendations and sent them to Consular Affairs in large batches. As a result, about 260 visa revocations on terrorism grounds during the 3-month period we examined were processed on 2 days, November 25 and December 1. This delay increased the risk that some of these individuals could have entered the United States before State was able to post the appropriate lookouts or revoke their visas.

**State's Lookouts Were Not
Always Timely**

Based on our review of a sample of visa revocations, the Department of State did not always post lookouts in a timely manner. According to State and DHS officials, posting this lookout is a key step in the border security process because it is the primary mechanism for notifying border inspectors that individuals' visas have been revoked and should not be admitted to the United States. State's standard operating procedures issued in July 2003 directed Consular Affairs officials to post a lookout for an individual before the revocation is finalized. Although State posted lookouts in all 35 visa revocations we examined in detail, we found that in six instances, Consular Affairs did not do so until after the revocation was

finalized. In one case it took 8 days after the revocation certificate was signed for Consular Affairs to post the lookout.

Delays Occurred in Revoking Visas

Our review of 35 visas revoked based on terrorism concerns also showed that delays occurred in Consular Affairs' decisions to revoke visas after receiving a recommendation to do so.¹¹ State officials told us that it should not take more than a week for them to complete the visa revocation process after receiving a recommendation to revoke. We attempted to determine how long it took Consular Affairs to revoke visas after receiving a recommendation to do so for our sample of 35. However, this information only existed for 6 of the 35 cases. In 3 of these cases, Consular Affairs revoked the individuals' visas within 10 days of receiving the recommendation. However, in the other 3 cases, Consular Affairs took much longer to act on the recommendation. For example, in one instance, a Consular Affairs official told us that State officials deliberated for more than 6 months before deciding to revoke the individual's visa. According to this official, Consular Affairs was deliberating whether the individual's connection to terrorism was strong enough to warrant revoking his or her visa. In another instance, more than 17 months elapsed between the recommendation to revoke and the actual revocation.

State's Notifications to DHS Were Not Always Timely

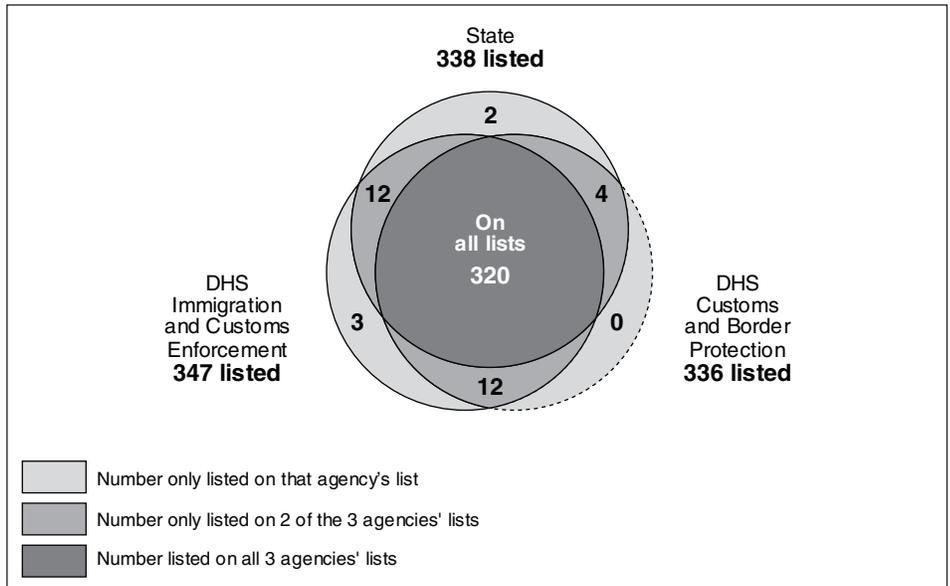
We also observed delays in the Department of State notification to DHS of visa revocations. It is particularly important that these notifications are timely when the alien whose visa is revoked may already be in the United States so that DHS can locate and investigate him or her. Of the 35 cases we reviewed in detail, CBP told us it received notification from State the same day a revocation was finalized in 9 cases; within 1 to 6 days in 23 cases; and in 7 days or more in three cases.

Agencies Reported Conflicting Information on Visa Revocations

State, CBP, and ICE each maintain separate records on visa revocations. We found that for the October through December 2003 time period, each agency reported different numbers of revocations based on terrorism concerns. As shown in figure 3, State listed 338; ICE, 347; and CBP, 336. We found that only 320 names were on all three lists and that some lists contained names that were not on either of the other lists.

¹¹State officials told us that there was no homeland security vulnerability during its deliberations because procedures call for posting lookouts to alert border inspectors to stop these individuals.

Figure 3: Inconsistencies among Agencies on Number of Visas Revoked from October through December 2003



Source: Conceptual drawing of GAO's analysis of State and Department of Homeland Security data.

Instances where a name did not appear on all three lists show a potential breakdown in the visa revocation process. We could not determine why all of the names were not on all lists. However, we determined that some of the names were not included because the agencies disagreed over whether some of these individuals' visas were revoked on terrorism grounds or when their visas were revoked, and others were not included because we were provided incomplete information. Regardless of the reason, this discrepancy is a cause for concern because CBP and ICE may not have taken timely action to determine if these individuals were in the country and, if so, to locate and investigate them.

In our June 2003 report, we noted that State's Visa Office neither kept a central log of visas it revoked on the basis of terrorism concerns, nor did it monitor whether notifications were sent to other agencies. In commenting on that report, State said the Visa Office had changed its practices to keep a log of revocation cases and maintain all signed certificates in a central file. However, in conducting this review, Visa Office officials told us that State did not maintain a formal list of all visas revoked. We also learned that State, CBP, and ICE did not have a system in place to regularly

CBP and ICE Disagreed on Which Individuals May Have Been in the Country

reconcile their separate records of visa revocations to ensure that each agency has consistent information.

Our review of a sample of 35 visa revocations on terrorism grounds shows that CBP¹² and ICE records also conflicted regarding whether certain individuals may have been in the country. In 3 of the 35 cases, CBP and ICE disagreed about whether an individual may have been in the country at the time of visa revocation and whether they might still be in the country. In two of the instances, CBP did not believe the individual was in the country and, therefore, did not refer the cases to ICE for investigation. However, ICE special agents determined that both of these individuals were and still are in the country—one is awaiting adjudication of a political asylum claim, and the other has a pending application to become a lawful permanent resident of the United States.

In another instance, CBP believed an individual was in the country when his visa was revoked and subsequently notified ICE of the need to locate and investigate him. However, because ICE did not use CBP's notification, it performed its own search of immigration records based on State's notification and concluded that the individual was not in the country. Therefore, it did not investigate him. According to CBP data, this individual has been in the country for more than a year.

These disagreements are due in part to the lack of clearly defined responsibilities for each of the DHS components. Because of DHS's lack of an agencywide written policy regarding visa revocations, its component units' procedures are sometimes duplicative. For example, CBP's written procedures require its personnel to determine if individuals with revoked visas may be in the United States and notify ICE of any such individuals. According to ICE officials, they conduct their own record checks to determine if individuals with revoked visas are in the country and rely primarily on notifications from State to identify individuals on whom they need to conduct records checks.

¹²CBP's data come from the Nonimmigrant Information System (NIIS), which does not have complete arrival and departure records for all non-U.S. citizens. NIIS records arrivals and departures of foreign citizens through the collection of I-94 forms. Some aliens are required to fill out and turn in these forms to inspectors at air and seaports of entry, as well as at land borders. (Canadians and U.S. permanent residents are not required to fill out I-94 forms when they enter the United States). NIIS does not have departure data for aliens if they fail to turn in the bottom portion of their I-94 when they depart.

An ICE official told us that CBP and ICE have different responsibilities regarding visa revocations and, as a result, may have different levels of sensitivity to information regarding whether individuals with revoked visas may be in the country. CBP's primary responsibility is to post lookouts to prevent individuals from entering the country. ICE's primary responsibility is to prevent any national security threats by enforcing immigration laws once individuals have already entered the country. Therefore, ICE officials told us that they initiate investigations of individuals out of an abundance of caution, even if CBP may not believe the individual may be in the country. They added that notifications from CBP merely supplement ICE's efforts to determine if individuals may be in the country.

ICE May Not Have Been Informed of Aliens with Revoked Visas Who May Be in the Country

Once they receive notification of a visa revocation from State, DHS personnel at CBP should notify ICE if they determine that the individual whose visa was revoked may be in the country. CBP's workflow outline states that CBP verifies that any lead information on individuals whose visas are revoked and may be in the United States is immediately provided to ICE for investigation. A CBP official confirmed that, because these cases are highly urgent, they should be handled immediately. However, CBP could not document that it had notified ICE promptly, or in several cases, that it notified ICE at all. According to CBP data on the 35 cases in our sample, 10 aliens may have been in the United States at the time of their revocation. In 3 of these cases, CBP records indicate that ICE was never notified that the alien might be in the country. In the other 7 cases, CBP notified ICE but could not document that the notification occurred until at least 3 months after the revocation.

ICE Officials Are Generally Unaware of Basis for Individual Revocations

While ICE could readily identify which visa revocation cases were based on terrorism concerns, agency officials stated that they often received no derogatory information showing that individuals whose visas State had revoked on terrorism concerns might pose a national security threat. Because ICE personnel are responsible for fully investigating every case in which the individual may be in the country, they expend resources conducting investigations on individuals who they believe may pose little or no threat to national security. According to ICE officials, the growing number of visa revocation cases based on terrorism concerns places a significant strain on their investigative resources, and ICE was forced to pull agents off active investigations of known national security threats to investigate visa revocation cases.

As discussed earlier, State officials told us that the vast majority of visas revoked for terrorism concerns are based on derogatory information

contained in TIPOFF. According to TSC, of the 35 cases we examined in detail, 32 of the individuals whose visas were revoked appeared in TIPOFF. However, in May 2004, ICE officials told us that they were not aware that most of State's visa revocations on terrorism grounds are based on information in TIPOFF. In June 2004, they informed us that their records check located only 6 of the 35 individuals from our sample in TIPOFF. Also in June, State officials told us they recently began providing DHS with the TIPOFF record number for each individual whose revocation was based on derogatory information in TIPOFF.

ICE Initiated Field Investigations More Than 2 Months after Receiving Notification of Visa Revocation

Our review of 35 visa revocations on terrorism grounds from October through December 2003 shows that ICE forwarded requests for field offices to initiate investigations of individuals who may be in the United States more than 2 months after receiving notification of the visa revocation. ICE officials explained that requests sent to field offices specify a date by which the field offices should complete their investigations. These officials added that, in instances when the individual is in TIPOFF and in the country, they take immediate action to locate and investigate him or her. After receiving notification from State, ICE determined that field offices should investigate 8 of the 35 cases we examined in detail. In all 8 of these cases, ICE waited more than 2 months to initiate field investigations. In 2 cases, ICE received notification from the Department of State of the visa revocation in mid-October 2003 but did not send a request to field offices to investigate these individuals until the end of February 2004. In the other 6 cases, ICE received notification from the Department of State of the visa revocation in early December but again did not send a request to field offices to investigate these individuals until the end of February.

ICE officials told us that it might have taken longer than it usually takes to initiate these investigations because of an increase in their workload resulting from the raising of the nationwide terror threat level to "code orange" (high) during the period of our review. On December 21, 2003, DHS raised the terror threat level from "code yellow" (elevated) to "code orange" for 19 days. In June, ICE officials told us they were considering revising their policies to ensure that all future investigations are initiated promptly.

DHS Investigated Individuals with Visas Revoked on Terrorism Grounds

Separate from our sample of 35 visa revocations, we reviewed the more than 300 visa revocations based on terrorism concerns from October through December 2003. According to ICE records, ICE determined that 64 of these individuals needed to be investigated because they might have been in the United States at the time of revocation. ICE indicated it had

Existing Law Does Not Expressly Provide for the Removal of Aliens Based Solely on Visa Revocations

initiated investigations on all 64 of these individuals and has concluded a majority of these investigations. Data provided by ICE show that these investigations resulted in confirming departure of some aliens, clearing others, and arresting 3 on administrative immigration charges.¹³ On June 8, 2004, ICE officials told us that they have no specific derogatory information that would indicate that any of the individuals remaining in the United States represent a threat to national security. We also noted several cases where the visa revocation process prevented individuals with visas revoked based on terrorism concerns from entering the United States or helped remove them from the United States.

Revocation of a visa is not explicitly a stated grounds for removal under the Immigration and Nationality Act.¹⁴ State's visa revocation certificate states that the revocation shall become effective immediately on the date the certificate is signed unless the alien is already in the United States, in which case the revocation will become effective immediately upon the alien's departure from the United States. Therefore, if ICE special agents locate an alien in the United States for whom the Department of State has issued a revocation certificate that states that the alien's visa is revoked effective upon his or her departure, ICE would be unable to place the alien in removal proceedings based solely on a visa revocation that had not yet taken place. In light of the Department of State's current revocation certificate, the issue whether, under the current statute and regulations, DHS would have the authority to initiate removal proceedings on the basis solely of a visa revocation has not been litigated and remains unresolved legally. According to DHS officials, if State changed the wording of the certificate to make the revocation effective retroactively to the date of issuance of the visa, the government would no longer be effectively barred from litigating the issue. However, in June 2004 State and DHS officials told us that they had reached an informal understanding that should the wording of the revocation certificate be changed, it would not be changed in all instances, but only on a case by case basis. In commenting on a draft of this report, DHS stated that on a case by case basis DHS may ask that State change its revocation certificate related to an admitted alien to make the revocation effective retroactively to the date of issuance of the visa,

¹³ICE provided us a breakdown of results of the 64 investigations, but we have not included these data because DHS classified them as law enforcement sensitive.

¹⁴8 U.S.C. § 1101 et seq. An alien may be placed in removal proceedings under a charge of inadmissibility based on terrorist activities as defined in Section 212(a)(3)(B) of the INA. See 8 U.S.C. § 1229a(a)(2).

and State will consider such a request in consultation with DHS and the Department of Justice.

Recent Actions Taken to Address Identified Weaknesses in the Visa Revocation Process

Since we initiated our inquiry in January 2004, State and DHS have taken additional actions to address identified weaknesses in the process. These included revisions to visa revocation procedures, reviewing past revocations, and taking steps to address legal and policy issues. In addition, in mid-April, TSC identified visa revocations as a potential vulnerability that could compromise homeland security and developed an informal process for coordinating actions and sharing information relating to visa revocations. However, we identified some weaknesses that still need to be addressed.

State Revised Its Procedures and Formalized Its System for Tracking Cases

In April and May 2004, State took several actions to improve its performance in the visa revocation process, including revising its procedures and formalizing its tracking of visa revocations. In the course of responding to our inquiries, State's Visa Office discovered that its standard operating procedures had not always been followed correctly. In response, the Assistant Secretary of State for Consular Affairs informed us on April 27, 2004, that in light of the importance of visa revocation cases, the procedures were revised to provide more explicit details for each step in the process. For example, the procedures were revised to highlight the importance of posting a lookout code into CLASS before the revocation certificate is signed. Additionally, the Visa Office now requires its personnel performing visa revocations to certify that they have completed all steps in the process and to provide the date on which each step was completed. At the end of the process, a designated supervisor must now review the revocation file and certify that the standard operating procedures were completed correctly. State revised these procedures again in late May 2004 to further clarify which federal agencies should receive notification of the revocation. Finally, the Assistant Secretary for Consular Affairs told us that the Visa Office planned to formalize its previously informal system for tracking visa revocations to make it a definitive reference point for information about all visa revocations.

CBP Reviewed Past Revocations to Provide Additional Information to ICE

Officials from CBP took two steps following the initiation of our review to ensure that appropriate action was taken on prior visa revocations. On March 25, 2004, CBP officials sent notifications to ICE regarding individuals with visas revoked from October through December 2003 who may be in the country. CBP officials told us that they sent these

notifications to ICE because, in responding to our inquiry, they determined that they could not document previous notifications to ICE of these individuals.

In May 2004, a CBP official informed us that CBP was performing a review of all visa revocations in its lookout database to ensure that all appropriate notifications had been sent to ICE. This review identified 656 individuals with revoked visas who may be in the country. CBP provided this information to ICE. We reviewed these data and determined that 34 of these individuals' visas were revoked based on terrorism concerns from October through December 2003.

ICE Assigned Staff to CBP and Developed Written Standard Operating Procedures

In January 2004, ICE assigned a special agent to CBP in order to assist with information exchange and coordination of visa revocation issues. According to DHS, if CBP determines that an individual whose visa was revoked is in the country, ICE is notified immediately. Also, on March 1, 2004, ICE issued written standard operating procedures for all visa revocation investigations. ICE officials acknowledged that prior to March 2004, ICE did not have a policy that specifically addressed visa revocations. However, ICE explained that it had procedures for handling all investigative leads received, including visa revocations. ICE's March 2004 procedures outline the steps that ICE officials should take for cases where an individual has entered the United States and subsequently has a visa revoked. These procedures begin with the receipt of a visa revocation cable from State and include steps for determining if individuals are in the country, conducting records searches to determine where the individual may be, and forwarding necessary information to field offices for further investigation.

State and DHS Took Steps to Address Legal and Policy Issues

In February 2004, officials from DHS, which has overall responsibility for visa policy, told us they were considering a regulation relating to visa revocations that could allow the removal of individuals from the United States because their visas have been revoked by State. In June 2004, DHS officials told us that they were still considering this regulation and were coordinating with State and the Department of Justice. Additionally, DHS was working with Justice to address questions regarding DHS's authority to issue such a regulation. State officials told us that making changes regarding removal of persons with revoked visas would require both State and DHS to make legal and policy decisions and establish a formal written agreement regarding procedures.

TSC's Efforts to Improve the Visa Revocation Process

Since its formation in December 2003, TSC has taken actions to clarify its role, increase its capacity to handle visa revocation cases, and analyze the visa revocation process as an antiterrorism tool. Specifically, in March 2004, TSC developed written standard operating procedures outlining the process for screening intelligence information to identify visa holders who may be terrorists and for recommending that Consular Affairs revoke these individuals' visas. TSC also recently began training additional staff to screen terrorism intelligence for matches with visa holders. Previously, the center had one full-time staff member dedicated to performing this function.

TSC officials told us that, in mid-April 2004, TSC identified the visa revocation process as a potential vulnerability to homeland security. As a result, it developed a process for TSC to coordinate the sharing of information on visa revocation cases. This process outlines responsibilities for representatives from State, CBP, ICE, and the FBI who are assigned to TSC. According to a TSC official, this process is designed to coordinate the efforts of these representatives, without relying on formal notifications transmitted among the agencies. When new names are added to the TIPOFF database, all the agency representatives receive this information at the same time. According to TSC's new process, State personnel assigned to TSC determine if the person has a valid visa; CBP personnel determine if the individual may be in the country; and, if the individual is in the country, ICE and FBI personnel determine if they have open investigations of the individual. Because this process was developed after the October to December 2003 time period, we did not assess its effectiveness.

In April 2004, TSC also initiated a review of pending visa revocation cases based on terrorism concerns to determine whether any of the individuals in question were in the United States and whether DHS and FBI were aware of their presence and had open investigations on them. A senior FBI official assigned to TSC told us that as of May 27, 2004, this review was not complete, but that, in some instances, law enforcement or immigration officials needed to open investigations on some of these individuals.

Additional Actions Are Needed to Improve the Visa Revocation Process

Despite the steps taken by State and DHS, additional actions are needed to improve the visa revocation process. There is no governmentwide policy outlining roles and responsibilities for the visa revocation process, and State and DHS have not completed their discussions on legal and policy issues related to removing individuals with revoked visas from the United States. Although CBP and ICE have written internal procedures related to

their respective roles and responsibilities in the visa revocation process, DHS has still not developed an agencywide policy governing the process. As a result, CBP and ICE take responsibility for performing some of the same tasks. While CBP's workflow outline states that CBP is responsible for determining if individuals with revoked visas are in the United States and referring cases to ICE, ICE's standard operating procedures indicate that ICE staff are also responsible for performing this function. In some cases, State, CBP, and ICE are not familiar with what the different agencies' policies and procedures expect of them. Because agency officials do not always recognize what other agencies' written policies expect of them, important information may not be passed from one agency to the next, and efforts may be duplicated. Further, since the agencies do not have a system in place for routinely reconciling their visa revocation records, there is a heightened chance that individuals with visas revoked for terrorism concerns and who are in the country will not be investigated.

State's and DHS's written procedures also lack specific time frames for completing individual steps in the process. For instance, State's procedures dated May 20, 2004 lack guidance on how quickly Consular Affairs officials should act on recommendations from TSC to revoke individuals' visas. Further, they lack guidance on how quickly Consular Affairs officials should notify the overseas post and other federal agencies once the revocation certificate is signed. In addition, ICE's written procedures do not specify a time frame for referring cases to Special Agent in Charge offices. This general lack of time frames is significant, given the extent of delays we observed in the visa revocation process and the potential threat posed by the individuals whose visas have been revoked.

State's and DHS's discussions of legal and policy issues regarding the visa revocation process have not been completed. DHS officials told us that the agencies continue to discuss possible mechanisms for addressing these issues, including possibly changing the wording of State's revocation certificate or studying the feasibility of drafting a regulation to address these issues. According to State and DHS, the complexity of these issues have required an extraordinary amount of review and coordination with various interested government agencies. As of June 2004, neither State nor DHS could provide a time line for addressing these legal and policy issues.

Conclusions

Our testing of the visa revocation process from October through December 2003 identified several gaps in the process. Since then, DHS and State have taken several actions to improve the process. DHS and State believe that these actions will avoid the delays that were

experienced in the past. TSC's recent initiative to coordinate the sharing of information on potential terrorists should also improve the process. Nevertheless, some additional actions are needed to further improve the process. A governmentwide commitment is necessary to address the weaknesses in the implementation of the visa revocation process so that it can be a more effective antiterrorism tool.

Recommendations for Executive Action

To strengthen and improve the visa revocation process as an antiterrorism tool, we recommend that the Secretary of Homeland Security work jointly with the Secretary of State and other appropriate agencies to take the following two actions:

- Develop a written governmentwide policy that clearly defines the roles and responsibilities of the agencies involved in the visa revocation process, including TSC. This policy should include directions for sharing information and tracking visa revocation cases throughout the interagency visa revocation process. It should incorporate performance standards (e.g., time frames for completing each step in the process) and periodic interagency assessments to determine whether information is being shared among the agencies involved and appropriate follow-up action is being taken and to reconcile data differences if they occur; and
- Address outstanding legal and policy issues regarding the status of aliens with visas revoked on national security grounds who are in the United States at the time of the revocation. If these issues cannot be addressed, the Executive Branch should, by October 1, 2004, provide Congress with a list of specific actions (including any potential legislative changes) that could help resolve them.

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Homeland Security, State, and Justice for their comments.

The Department of Homeland Security said it generally concurred with the report and its recommendations. DHS believes that our identification of areas where improvements are needed will contribute to ongoing efforts to strengthen the visa revocation process. DHS emphasized that persons whose visas have been revoked for terrorism concerns may not be terrorists and that revoking a visa is a precautionary measure to preclude an alien from gaining admission to the United States until more information is obtained to decide if the person should be admitted to the United States.

The Department of State indicated that it believes that its handling of the revocation process overall has been excellent and has improved over time. State indicated it would consult with DHS regarding implementation of our recommendations. State also provided additional information on the visa revocation process and the procedures currently in effect.

DHS and State also provided technical comments, which we have incorporated where appropriate.

We are sending copies of this report to other interested Members of Congress. We are also sending copies to the Secretary of State, Secretary of Homeland Security, and the Attorney General. We also will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>. If you or your staff have any questions about this report, please contact me at (202) 512-4128. Key contributors to this report were John Brummet, Jason Bair, Elizabeth Singer, Mary Moutsos, Janey Cohen, and Etana Finkler.

Sincerely yours,

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J".

Jess T. Ford
Director, International Affairs and Trade

Appendix I: Scope and Methodology

The scope of our work covered the interagency process for visas revoked by the Department of State (State) headquarters on the basis of terrorism concerns between October 1 and December 31, 2003. To assess the policies and procedures governing the visa revocation process, we obtained copies of written procedures from the Department of State and the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). In addition, we interviewed officials from State, DHS, the Terrorist Screening Center (TSC), and the Federal Bureau of Investigation (FBI).

To assess the process for revoking visas on terrorism grounds, we examined data and records provided by State's Visa Office on visa revocations from October through December 2003. The Visa Office provided us an initial list of such revocations in February 2004 and an amended list in April 2004. We also obtained information from CBP and ICE on the number of visas revoked on terrorism grounds during this time period and compared these data with that provided by State's Visa Office. We found that the total number of visa revocations differed among these three data sources. We identified discrepancies and discussed these with agency officials. In addition, we obtained copies of the official revocation certificates for individuals whose visas State revoked during that time. We determined that State made at least 338 visa revocations during this time period, but we also determined that the data on visa revocations were not sufficiently reliable to provide an exact count of the number of revocations. However, the data were sufficiently reliable for purposes of this report.

We used the Visa Office's February 2004 list of 318 cases to draw a random sample of 35 to review in detail. We cannot generalize from this sample to the full universe of all cases because, after we had drawn our sample, the Visa Office subsequently supplied us with an amended list of 338 cases. For the individuals in our sample of 35, we obtained printouts from State's Consular Consolidated Database, which provided us with the individuals' names, biographic data such as dates and places of birth, passport numbers, and visa information such as issuing posts and types of visa. We also obtained a copy of the cable sent by State headquarters to the post that issued the visa that was revoked. This cable included a reference to the specific section of the Immigration and Nationality Act that was used as the basis for the revocation as well as a list of other agencies the cable was sent to. The Visa Office also provided documentation of the lookouts it posted in the Consular Lookout and Support System (CLASS).

We met with officials from TSC and State's Visa Office to determine the steps taken prior to finalizing visa revocations. TSC officials provided copies of their written policies and procedures for dealing with visa revocations and described the process it follows in such cases. TSC officials also informed us whether individuals in our sample of 35 visa revocations are in the TIPOFF database and, if so, when a recommendation to revoke these visas was sent to State. To calculate the length of time between the recommendation to revoke and the actual revocation, we compared the information provided by TSC with the dates on the revocation certificates provided by State.

To determine when State posted lookouts and notified other agencies of visa revocations, we obtained information from the Visa Office. This included printouts from the CLASS system showing when a lookout was posted, who posted the lookout, and what lookout code was used. In addition, we examined the revocation cables sent to other agencies. We also obtained information from CBP and ICE regarding when they received notification from State. We determined that the CLASS system was sufficiently reliable for the purposes of showing when lookouts were posted.

To determine if and when ICE officials were informed by CBP of individuals with revoked visas who might be in the country, we obtained documents from and spoke with officials from CBP. These officials provided an electronic version of CBP's Visa Revocation Case Tracking Spreadsheet for the period we examined. This spreadsheet contained information on all visa revocations during the period, not just those based on terrorism concerns. The spreadsheet included the names, dates the notifications of the revocations were received, dates of the most recent entry and exit from the United States, and the date on which CBP informed ICE that the individual might be in the country.

We also compared State, CBP, and ICE records regarding the number and names of individuals with visas revoked based on terrorism concerns from October through December 2003. We obtained lists of all such cases during the period from State and ICE. We then compared these lists to one another and to CBP's Visa Revocation Case Tracking Spreadsheet.

To determine which individuals with revoked visas might be in the country, we examined CBP's entry and exit data in its Visa Revocation Case Tracking Spreadsheet. These data are based on information from the Nonimmigrant Information System, which does not have complete entry and exit data (e.g., it does not include departure information if aliens fail

to turn in the bottom portion of their I-94 form when they leave the country). As such, we determined that these data are not sufficiently reliable for the purpose of determining which individuals with visas revoked on terrorism grounds are in the country. In addition, because ICE officials told us they do not rely on CBP to determine which individuals might be in the country, we obtained additional entry and exit data from ICE for our sample of 35 cases. To assess the reliability of the ICE data, we interviewed officials who were knowledgeable about the data and compared it with CBP's data. Where we found discrepancies, we discussed these cases with officials from both CBP and ICE. We determined that the ICE data were sufficiently reliable for the purposes of providing the ongoing results of investigations of individuals that had been in the United States with revoked visas; however, some investigations were still outstanding and, in some cases, ICE officials were not completely certain whether the individuals had actually departed the United States.

We obtained information on actions taken to locate and investigate individuals in the United States with visas revoked based on terrorism concerns. ICE officials provided us with summary data on all visa revocations based on terrorism concerns during the period. In addition, they provided detailed information on their efforts to locate and investigate each of the 35 individuals in our sample. We also met with officials from the FBI and the Foreign Terrorist Tracking Task Force to determine their activities regarding investigating individuals with visas revoked based on terrorism concerns.

To determine the steps taken to improve the visa revocation process since our June 2003 report, we met with State, DHS, FBI, and TSC officials. From these officials we obtained copies of policies and procedures developed since our previous report. We also obtained information on changes in the visa revocation process since our prior report. In addition, we met with State and DHS officials regarding the steps taken to resolve outstanding legal issues regarding visa revocations. These officials described the discussions they have had regarding changing the wording of State's certificate of revocation and DHS's regulations. DHS declined to provide us with a copy of a draft regulation they had prepared, noting that it was the subject of ongoing intra- and interagency discussions.

We were briefed by FBI officials regarding their efforts to investigate suspected terrorists in the TIPOFF database. However, we did not review these efforts.

We conducted our work from January through June 2004 in accordance with generally accepted government auditing standards.

Appendix II: Comments from the Department of Homeland Security

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

June 17, 2004

Jess T. Ford
Director, International Affairs and Trade
U.S. General Accounting Office
441 G St., NW
Washington, DC 20548

Dear Mr. Ford:

RE: GAO 04-795: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process (GAO Job Code 320248)

Thank you for the opportunity to review your draft report, "BORDER SECURITY: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process," GAO-04-795.

The Department of Homeland Security (DHS) appreciates the work done in this report to identify areas where the visa revocation process can be enhanced to ensure the prevention, detection, prosecution, and/or the initiation of immigration proceedings against aliens associated with or suspected of being engaged in terrorist activity. DHS believes that the General Accounting Office's (GAO's) identification of areas where improvements are needed will contribute to ongoing efforts to strengthen the visa revocation process. We generally concur with the report and its recommendations and appreciate the discussion of challenges and next steps. However, there are a number of areas within the report that require our comments.

The draft report notes that in March 2004, DHS "developed new written procedures and acted to ensure that immigration investigators [were] aware of all individuals with revoked visas who may be in the country" and "developed written procedures instructing personnel to determine if individuals with revoked visas are in the country and, if necessary, investigate them." This might lead the reader to mistakenly conclude that such procedures were not in place before March 2004. In fact, prior to March 2004, the National Security and Threat Protection Unit (NSTP) within Immigration and Customs Enforcement (ICE), and the former Immigration and Naturalization Service's National Security Unit, operated under written standard operating procedures which governed the investigative process for all investigative leads received, including visa revocation investigations. Consequently, what occurred in March 2004 was not the creation of written procedures regarding visa revocation. Rather, what occurred in March 2004 was the re-issuance of written procedures, procedures that NSTP revised and updated, largely to reflect the agency's organizational enhancements.

www.dhs.gov

See comment 1.

See comment 2.

The draft report seems to suggest that the individuals whose visas were revoked were necessarily suspected or actual terrorists. However, as previously stated by the Department of State (DOS) in June 2003, in almost all cases revocations are prudential rather than based on a definite finding that an alien is inadmissible for security reasons. Unlike consular officers, the Secretary of State or the Deputy Assistant Secretary for Visa Services as his designee may revoke a visa on a prudential basis, without a finding of inadmissibility. A prudential visa revocation thus constitutes a precautionary measure to preclude an alien from gaining admission to the United States until his or her visa eligibility can be reestablished, and its purpose is to require another look at the applicants' admissibility and hence eligibility for a visa. Thus, it is not accurate to suggest that individuals whose visas were revoked were necessarily terrorists or suspected terrorists; and in fact, after aggressive investigations of the referenced individuals, and pursuit of investigative leads to field offices with the highest precedence, DHS concluded that these individuals should not be regarded as such.

At present, DOS' visa revocation certificate normally makes revocation effective only upon the alien's departure (although DOS will make a revocation effective immediately upon request in certain cases involving aliens stopped at a port of entry). Therefore, if ICE investigators locate an alien who has been admitted to the United States, and who is the subject of a DOS certificate advising that the alien's visa is revoked effective upon his or her departure, ICE is unable to place the alien in removal proceedings predicated solely on a visa revocation that has not yet taken place. As a practical matter, however, DHS and DOS recently reached an informal understanding, which they are in the process of formalizing, that on a case-by-case basis DHS may ask that DOS change its revocation certificate relating to an admitted alien to make the revocation effective retroactively to the date of issuance of the visa, and DOS will consider such a request in consultation with DHS and the Department of Justice (DOJ). Such a retroactive revocation may allow DHS to remove the alien on the ground that he or she entered without a valid visa. Additionally, DHS in consultation with the DOS and DOJ is contemplating drafting a proposed regulation to address this issue. While the problem appears facially straightforward, it in fact involves very complex legal and policy questions. In addition to the regulatory remedy, DHS is contemplating a proposed statutory remedy to address the issue.

The report expresses concern about information-sharing between agencies. Acting upon recommendations made in the GAO's June 2003 report, ICE, CBP, and DOS established a protocol to receive visa revocation cables electronically and directly from DOS. Current procedures and personnel assignments ensure that both ICE and CBP are receiving all visa revocation cables, and that cables received by either agency are investigated thoroughly. Given that ICE directly receives visa revocation data from DOS, the report perhaps places too great a stress on CBP's role in conveying the same data to ICE. ICE's coordination with CBP on visa revocation investigations is crucial to ensuring operational continuity, but it remains secondary to ICE's receipt of the actual visa revocation information from DOS. ICE did not initiate this practice because of concerns about transmissions of data from CBP, but did so in order to conform to GAO's recommendation in the June 2003 report that DHS "develop specific policies and

procedures for the interagency visa revocation process to ensure that notification of visa revocations for suspected terrorists and relevant supporting information is transmitted from State to immigration and law enforcement agencies, and their respective inspection and investigation units, in a timely manner. . . .”

The report also appears to express concern about whether ICE and CBP agree whether some of the individuals with visas revoked may have been in the country at the time of visa revocation, and whether they may still be in the country. When ICE receives a visa revocation cable from DOS or CBP, NSTP initiates a preliminary investigation to determine if the subject of the revocation is present in the United States. During this preliminary investigation, NSTP queries numerous law enforcement and open source databases that may indicate if a person has ever entered the United States, is present, was present, and whether the individual has departed the United States. ICE and CBP use many of the same systems to query whether an individual is present in the United States, and numerous explanations exist as to why the agencies may have achieved different results, not the least of which being the date their investigation was initiated and the various databases queried.

Finally, the report gives the wrong impression in stating that “ICE’s written procedures do not specify a time frame for referring cases to Special Agent in Charge offices.” It is important to note that all visa revocation investigations referred to Special Agent in Charge (SAC) offices during the period covered in the 2004 draft report directed SAC offices to forward an initial report to NSTP within 7 days and, thereafter, a progress report every 30 days.

GAO Recommendations for Executive Action

RECOMMENDATION 1

Develop a written government wide policy that clearly defines the roles and responsibilities of the agencies involved in the visa revocation process, including the Terrorist Screening Center. This policy should include directions for sharing information and tracking visa revocation cases throughout the interagency visa revocation process. It should incorporate performance standards (e.g., time frames for completing each step in the process) and periodic interagency assessments to determine whether information is being shared among the agencies involved and appropriate follow-up action is being taken and to reconcile data differences if they occur.

RESPONSE:

DHS agrees that the agencies involved in the visa revocation process must have a full understanding of the procedures that must be followed to ensure that data is accurately and timely transmitted, and that investigations are initiated timely and pursued vigorously. DHS believes that these objectives can be formalized by having each agency in the process exchange letters which set forth standard operating procedures explaining

how information is shared, how cases are tracked, and what deadlines are imposed, so that each agency is conscious fully of its partners' procedures.

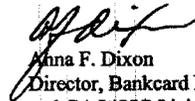
RECOMMENDATION 2

Address outstanding legal issues regarding the visa revocation process, especially those relating to the status of aliens with visas revoked on national security grounds who are in the United States at the time of revocation. If these issues cannot be addressed, the Executive Branch should, by October 1, 2004, provide Congress with a list of specific actions (including any potential legislative changes) that could help resolve them.

RESPONSE:

DHS, in consultation and coordination with DOS and DOJ, currently is considering a proposed regulation to allow removal of aliens whose visas have been revoked. In addition to pursuing the regulatory remedy, DHS is considering formulating a statutory remedy.

Sincerely,



Anna F. Dixon
Director, Bankcard Programs
and GAO/OIG Liaison

The following are GAO's comments on the Department of Homeland Security's letter dated June 17, 2004.

GAO Comments

1. We have revised the report to reflect the fact that, while ICE did not have procedures specific to visa revocations prior to March 2004, it had procedures that applied more generally to all investigative leads.
2. Our report did not indicate that any of the individuals included in our review were necessarily suspected or actual terrorists. The Department of State revokes a person's visa as a precautionary measure after it learns that person might be a suspected terrorist. The purpose of this revocation is to obtain additional information from the person to determine if they are the same person that is suspected to be a terrorist by requiring them to return to the consulate that issued their visa. In commenting on our draft report, State explained that all of these revocations were based on information suggesting possible terrorist activities or links.
3. Based on our analysis, we reported that ICE and CBP records conflicted regarding whether specific individuals whose visas were revoked on terrorism grounds were or may still be in the country. With regard to one of these individuals, ICE concluded that the individual was not in the country and therefore, it did not investigate him. According to CBP data, this individual has been in the country for more than a year. As a result of such discrepancies between agency records, we are recommending that State and DHS conduct periodic interagency assessments to determine whether information is being shared among the agencies involved in the visa revocation process and appropriate follow-up action is being taken and to reconcile data differences if they occur.
4. We acknowledge that ICE requests sent to field offices specify a date by which they should complete their investigations. However, our statement refers to a lack of time frames for sending requests to field offices, not to a lack of time frames for those field offices to complete their investigations.

Appendix III: Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

Ms. Jacqueline Williams-Bridgers
Managing Director
International Affairs and Trade
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548-0001

JUN 23 2004

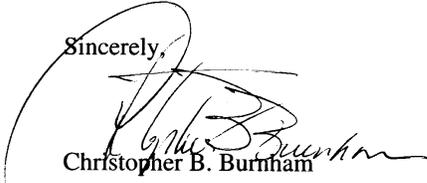
Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "BORDER SECURITY: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process," GAO Job Code 320248.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Paul Doherty, Division Chief, Bureau of Consular Affairs, Visa Office at (202) 663-1246.

Sincerely,



Christopher B. Burnham

cc: GAO – John Brummet
CA – Maura Harty
State/OIG – Mark Duda
State/H – Paul Kelly

**Department of State Comments on GAO Draft Report
BORDER SECURITY: Additional Actions Needed to Eliminate
Weaknesses in the Visa Revocation Process
(GAO-4-795, GAO Code 320248)**

The Department of State appreciates the opportunity to review and comment on the GAO draft report, "Border Security: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process."

Since long before the tragic events of September 11, 2001, the State Department has aggressively used its discretionary authority to revoke visas issued to known or suspected terrorists. Section 221(i) of the Immigration and Nationality Act (INA) grants the Secretary of State visa revocation authority and the Department has used this authority to revoke more than 1,250 visas since 9/11. All of these revocations were based on information suggesting possible terrorist activities or links. The use of the revocation authority is one element in a multi-layered, interlocking system of border security measures. Its present value as a counter-terrorist measure cannot be evaluated without reference to the creation of the Terrorist Threat Integration Center (TTIC) and the Terrorist Screening Center (TSC), which were built on and incorporated the Department's Intelligence and Research Bureau (INR/TIPOFF) TIPOFF program. The revocation process now supplements the terrorist watchlisting work of TSC, which provides the vast majority of the derogatory information on specific individuals that prompts the Department of State to revoke a visa.

It is important to note that the standard procedures of TIPOFF and now of TSC are to enter the subject's name in the Department's Consular Lookout and Support System (CLASS) data base and the Department of Homeland Security's IBIS data base PRIOR to determining whether the subject has been issued a visa. Thus, the name is in both agencies' lookout systems prior to the Department's receipt of any request for revocation from TSC. These lookouts immediately put safeguards in place that prevent further visa issuance or admission to the United States and in effect provide "breathing room" for the revocation process to proceed from the very first step. The Department's subsequent entry of a revocation lookout serves to further inform the lookout users that a visa that had been issued has been revoked, but is not essential to ensure that the subject is not admitted to the United States.

See comment 1.

In almost all cases the revocation has been prudential rather than based on a definite finding that the alien is inadmissible. This is in part because, at the time of revocation, we are unable to conclude with certainty that the visa holder is the subject of the derogatory information. Nevertheless, given the terrorism-related nature of the information that may relate to the visa holder, we deem it prudent to take the action to revoke the visa promptly after that information becomes available and to rely on the visa application process to resolve identity and other questions at a later time, should the visa holder wish to reapply for a visa. If the holder of the revoked visa reapplies for a visa at one of our embassies or consulates abroad, a consular officer carefully screens his application at that time to determine admissibility. The alien whose visa was revoked may well be issued a new visa, if it is determined that the information that led to the revocation does not pertain to the alien or that the alien is in any event admissible.

The Visa Office (VO) of the Consular Affairs Bureau manages the visa revocation process for the Department. Initially after 9/11, the majority of requests to revoke visas came from INR/TIPOFF, which managed the TIPOFF terrorist database. Since December 2003, requests have come from TSC, INR/TIPOFF's successor. VO has also on occasion received requests to revoke visas directly from other agencies, such as FBI and DHS, especially when the agencies suspected imminent travel of the individual. (VO also receives requests to revoke visas for reasons unrelated to terrorist concerns; such revocations are not discussed here.)

Before revoking a visa, the Department satisfies itself that there is sufficient information available to indicate that the visa holder may be ineligible for a visa under Section 212(a)(3) of the Immigration and Nationality Act (INA). The information on which the Department acts is rarely sufficient to meet the standards required for a formal finding of inadmissibility under the INA. VO instead reviews the derogatory information carefully to ensure that there is some minimal nexus to terrorist activities falling within the purview of the INA. When asked to revoke a visa for terrorist-related reasons, we have nearly always concluded that there were sufficient grounds to warrant revoking the visa. There have been only a handful of cases in which we have determined that the information was not sufficient to support a visa revocation. However, regardless of the Department's decision, it is made after a deliberative process involving the

See comment 2.

application of U.S. law and not an automatic or ministerial response to a recommendation from TSC. This is an important point that the draft report completely ignores, suggesting at some points that any delay in revoking a visa after receiving a request to do so is inherently a sign that the process is not working. To the contrary, it generally is an indication that the Department is carefully exercising the discretion given to the Secretary of State.

The process of deliberation can take time, but in no way does it compromise the security of our borders. The very first action that we take is to place a revocation lookout (“VRVK”) in CLASS that replicates in real time to the DHS’s IBIS lookout system. The action is taken by close of business on the same day that VO receives the revocation request. The lookout is thus available to DHS inspectors at all Ports of Entry into the United States should the person whose visa has been revoked seek to enter the country.

Furthermore, as noted above, before TSC sends us a request to revoke a visa, they enter the individual into CLASS and IBIS. Therefore, even before the case comes to the Department’s attention, there is already a lookout in DHS’s computer system at the Port of Entry that would require a port inspector to detain the individual should he seek to enter the country.

The Department has worked closely with its partners in the revocation process to make sure that the fact that a visa has been revoked is disseminated to those in other agencies who may need to carry out follow-up action. When we determine that a visa should be revoked, we prepare a revocation certificate and a revocation cable to the embassy or consulate where the visa was issued. The certificate is the official document showing that the visa has been revoked. The cable to the post contains the language of the revocation certificate and instructs the consular officer to call the visa holder in so that the revoked visa can be physically canceled.

The Deputy Assistant Secretary for Visa Services signs the revocation certificate. VO then immediately sends the cable electronically to the appropriate post as well as to FBI and to Immigration and Customs Enforcement (ICE) within DHS. At the same time, VO emails the revocation cable to the National Targeting Center (NTC) and to elements of Customs and Border Patrol (CBP) and ICE within DHS. We also fax the cable to the NTC. Through these means, by cable, email and fax, we inform

our partners in the revocation process in a timely manner of each visa that is revoked. However, long before all of this communication and coordination takes place, the revocation code has already been entered into the lookout system and the traveler is not able to enter the United States. As noted above, the lookout system already has the TSC entry for a suspected or actual terrorist.

Internally, VO has a very clear Standard Operating Procedure (SOP) for visa revocations that has been continually updated over time as the process has been refined and as DHS has clarified the mission and operating practices of its new institutional structure. We have shared the SOP with our revocation partners. VO has a designated revocation officer, who reviews incoming requests to make sure they meet the standard for prudential revocation, and a revocation assistant who prepares all of the appropriate documents. We have internal accountability built into the process as the revocation assistant must complete a checklist of steps taken which is reviewed and verified by a senior officer before the case can be closed.

Following the attacks of 9/11, VO was inundated with a large number of requests to revoke visas from a number of agencies. In the haste to respond to these requests, the VO staff concentrated on executing the relevant documents to effect revocations as quickly as possible. After the initial period of heavy revocation activity ended and we began to receive requests on a steadier basis, we established a system of revocation record keeping that is now truly excellent. Our database systems have always been the single official electronic record of cases revoked. We now also maintain a master spreadsheet that contains information on all visas that have been revoked since 9/11, and we have established a designated location for easy access to all of the revocation case files.

The GAO report is at best a snapshot in time that reflects the processing of only 35 cases out of the more than 300 that were revoked during the three month period of the GAO study (October through December 2003) and out of a total of more than 1,250 that have been revoked since September 11, 2001. We consider that our handling of the revocation process overall has been excellent and has improved over time to where we believe there is no opportunity for error. Again, the visa revocation process works in tandem with the watchlisting work of TSC. The watchlist is the most effective measure to stop suspected or actual terrorists since it is used by many federal agencies, not just DHS port of entry inspectors and consular

See comment 3.

See comment 4.

officers overseas. Visa revocation is another measure in a multi-layered and interlocking system of border security.

The report cites specific weaknesses in the revocation process during the three-month period of the GAO study. One concerns the Department's failure to revoke visas in a timely manner for 3 out of the study's random sampling of 35 cases. As the report does not identify these three cases, we can only speculate about what may have transpired. As mentioned above, revoking visas on request is not a ministerial act, but one that requires the careful exercise of discretion vested by law in the Secretary of State. There have been a few cases in which the Department decided not to revoke the visa as the derogatory information was not sufficient to find the person ineligible under Section 212(a)(3) of the INA. In several of these cases, we later received a renewed request to revoke the visa based on additional derogatory information that we deemed sufficient to warrant revocation. The time between the initial request to revoke and the actual revocation based on the follow-up request may explain the apparent time lag in these cases. However, the VRVK code should have been in the lookout system during this period of deliberation in addition to the TSC entry, which would have prevented the visa holders from entering the United States.

See comment 5.

The report also states that in 3 out of the 35 cases, the Department took a week or longer after deciding to revoke a visa to enter a lookout in the CLASS system and to notify other agencies. Again, not knowing the specific cases cited, it is difficult to comment on the circumstances of what happened. VO's Revocation SOP is crystal clear in directing those who carry out revocations to enter the VRVK lookout as soon as the process has begun. The SOP states in underlined capital letters, "IT IS CRITICAL THAT YOU ENTER THE VRVK HIT IN CLASS AT THIS POINT IN THE PROCESS." The revocation preparer must show a printout of the CLASS lookout to the VO supervisor to prove that the VRVK hit has been entered immediately. This is done and verified in all cases. We cannot comment on why, between October and December 2003, a revocation preparer may have failed to enter the lookout immediately in a very small number of cases or to alert other agencies in a similar fashion. There could be a variety of explanations or it just may have been human error. It is certainly not anything that can and does happen now.

The important point is that during the period of study the Department of State added a revocation entry to the TSC lookout entry in CLASS and

IBIS in a timely manner in over 90% of the cases in question. It appears that the other cases were the object of appropriate deliberation regarding the nature of the derogatory information, and whether the subject of the intelligence information was the same as the visa holder, and other appropriate and relevant issues.

See comment 6.

The report comments that the Department's SOP does not include performance standards such as timeframes. The orientation on revocations that VO personnel receive and the language of the SOP make it clear that actions should be taken immediately and with no delay. While we are confident that VO personnel understand clearly the need to act as quickly as possible in processing revocations, we have added further indicators to the SOP explicitly stating the need to act within one business day. There will always be exceptions, however, such as might arise if the Department were asked to revoke a visa held by a diplomat, when further consideration of options and implications would likely be required.

See comment 7.

The report mentions that agencies had conflicting records of the number of revocation cases during the three-month period of the study. The numbers vary by very little (the illustration of superimposed circles is highly misleading in this regard), and can probably be explained by agencies using different methodologies to compile their statistics. For example, we believe that there was some confusion among GAO, State, and other agencies as to what the standard was for a case falling within the three-month period. Some agencies used the date the VRVK hit was entered into CLASS as the standard while others used the date the revocation certificate was signed. Thus the universe of revokees may well have been the same, with accounting differences making for slightly different numbers. In any event, the important issue is not matching precise numbers but that all of the cases were placed into the lookout system to prevent the revokees from entering the country, which was the case.

See comment 8.

The report describes "unresolved legal issues" surrounding the visa revocation process that prevent DHS from removing from the U.S. individuals whose visas have been revoked. Further, the report suggests that there are legal disputes between State and DHS. This is not the case. Since State opened a dialog with DHS on the relevant legal and policy issues in September 2003, both have worked cooperatively on DHS's efforts to draft a regulation that would facilitate DHS in appropriate cases removing from the United States an alien who has been admitted but whose visa has been

revoked. Both agencies also agree on the potential legal issues raised by a regulatory approach; DHS has consulted the Department of Justice on these issues with State's support and is also contemplating formulating a statutory remedy.

In addition, DHS and State have an informal understanding, which they are in the process of formalizing, for dealing with cases involving significant security concerns that may arise. Specifically, on a case-by-case basis, DHS may ask that State revoke a visa effective either immediately, in certain port of entry cases, or retroactively to the date of issuance of the visa, in certain cases of persons already admitted to the United States. Such a retroactive revocation in an appropriate case might allow DHS to initiate immigration proceedings against an alien. State is prepared to take such revocation action in an appropriate case after consultation with DHS and the Department of Justice; State has already revoked a visa effective immediately in at least one case arising at a port of entry, thereby allowing DHS to deny entry because the alien did not have a valid visa. Thus we do not understand the basis for GAO's assertions that there are legal disagreements.

See comment 9.

In this connection, the report is inaccurate insofar as it states, on the bottom of page 29, that DOS stated that any action of this nature must await promulgation of a new DHS regulation or a statutory amendment. We believe GAO is mischaracterizing our statement that DOS does not plan to make any across-the-board change in the standard language in its certificate of revocation at this time; rather it will address the need for different language in the certificate with DHS on a case-by-case basis.

In conclusion, we take note of the report's two recommendations on developing a written government-wide policy and resolving outstanding issues. We will consult with DHS officials with a view to addressing these concerns as best we can consistent with the fact that the decision whether to revoke a visa is committed by law to the discretion of the Secretary of State.

The following are GAO's comments on the Department of State's letter dated June 23, 2004.

GAO Comments

1. The posting of lookouts in CLASS and IBIS is an important tool for preventing potential terrorists from entering the country. However, posting these lookouts is not designed to track individuals who entered the United States before the Department of State revokes their visas. As such, the visa revocation process remains a useful tool for promptly identifying, locating, and investigating individuals who may be in the United States and may pose a threat to homeland security.
2. We acknowledge that the Department of State should appropriately deliberate over visa revocation cases. However, State officials told us that their involvement in the entire visa revocation process should take no longer than one week. Given this standard, State's delay in three cases of more than 6 months appears excessive.
3. This report includes a review of all 330+ visas revoked on terrorism grounds from October through December 2003, including a detailed review of a random sample of 35 cases. We chose to review this 3-month period to allow some time for the agencies involved to implement our recommendations for improving the visa revocation process contained in our June 2003 report. In addition to this report, we previously reviewed all 240 visas revoked on terrorism grounds from September 11, 2001 through December 31, 2002, and found similar weaknesses. As noted earlier, posting CLASS and IBIS lookouts is not intended to track individuals who entered the United States before the Department of State revoked their visas. As such, the visa revocation process remains a useful tool for promptly identifying, locating, and investigating individuals who may be in the United States and may pose a threat.
4. In February 2004, we requested detailed information from State on 35 individuals whose visas State had revoked on terrorism grounds from October through December 2003. In April, we received this information. After reviewing the data, we discussed our preliminary findings with the Managing Director of State's Office of Visa Services, including delays in State's decisions to revoke three individuals' visas. The same day, we provided State the names of these three individuals and requested information on why these delays occurred. In May, a State official provided an explanation of State's actions regarding these individuals. However, we chose to exclude this information from our report due to the sensitivity of the type of information involved.

5. In February 2004, we requested detailed information (including when lookout codes were entered) for a random sample of 35 visa revocation cases. In April 2004, the Assistant Secretary of State for Consular Affairs informed us that in researching and gathering this information, State discovered that, in some cases, the officer responsible for handling revocations did not enter the revocation lookout code immediately into CLASS before the revocation certificate was signed.
6. Based on information State provided during the course of our review, we note that State revises its standard operating procedures for visa revocations as necessary. After reviewing our draft report, State provided us with a revised copy of its standard operating procedures dated June 17, 2004, which included more explicit time frames. We believe this is a good step toward implementing our recommendation.
7. In conducting this review, we requested a list of individuals whose visas were revoked based on terrorism concerns from October through December 2003 from State, CBP, and ICE. State asserts that the conflicting records were probably due to different methodologies for compiling various agencies' lists. We note that we observed multiple instances where conflicting records could not be explained by differing methodologies. For example, in some cases the agencies disagreed over whether the individuals' visas were revoked based on terrorism grounds and, in other cases, agencies did not initially provide names that they later acknowledged should have been included in their lists.

Given these conflicting records and the possible threat to homeland security, we are recommending that State and DHS conduct periodic interagency assessments to determine whether information is being shared among the agencies involved in the visa revocation process and appropriate follow-up action is being taken and to reconcile data differences if they occur.

8. We have updated our report to reflect the current status of State's and DHS's discussions of legal and policy issues and have removed all references to unresolved legal disagreements. We have added information reflecting a recent informal understanding reached by State and DHS that, on a case by case basis, DHS may ask that State revoke a visa retroactively. However, we note that legal and policy issues regarding the removal of individuals based solely on their visa revocations continue to exist, and agency discussions on how to address these issues have not been completed.

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9. During the course of our review, State's and DHS's discussions evolved regarding legal and policy issues relating to removing individuals from the United States based on visa revocations. Based on discussions with State and DHS officials, we have removed any implied linkage between revising the visa revocation certificate and a regulatory or statutory amendment.

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