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# Closing the Loop on Visa Security: A Case for Change

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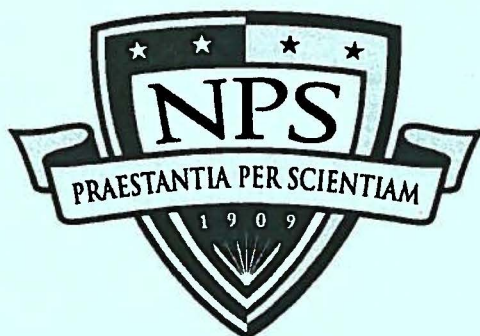
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**NAVAL  
POSTGRADUATE  
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**MONTEREY, CALIFORNIA**

**THESIS**

**CLOSING THE LOOP ON VISA SECURITY:  
A CASE FOR CHANGE**

by

James G. Hernandez

December 2010

Thesis Advisor:  
Second Reader:

John Rollins  
Lauren Wollman

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**CLOSING THE LOOP ON VISA SECURITY: A CASE FOR CHANGE**

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Submitted in partial fulfillment of the  
requirements for the degree of

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(HOMELAND SECURITY AND DEFENSE)**

from the

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## **ABSTRACT**

This thesis presents the findings of a policy analysis conducted on the current policy governing the visa issuing function versus a policy of The U.S. Department of Homeland Security assuming operational and tactical level control of the visa issuing function from the Department of State. Responsibility for this system is currently divided between the U.S. Department of State (DOS) and the U.S. Department of Homeland Security (DHS). This results in duplication of effort, unclear responsibilities, an increased need for communication and collaboration between government departments, and a loss of mission focus. In an effort to increase security, streamline the immigration process, and address the above issues, this thesis recommends that the visa issuing function should be exclusively the responsibility of, and performed by, DHS.

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## LIST OF ACRONYMS AND ABBREVIATIONS

APIS	Advanced Passenger Information System
CBP	U.S. Customs and Border Protection
CCD	Consular Consolidated Database
CIS	U.S. Citizenship and Immigration Services
CLASS	Consular Lookout and Support System
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
DOL	U.S. Department of Labor
DOS	U.S. Department of State
DSS	Diplomatic Security Service
EOIR	Executive Office for Immigration Review
IBIS	Interagency Border Inspections System
IDENT	Automated Biometric Identification System (nonacronym)
ICE	U.S. Immigration and Customs Enforcement
NCIC	National Crime Information Center
NSEERS	National Security Entry Exit System
OIG	Office of the Inspector General
SEVIS	Student Exchange and Visitor Information System
TECS	Treasury Enforcement Computer System

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# **I. INTRODUCTION**

## **A. PROBLEM STATEMENT**

The U.S. Department of Homeland Security (DHS) is responsible for enforcing the laws associated with the Immigration and Nationality Act (INA). The INA is the law regarding the lawful immigration of foreigners into the United States. The Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) is responsible for adjudicating immigration cases. The DOJ EOIR interprets and administers federal immigration laws by conducting immigration court proceedings, appellate reviews, and administrative hearings (DOJ, 2010). DHS controls all phases of the immigrant process except for the visa issuing process, which is controlled by the State Department (DOS). DOS is responsible for the visa issuing process at the operational and tactical level. This creates a seam in the U.S. visa process in that it is divided between two government departments. Illegal immigrants are aliens who entered the United States without being inspected at a port of entry (POE), or have entered legally but have since violated the terms of the visa they were issued (Wasem, 2008). Throughout history, illegal immigrants have circumvented the law regarding admission and residence into the United States by way of visa fraud. This has resulted in unique problems in the effective identification and removal of these individuals from the country. Visa fraud is an important piece of the homeland security landscape in that the perpetrators are difficult to locate and remove. This poses a significant homeland security challenge because terrorists have also used visa fraud to enter and remain in the United States to conduct terrorist attacks on U.S. soil.

## **B. RESEARCH QUESTION**

What legislative, policy, and organizational revisions would allow DHS to manage the visa issuance aspect of the immigration process?

### **C. PRACTICAL SIGNIFICANCE OF THE PROJECT**

There are two general categories of aliens that are given visas: immigrant and nonimmigrant. An immigrant intends to remain in the United States indefinitely. A nonimmigrant is admitted into the United States for a finite period of time. The DOS is responsible for issuing visas to both immigrants and nonimmigrants. Immigrant visas are for people who intend to live permanently in the U.S. Nonimmigrant visas are for people who wish to be in the U.S. on a temporary basis for things such as tourism, medical treatment, business, temporary work, or study. Obtaining a visa is the first step for someone wishing to come to the U.S. from abroad. There are three primary steps involved in applying for a visa. The first step is to petition for a certain type of visa. The second step is to physically apply and interview at a consular post. The final step is to submit to inspection at a port of entry to a U.S. Customs and Border Protection (CBP) officer; however, in order to get a visa issued by DOS, one would only need to convince the DOS consular officer who issuing the visa that ones story is legitimate. This places an increased demand on CBP officers at POEs to screen potentially dangerous individuals. Consular officers conducting these interviews must rely on their interviewing skills and database checks to verify these claims. They observe mannerisms, such as eye contact and nervousness, to try and detect deception. They generally ask three questions; 1) why are you going to the U.S., 2) what are you planning to do there? and 3) where is your family located? Consular officers are non-law enforcement personnel, and they are on a tight time schedule. Most visa issuing interviews only last a few minutes, including all of the required background and name checks. Even these short interviews cause lines to back up, resulting in Foreign Service Officers (FSO) being taken away from other duties to help with conducting visa interviews. When customer service concerns override security, opportunities for fraud increase (Yale-Loehr, Papademetriou, & Cooper 2005). A visa allows a person to travel to the United States and present them self to a CBP officer at a port of entry for permission to enter the country. Only a CBP officer has the authority to allow a person to enter the country (Department of State [DOS], 2009). CBP officers are law enforcement officers. The law enforcement branch of DOS is the Bureau of Diplomatic Security (DS).

DS Special Agents investigate visa fraud for DOS (Tkacik, 2002). They do not conduct the visa interviews or screen applicants. This function is performed by non-law enforcement personnel in DOS. According to Tkacik:

There is universal agreement in the Administration that the U.S. consuls abroad who adjudicate visa applications for foreigners and hopeful immigrants are among those on the first line of defense against global terrorism. The visa system in place on September 11 failed in this responsibility, allowing many of the terrorists to enter the United States unnoticed and bearing genuine visas. (2002).

It has been suggested by a think tank that conducts research on such issues (Heritage Foundation, 2002) that a more logical arrangement would be to move visa issuing authority over to DHS. Analysis should be conducted to determine the merits of DHS taking responsibility of the visa issuing process from DOS in order to more effectively combat visa fraud at the source.

#### **D. METHODOLOGY**

Currently, DOS has operational and tactical level control over the visa issuing process, and DHS controls policy governing the issuing of visas. This system was put in place after the 9/11 attacks to improve visa security due to the fact that all 19 of the hijackers had visas. However, under the current policy, problems exist in information sharing, duplications of effort, and a seam in the U.S. immigration system by the system being separated into two distinct government departments. In order to judge the existing policy's effectiveness, a policy analysis will be conducted. The analysis will be conducted through a review of literature and the current policy relating to the visa issuing process. Specifically, analysis will be conducted to evaluate the information and intelligence sharing function, mission analysis, and the effects of having a departmental seam in the process. A tentative solution would be to move operational and tactical control over the visa issuing process to DHS, which would allow one department to manage the entire immigration process from start to finish. This policy would negate the above mentioned problems. Measures of effectiveness in this policy would include

security improvements in the visa issuing policy through a seamless sharing of information and intelligence in all aspects of the immigration process.

## **E. CHAPTER OVERVIEW**

The literature review will begin at the conclusion of the introductory chapter. The literature review will highlight some of the most relevant literature that was discovered and used in the course of this thesis. After the literature review, the background chapter begins. The background chapter will discuss how the current system came to be in the visa issuing process and what has changed significantly in the process as a result of the attacks on 9/11. This chapter will also introduce the relevant legislation that served as the catalyst for these changes. The next chapter will analyze the current policies regarding the issuing of visas including the current roles of DHS and DOS respectively. It will also describe the specific missions of the two departments and identify some of the key problems associated with the current policy. The final chapter will serve as a strategy recommendation based on the previous analysis. It will restate many of the issues, identify the mutual benefits of the proposed policy, likely roadblocks, stakeholders, and recommend departmental changes. It will also address how this policy will serve to address the problems identified in the analysis.

## II. LITERATURE REVIEW

In the aftermath of 9/11, the U.S. government has worked to improve the level of security for the visa issuing process that was conducted by DOS prior to 9/11. DHS was created to ensure that the government failures leading up to 9/11 were not repeated. Before and since the creation of DHS there has been debate about the new department's role in the visa issuing process. The process began due to the fact that the 19 terrorists who hijacked the planes on 9/11 were aliens who entered the United States on temporary visas (Wasem, 2004). As many as 15 of the 19 hijackers were potentially vulnerable to detection by border authorities that are currently under DHS. Furthermore, more closely analyzing the terrorists' documents, travel patterns, and documents could have allowed authorities to interdict as many as 15 of the hijackers (National Commission on Terrorist Attacks Upon the United States (9/11 Commission), 2004).

Relevant literature on the topic centers on three points of view. The first point of view relates to those who would argue that DOS should retain control over the visa issuing process. The second point of view includes those who believe that DHS should take over visa issuing responsibilities from the DOS completely. The final point of view is based on the system that is currently in place where DHS and DOS share responsibility for the visa issuing function. Available literature on the subject is largely composed of official reports to Congress from various political think tanks. The homeland security implications for the visa issuing process is outlined in the details of the 9/11 Commission Report.

Literature in support of DOS maintaining responsibility for visa issuance largely rests on the argument that DOS already has the infrastructure and country specific knowledge to conduct this function. Literature that supports this point of view is derived from DOS publications and DOS Office of the Inspector General (OIG) reports. There is very little, if any, literature supporting DOS maintaining complete control of the visa process. DOS supporters stated that under current law, consular officer decisions are not appealable, and that moving adjudication authority to DHS could make it subject to

judicial appeals or other due process considerations. Furthermore, proponents of DOS maintain that staffing 250 diplomatic and consular posts worldwide would stretch DHS too thin (DOS OIG, 2002).

There is also a check and balance system in having two separate agencies handle visa issuing with DOS issuing visas abroad, and DHS adjusting visa statuses and approving extensions of visas domestically. This could prevent potential mistakes of DOS from being made worse in that DHS could still deny entry to an alien with a visa from abroad, or deny a petition for an extension once admitted. DOS maintains that it has made significant improvements in its nonimmigrant visa process since 9/11 by improving computer databases and screening processes to help identify potential terrorists. However, DOS admits that existing policies and resources remain inadequate as of December 2002 (DOS OIG, 2002).

DOS has also strengthened its law enforcement and security arm, the Bureau of Diplomatic Security (DS). DS has assigned its agents to posts both foreign and domestic to work closely with other agencies such as DHS and the Federal Bureau of Investigation (FBI) to investigate crimes involving visa fraud. DOS maintains that DS is uniquely positioned to conduct this important dimension of counterterrorism activities worldwide (DOS, 2006). The idea that moving adjudication authority of visas to DHS could subject them to judicial appeals seems baseless as DHS inspectors, who deny admittance into the U.S. at ports of entry, are not subject to any appeals. An area of controversy is that this system was in place with the exception of increased DS presence prior to 9/11 and did not work. Further research should be conducted to determine if one agency could effectively manage the entire process with an increase in the overall level of security.

The other view found in the literature regarding visa issuance is that DHS should completely take over the function from DOS. This is largely due to the law enforcement culture that DHS has and DOS does not. Proponents of DHS argue that the Homeland Security Act gave DHS the authority to issue regulations and administer the visa program, but the consular offices performing visa services remained with DOS. The literature that supports this claim is best found in articles from James Carafano, Ha Nguyen, and John J. Tkacik of the Heritage Foundation and Ruth Ellen Wasem from the



Congressional Research Service. James Carafano and Ha Nguyen wrote *Coordinate Visa Security: Homeland Security Needs Authority to Keep Nation Safe* (2003). They state that the visa office should be completely moved to DHS to allow the department to focus on making the visa issuing function more responsive to homeland security needs (Carafano & Nguyen, 2003).

DOS first and foremost has a diplomatic mission while DHS has a security mission. DOS personnel must be concerned with international perceptions especially, in the host nations in which they work and live. Responsibility for this function should be with a department that does not have competing priorities, such as diplomatic relations with foreign countries and domestic security. Consular officers are concerned with the promotion of tourism, commerce, and cultural exchange and are lax in screening foreign nationals trying to come to the United States (Wasem, 2004). The concern over customer service and local sensibilities cannot overshadow the visa office's homeland security responsibility (Tkacik, 2002). The overarching argument centers on the fact that DOS is not a law enforcement agency, and that it were responsible for the process prior to 9/11. Further research should be conducted to determine if better training to DOS consular officers in security concerns could improve the overall security in the visa process as well as prove to be more cost effective than moving the entire function over to another department, or is the culture of DOS counterintuitive to security being a priority since their primary focus is diplomacy?

There is also literature that critiques the current system which appears to be a partial compromise to the above arguments. Wasem's CRS article, "Visa Policy: Roles of the Departments of State and Homeland Security," provides insight to this position. This concept centers on the idea of capitalizing on the strengths of both departments to best serve the overall interests of the country. It would allow the DOS to maintain focus on diplomacy and commerce while allowing DHS to oversee the security aspects of visas. According to Ruth Ellen Wasem of the Congressional Research Service:

Those who supported retained immigrant adjudications and services in DOJ and visa issuances in DOS point to the specializations that each department brings to the functions. They asserted that the "dual check" system in which both INS and Consular Affairs make their own

determinations on whether an alien ultimately enters the United States provides greater security. Proponents of the joint DOJ-DOS responsibilities argued that failures in intelligence gathering and analysis, not lax enforcement of immigration law, were the principal factors that enabled terrorists to obtain visas. Others opposing the transfer of INS adjudications and Consular Affairs visa issuances to DHS maintained that DHS would be less likely to balance the more generous elements of immigration law (e.g., the reunification of families, the admission of immigrants with needed skills, the protection of refugees, opportunities for cultural exchange, the facilitation of trade, commerce, and diplomacy) with the more restrictive elements of the law (e.g., protection of public health and welfare, national security, public safety, and labor markets). Wasem, 2004, p. 8–9)

Perhaps the biggest advocates of increasing the DHS role in the visa issuing process are James Carafano and John Tkacik of the Heritage Foundation. Carafano sites ongoing security problems with the current system and maintain that DHS should be given more authority than is currently agreed upon in the memorandum of understanding (MOU) between DOS and DHS in his Heritage Foundation article titled “Strengthening Visa Management, 2006.” Carafano further states that the current visa process provides no easy means of redressing the potentially subjective decisions made at the consular level (Carafano, 2006). Although there has been an increase of cooperation between DOS and DHS in regards to the visa process, there are still sources calling for improvements in the visa issuing system that is currently in place. However, more research should be conducted to determine the pros and cons of DHS taking on a larger role in what is considered a diplomatic function of the government. The literature does show that DHS has made significant improvements to visa security through initiatives such as the creation of U.S. Immigration and Customs Enforcement’s Visa Security Units (VSU) (Carafano, 2006). The US-VISIT system that links databases worldwide to provide information to ports of entry and consular officials regarding pictures and fingerprints of everyone entering the country with a nonimmigrant visa is another layer of security added by DHS (DHS, 2004).

Relevant literature has not been found that would describe how the visa issuing function would work completely under DHS control, including consular officers being DHS employees. Most of the available resources recommend DHS simply overseeing

the visa function as it is being conducted by DOS. This presents problems with conflicting interests between the two departments and creates unclear guidance to consular officers as to who is actually in charge of the process. Even the most avid supporter of DHS taking over control of the process does not advocate the idea of DOS consular officers becoming DHS employees. John J. Tkacik writes in his Heritage Foundation article “Why the Department of Homeland Security Should Control Visas” that “this does not require that all or even most visa officers abroad must be DHS employees. Both DHS and the State Department would benefit if State Department Foreign Service officers conducted most of the overseas visa function” (2002).

There is ample literature available regarding strategic planning and modeling. The literature available ranges from textbooks to military manuals to books on business planning models. The most relevant literature found that focused on creating a new strategy moving forward included Kim and Mauborgne’s *Blue Ocean Strategy* and Gerencser, Van Lee, Napolitano, and Kelly’s *Megacommunities, 2008*. *Blue Ocean Strategy, 2005*, describes ways for organizations to move into unfamiliar territories and creating new products and services (Kim & Mauborgne). *Megacommunities* discusses ways of merging organizations who do not typically work together in order to accomplish a shared goal (Gerencser, Lee, Napolitano, & Kelly).

The literature leaves room for further research regarding what policies and organizational arrangements would allow DHS to manage and control more effectively visa issuance than DOS with respect to homeland security concerns. There also needs to be more research conducted on the organizational challenges associated with DHS assuming more responsibility abroad.

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### **III. BACKGROUND**

#### **A. HOW DID WE GET HERE?**

Prior to 9/11, the DOS was almost exclusively responsible for the disciplines of diplomacy and security where visas were concerned. However, the security aspect of the visa function during this time was more focused on keeping out visitors who would likely overstay their visas and become illegal immigrants. The procedures in place did not have an adequate focus on security efforts; however, this was not always the case. After World War II, the visa function was placed under the DOS Administrator of the Bureau of Security and Consular Affairs. As the name suggests, this bureau comprised both security and consular functions. This move was made to identify potential espionage agents and communist party members applying for visas. In the 1970s and 1980s, the security function was formally separated from visa issuing in an effort to facilitate travel to the U.S. Streamlining an increased workflow took priority over the scrutiny of visa applications (Tkacik, 2002).

The 1993 World Trade Center attacks had called attention to vulnerabilities in the visa process that was in place prior to 9/11; however, the priority to the State Department, where visas were concerned, remained the facilitation of travel. This translated to an increase in visas by streamlining application procedures from countries of particular geographic or economic interest to the United States (Yale-Loehr, Papademetriou, & Cooper, 2005). During this period leading up to 9/11 personal interviews for certain types of visas were often waived. This contributed to the creation of the now infamous “Visa Express” in Saudi Arabia that many of the 9/11 hijackers exploited. In the Visa Express of Saudi Arabia, civilian travel agents would pre-screen visa applicants and submit petitions on their behalf (Wasem, 2008). U.S. ambassadors were concerned about long visa lines and the strict enforcement of visa denials. These concerns put political pressures on visa officers within the DOS to manage the visa function more as a service than as a security screen (Tkacik, 2002). This prioritization of diplomacy over security in the issuing of visas led to significant vulnerabilities in the visa process.

In the aftermath of 9/11, the U.S. government has worked to improve the level of security for the visa issuing process that was conducted by the DOS prior to 9/11. There were a number of legislative and organizational activities, including the creation of DHS, that occurred after the attacks of 9/11 to ensure that the government failures leading up to 9/11 were not repeated.. All immigration law is codified in the Immigration and Nationality Act (INA) of the United States (as amended). Title II of the INA regulates visa procedures as they pertain to admissions criteria, required entry documents, and the selection system.

New legislation since 9/11 includes the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, the Enhanced Border Security and Visa Entry Reform Act (EBSVERA), the Homeland Security Act of 2002, and the Intelligence Reform and Terrorist Prevention Act of 2004. The USA PATRIOT Act authorized additional funding for a foreign student tracking system, and advanced the deadline for Visa Waiver Program (VWP) participants to have passengers submit machine readable passports. EBSVERA required DOS consular officers to send electronic versions of visa files to (then INS) inspectors at ports of entry in the U.S. EBSVERA also made it more difficult for individuals from state sponsors of terrorism to come to the United States, and increased the security requirements on travel documents. The Homeland Security Act of 2002 established DHS within the federal government, and also authorized DHS to participate in visa related functions including deploying employees to consular posts abroad, developing homeland security training programs for consular officers, and developing performance standards for consular employees. The Intelligence Reform and Terrorist Prevention Act of 2004 mandated and expanded the visa interview requirement to all persons between the ages of fourteen and seventy-nine, and made the revocation of a visa a deportable offense (Yale-Loehr et al., 2005). These new laws provide an adequate framework to correct the problems in the visa issuing process that allowed all 19 of the 9/11 terrorist hijackers to enter the U.S. with valid visas (Carafano & Nguyen, 2003).

The Homeland Security Act also dismantled the Immigration and Naturalization Service into three separate agencies. These agencies are U.S. Citizenship and

Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). CIS conducts the adjudication function, CBP conducts inspections and border enforcement, and ICE conducts investigations. All of these agencies fall under DHS. DOS remained untouched by the reorganization even though its policies were largely responsible for these terrorists receiving visas. The Homeland Security Act gave DHS exclusive authority to issue regulations and administer the visa program, but the offices that perform these services remained in DOS (Carafano & Nguyen, 2003). This resulted in DHS having to regulate another government department to ensure there are adequate levels of security in an immigration function that belongs in DHS.

Before and since the creation of DHS, there has been debate about the new department's role in the visa issuing process. The 19 terrorists who hijacked the planes on 9/11 were aliens who entered the United States on temporary visas (Wasem, 2004). As many as 15 of the 19 hijackers were potentially vulnerable to detection by border authorities that are currently under DHS, and more closely analyzing the terrorists' documents, travel patterns, and documents could have allowed authorities to interdict as many as 15 of the hijackers (9/11 Commission, 2004).

DOS is responsible for U.S. diplomacy. Arguably, U.S. diplomacy supports security. U.S. diplomacy seeks to strengthen the image and relationships of the U.S. internationally. Diplomacy is often the alternative to harder forms of influence, such as combat operations. Effective diplomacy can gain the United States much needed allies in the war on terror, thereby increasing security. In the operational and tactical levels of the visa process, security is more beneficial than diplomacy to U.S. interests. Diplomacy brings a strategic level of security to an operational and tactical level problem in the visa issuing process.

Because of this, DHS should conduct all operational and tactical functions related to the issuing of visas thereby ensuring security at the individual applicant level. The DHS security mission is more applicable to scrutinizing visa applicants at the tactical and operational levels. This is due to the law enforcement culture of DHS, and the operational reach, in terms of communication and collaboration, with the other agencies

involved in border and transportation security. These agencies include the Transportation Security Administration (TSA), ICE, CBP, and CIS. DOS must communicate and collaborate with agencies outside of its department in order to perform these functions effectively.

The sharing of information between agencies in different departments is often governed by what is known as the “Third Agency Rule”. The Third Agency Rule requires approval for all information sharing among agencies from different departments, and can lengthen response times of critical information requests. The Venn diagram (Figure 1) illustrates the various agencies in the departments that must communicate regarding immigration issues via MOUs or the Third Agency Rules. Any agency wishing to share information with any other agency outside of its circle must abide by these rules. As illustrated, it is apparent how much easier information sharing would be if DOS’s visa issuing function of Consular Affairs fell in under DHS.

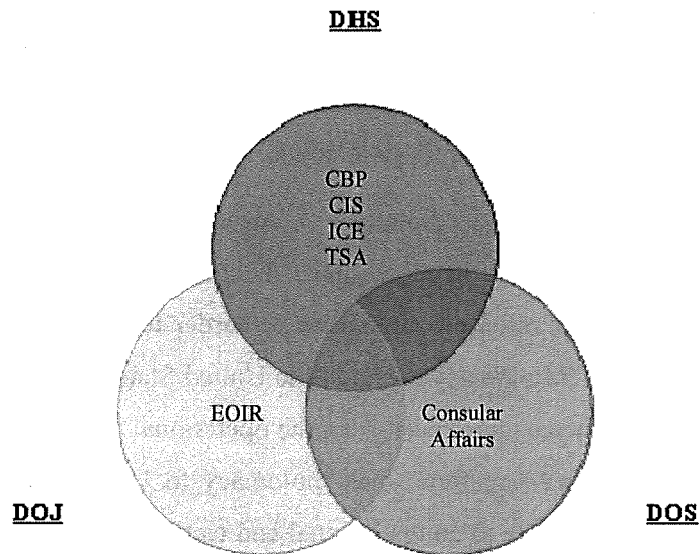


Figure 1. Venn Diagram



DOS should retain diplomatic responsibility in the allocation of visas, thereby promoting security at the strategic level. This involves the DOS determining which countries would be allocated how many and what types of visas. DOS would be able to utilize the allocation of visas to promote diplomacy. It would then be the responsibility of DHS to determine which individuals from these countries would be granted visas. This would provide the necessary security to the process.

## **B. WHAT REALLY CHANGED AFTER 9/11?**

September 11, 2001 brought about sweeping changes in visa security and brought the visa issuing process to the forefront of public policy and debate. Some of the most sweeping changes to the government following 9/11 were contained in the Homeland Security Act of 2002 (henceforth the Act). The Act resulted in the immigration components of DHS having greater responsibilities abroad than the former INS. This directly affects the way that the DOS has traditionally done business. DHS not only had to bring together its legacy agencies into a new department, but it also had to establish new business practices for functions that its legacy agencies had no experience in. Visa security within DOS is one of these functions. Secretary Ridge established an office to oversee DHS activities under the memorandum of agreement with DOS (Wasem, 2004).

This office pursued a number of measures to immediately increase security to the visa process. This was largely accomplished by database screening of visa applicants. DHS officers have full access to a variety of law enforcement databases, including the National Crime Information Center (NCIC); Treasury Enforcement Communication System (TECS); Interagency Border Inspections System (IBIS); National Security Entry Exit System (NSEERS); Student Exchange and Visitor Information System (SEVIS); Biometric 2-print fingerprint system (IDENT); and Advanced Passenger Information System (APIS) among others. (Verdery, Jr. 2003). Table 1 identifies some of the databases that are used to enhance visa and immigration security. There are multiple systems spread across three different government departments. This also requires additional communication and collaboration between government agencies.

Table 1. Immigration Related Databases

<b>Database</b>	<b>Department</b>
Integrated Automated Fingerprint Identification System (IAFIS)	DOJ
National Criminal Information Center (NCIC)	DOJ
Treasury Enforcement Computer System (TECS)	DHS
Interagency Border Inspections System (IBIS)	DHS
National Security Entry Exit Registration System (NSEERS)	DHS
US-VISIT	DHS
Student Exchange and Visitor Information System (SEVIS)	DHS
Automated Biometric Identification System (IDENT)	DHS
Advanced Passenger Information System (APIS)	DHS
Consular Consolidated Database (CCD)	DOS
Consular Lookout and Support System (CLASS)	DOS

The last form of security scrutiny that a visa applicant must undergo also resides with DHS. DHS's U.S. Customs and Border Protection (CBP) inspects aliens who seek to enter the U.S. This inspection is performed at a U.S. port of entry. Primary inspection consists of a brief interview with a CBP inspector, a cursory check of the traveler's documents, and a query various law enforcement databases. Primary inspections are quick (usually lasting no longer than a minute); however, if the inspector is suspicious that the traveler may be inadmissible under the Immigration and Nationality Act (INA) or in violation of other U.S. laws, the traveler is referred to a secondary inspection. Those individuals sent to secondary inspections are questioned extensively, travel documents are further examined, and additional databases are queried (Wasem, 2004). This system is intended to compliment the security involved in the visa application process performed by DOS. Figure 2 demonstrates a simplistic immigration process, and the general responsibilities of each department. An immigrant would start at the bottom of the pyramid and work their way up.

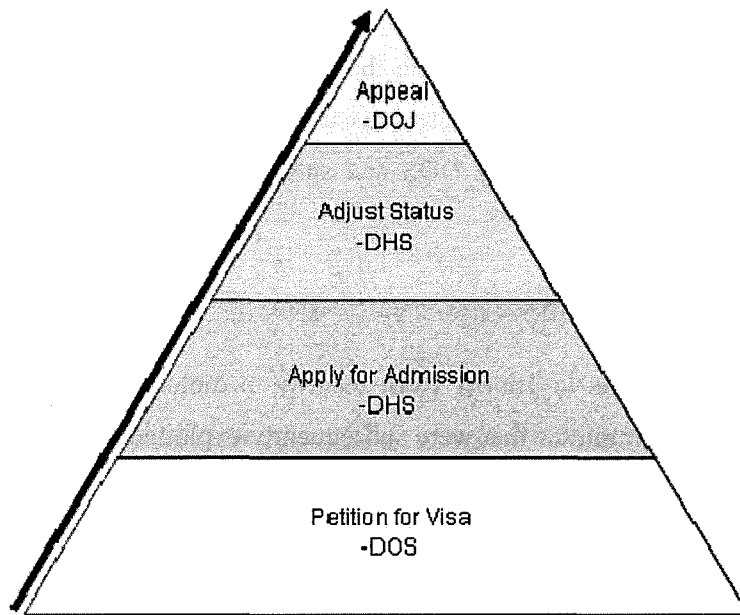


Figure 2. The Immigration Process

Since 9/11, DOS has implemented a number of policies to improve the level of security of its visa services. These policies include the use of new technologies that use biometric identification data to deter fraud and the use of multiple identities and the expansion of interagency partnerships and agreements with other governments to build data links for sharing real time information (DOS, 2007). Due to the diplomatic mission of DOS, the department must balance security with facilitating legitimate travel. Consular officers around the world process over seven million non-immigrant visa applications and nearly 700,000 immigrant visa applications each year (DHS, 2007). Foreign visitors, seeking to enter the U.S., meet U.S. consular officers face-to-face when conduct their visa interviews (DOS, 2007). This high volume results in short interview times for face-to-face meetings. DOS must rely on other means outside of the personal interview to screen potentially dangerous applicants. These measures include facial recognition and biometric data collection, expanding interagency partnerships, developing agreements

with other governments to share information, and building real-time data links (DOS, 2007). Diplomacy has an important role in the operations of our nation, but even this must be augmented with an appropriate measure of security. The above security functions are currently performed by DOS and subsequently balanced with their own diplomatic mission.

### **C. CHAPTER ANALYSIS**

DOS historical shifts in priority from security to diplomacy in the visa process created significant vulnerabilities that were subsequently exploited leading up to the 9/11 attacks. Although diplomacy creates a strategic level layer of national security, it neglects the necessary security at the operational and tactical levels in the visa process. To correct this, the U.S. instituted a number of legislative changes. This legislation resulted in greater scrutiny of the visa function and a massive reorganization of government agencies to create DHS; however, DOS remained largely untouched by this legislation even though its policies led to the 9/11 hijackers receiving visas to enter the U.S. DHS was given the responsibility to secure the visa process, but DOS retained the bureau of consular affairs and the visa issuing function within its department. This resulted in one government department setting policy and conducting oversight on another. It has also created an unnecessary requirement for information sharing and collaboration at the operational and tactical levels between government agencies. This communication and collaboration becomes more cumbersome as consular officers must process a significant volume of visa applicants each year. This time constraint results in shortcuts in security measures that are mandated by DHS and legislation.

## IV. ANALYSIS OF THE STATUS QUO

### A. WHAT IS THE STATUS QUO?

The U.S. immigration system relies on the cooperation and collaboration of two departments when it comes to the visa process. DHS is responsible for implementing policies and security training for DOS in the visa process. DOS handles the actual operational and tactical component of the process thru the bureau of Consular Affairs. DHS responsibilities are mandated by the Homeland Security Act of 2002 (Tkacik, 2002). There is also a memorandum of understanding governing the cooperation between these two departments, which is also a topic of debate. This is the Memorandum of Understanding Between the Secretaries of State and Homeland Security Concerning Implementation of Section 428 of the Homeland Security Act of 2002. (DOS-DHS MOU, 2003). Strong proponents of security claim that the MOU gives too much power to DOS in the visa process, and they further claim that this was not the intention of the legislation that gave DHS authority over the security of the process (Wasem, 2004).

In terms of government organizations, DHS and DOS are not solely responsible for immigration issues. The Department of Justice (DOJ) EOIR also plays a role in the visa process through immigration review (Wasem, 2004). This is limited to judicial issues on immigration decisions made by DHS or on appeals of immigrants and foreign national criminal convicts. This is not as operationally problematic in that it is more of a third party check and balance. DOJ does not have a direct effect on the way the immigration process is conducted on a daily basis by either DOS or DHS. According to Carafano:

Despite several efforts to improve the visa process since September 11, 2001, it is still cumbersome, expensive, and inconvenient for many visitors. Even worse, inefficiencies in the visa process and its management detract from efforts to screen out terrorists and criminals who seek to exploit visas... (2006, p. 1)

There are two predominant opinions relating to who should control the visa function: those that argue it should remain as it is, and those that argue DHS should play a larger role. Those that support DHS controlling the entire process point to past DOS failures in visa security and cite the continuity that would be gained by having the entire immigration process being controlled by one department. DOS consulates have been described as business-like in its issuing of visas—rather than being concerned with security. After September 11, 2001, the DOS came under scrutiny for issuing visas to many of the hijackers. The DOS's Bureau of Consular Affairs has a critical responsibility to check the backgrounds and confirm identities of persons seeking visas (Wasem, 2008). DOS critics also argue that there are no easy means of redressing subjective decisions made at the consular level regarding who should be granted visas (Carafano, 2006).

Another area of concern for the current system is the continued need for information sharing and coordination between government departments. If the law enforcement or intelligence communities identify a person of interest that should not be able to enter the United States, then they must communicate that to DOS to ensure they are not issued visas. Similarly, if DOS identifies someone who has been denied a visa for terrorist or criminal reasons, then DOS must in turn communicate this back to the appropriate immigration, law enforcement, and intelligence entity to ensure that person is not admitted into the United States (Ford, 2003). Consolidating the visa issuing function into DHS would eliminate the need for the timely sharing of this information and close a critical gap in security. This would also create a seamless immigration process from start to finish by consolidating the entire process from the visa application to the adjustment of immigration status under one government department.

Opponents to moving the visa function under DHS claim that staffing 250 worldwide posts would stretch DHS too thin, and decisions regarding visas are best left up to experts holding country specific knowledge (Wasem, 2004). DOS also makes a case regarding its own personnel issues. DOS uses junior probationary officers to conduct visa interviews. This has been a traditional first tour assignment for Foreign Service Officers (FSOs). Losing the visa function would force the DOS to recruit more

FSOs in order to maintain its own pool of future senior personnel development needs (Tkacik, 2002). Gaining the visa issuing function would require DHS to create an entirely new office.

## **B. THE ROLE OF DHS**

DHS is responsible for the discipline of security in the visa issuing process. DHS is a security centric organization as is evident in its mission statement:

*We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the Nation. We will secure our national borders while welcoming lawful immigrants, visitors, and trade [emphasis added].* (DHS, 2008).

One of DHS's strategic goals is to protect the U.S from dangerous people. This is in contrast to the State Department that does not mention this specifically in any of its seven strategic goals (DOS, 2007). Even so, like DOS, DHS must also facilitate legitimate travel and trade in and out of the U.S. DHS seeks to improve security by reducing the likelihood that terrorists can enter the U.S.; to do this, DHS strives to implement a layered approach to this process. Whenever possible, DHS expands the zone of security, managing risks and interdicting threats before they arrive in the U.S (DHS, 2008). This is accomplished with the cooperation of DOS abroad on a myriad of programs, one of which is visa security.

This leads us to another strategic goal of DHS, strengthening the screening of visa-holding travelers and workers. DHS looks to improve the security and mobility of travelers and increase focus on high-risk individuals through improved use of data, screening, fraud-resistant credentials, and biometric tools. This will reduce the risk of potential terrorism or other unlawful activities from threatening the U.S. (DHS, 2008). A look at the DHS mission and strategic goals reveals its focus on security and defending against terrorism. These goals become problematic when DHS creates policies, objectives, and goals that must be implemented and executed by an entirely different department. DHS has control over the strategic planning in visa security with no operational or tactical control over the process.

### C. THE ROLE OF DOS

DOS is responsible for issuing visas to both immigrants and nonimmigrants. This is the first step for someone wishing to come to the U.S. from abroad legitimately; however, in order to get a visa one would only need to convince the DOS consular officer who issuing the visa that one's story is legitimate. Consular officers, like CIS adjudicators, are non law enforcement personnel, and they are on a tight time schedule. Most visa issuing processes including the interview and database checks are done within six minutes (Yale-Loehr et al., 2005). This function is also largely staffed by first tour junior FSOs in order for them to gain experience in local languages, foreign political structures, social institutions, and working with a local national staff (Tkacik, 2002). This low priority in personnel staffing demonstrates the lack of emphasis placed on the importance of these duties by DOS and creates the opportunity for fraud. A visa allows a person to travel to the United States and present himself to a CBP officer at a port of entry for permission to enter the country. Only a CBP officer has the authority to allow a person to enter the country (Temporary Visitor's to the U.S., 2010). CBP officers are law enforcement officers; DOS personnel issuing visas are not law enforcement.

Reviewing the mission statement and various strategies of DOS shows a clear focus on diplomacy. The DOS mission is:

Advance freedom for the benefit of the American people and the international community by helping to build and sustain a more democratic, secure, and prosperous world composed of well-governed states that respond to the needs of their people, reduce widespread poverty, and act responsibly within the international system (DHS Strategic Plan, 2007).

Although the DOS mission statement is clearly diplomatically focused, many of its strategies aim to improve security. The DOS strategy for combating terrorism stresses the advancement of democracy, the rule of law, and a global environment described as inhospitable to violent extremism. According to DOS, diplomacy and foreign assistance supports peace and creates the environment for longer-term developmental solutions to terrorism to develop and take hold (DHS Strategic Plan, 2007). DOS recognizes the



importance of sharing information within and between governments, improving passport security, and implementing effective visa adjudication processes that deny access to individuals who pose risks to U.S. national security.

In contrast to a more law enforcement centric approach to security employed by DHS, DOS seeks to counter terrorism through sound policy, effective assistance, and astute public diplomacy (DOS, 2007). This policy works well to affect security at the strategic level, but it neglects the security issues at the operational and tactical levels of the visa issuing process. Moving the visa issuing function under DHS would not have a significant impact on any of the DOS strategic goals. All of its efforts spearheaded by diplomacy would largely remain the same.

The Homeland Security Act states that DHS is responsible for formulating regulations on visa issuances and may assign staff to consular posts abroad to advise, review, and conduct investigations (Powell & Ridge, 2003). DOS's Consular Affairs continues to be responsible for issuing visas. The Act requires DHS and DOS to reach an understanding on how the details of this division of responsibilities would be implemented. In 2003, Secretary of State Colin Powell and Secretary of Homeland Security Thomas Ridge signed a memorandum of understanding. The MOU describes each department's responsibilities in the visa process (Powell & Ridge, 2003).

In stating how these responsibilities are being implemented between the two departments, the MOU has raised a few concerns (Wasem, 2004). According to the MOU, DHS will establish visa policy, review implementation of that policy, and provide additional direction as provided by the MOU, while respecting the prerogatives of DOS to lead and manage the consular corps and its functions, to manage the visa process, and to execute the foreign policy of the U.S (Powell & Ridge, 2003). DHS will rely upon DOS in foreign policy matters, and DOS will respect the expertise of DHS concerning American security (Powell & Ridge, 2003).

The MOU states that DOS may propose and issue visa regulations subject to DHS consultation and final approval. It also allows DHS to assign personnel to diplomatic posts, but it specifies that DOS will determine who, how many, and the scope of their

functions (Wasem, 2004). This limits DHS's ability to conduct thorough and efficient oversight of the security of the visa issuing function. At a hearing in September 2003 that focused on the MOU between DOS and DHS, Assistant Secretary of State for Consular Affairs Maura Harty described responsibilities that remain with the DOS:

The Secretary of State will have responsibility over certain visa decisions, including decisions of a foreign policy nature.... He will also be responsible for establishing visa validity periods and fees based on reciprocity. In the case of visa validity periods, however, he will consult with Homeland Security before lengthening them, and Homeland Security will have authority to determine that certain persons or classes of persons cannot benefit from the maximum validity period for security reasons. (Harty, 2003)

The MOU limits the authority of DHS in the operational and tactical aspect of issuing visas. It creates a seam in the immigration process that can be exploited. It allows DHS to create policy, but relies on DOS to implement these policies as they are intended. As stated in the previous chapter regarding post WWII and pre 9/11 DOS, DOS has historically shifted its emphasis on visa security with diplomatic pressures. This is the result of DOS being focused on diplomacy as its core mission. The core mission of DHS is centered on security. To ensure that security is given higher priority over diplomacy in determining what individuals should be issued visas, DHS should assume all operational and tactical level functions of the visa process.

#### **D. CHAPTER ANALYSIS**

The immigration process is divided between DHS and DOS. This creates a seam that requires additional cross-agency communication and collaboration to ensure security. The MOU between DHS and DOS negates many of the security gains made by the legislative changes after 9/11. Contrary to the intent of the legislation, DOS retained too much control over the process, which resulted in marginal changes from the system that was in place prior to 9/11. The MOU has sparked debate over which department is better suited to handle the visa issuing function. By leaving the visa issuing function under DOS control, it retains the country specific expertise of DOS and allows it to exercise diplomacy through the allocation of visas.

Moving the visa issuing function into DHS would eliminate both the need for information sharing and the seam in the U.S. immigration process. It will also ensure that security is given precedence over diplomacy in policies regulating the issuing of visas. This is due to the mission of DHS being security-centric versus the diplomacy-centric mission of DOS that led to the Saudi Visa Factory. The current staffing of the visa function by DOS further shows the lack of concern for security in that it is often the responsibility of the most junior FSOs to fill this vital role. DOS could retain a role in the strategic level of the visa process by determining which countries would receive how many visas by type. This would allow state to control the diplomatic aspect of the visa system. This shift would also allow DOS to concentrate on its core mission of diplomacy and for DHS to focus on its core mission of security.

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## **V. A NEW STRATEGY**

### **A. INTRODUCTION**

In order to increase the level of security in the visa issuing process, the U.S. Department of State should turn over its entire visa issuing functions to the U.S. Department of Homeland Security. This strategy will be mutually beneficial to DHS and DOS, as well as providing a simpler immigration process to legal migrants and visitors wishing to come to the United States. It will also eliminate the need for operational level collaboration and duplications of effort between the two departments. Currently, the immigration process is spread out within three separate government departments, DHS, DOS, and DOJ. DOJ's role is largely oversight and would not be affected by this proposed strategy. Even so, it is necessary to identify all of the stakeholders in this strategy, and outline how they will be affected. It is also necessary to mitigate any potential challenges to implementing this strategy. In order for this strategy to be effective, both DHS and DOS must be convinced that this will allow them to better accomplish their respective missions, and Congress must recognize how this strategy will significantly improve the level of security in the visa issuing process.

### **B. MUTUAL BENEFITS**

The mutual benefits to this strategy lie in allowing DHS and DOS to focus exclusively on their respective core departmental missions. DHS will be able to concentrate on securing the visa issuing function, and DOS will be able to focus exclusively on diplomacy. Under the current memorandum of understanding between DOS and DHS, DOS is responsible for the operational and tactical aspects of the visa issuing function and DHS plays the role of security policy advisor. This method of operating forces DOS to shift its attention to one of a security function and away from its core mission of international diplomacy. Moving the operational level of the visa issuing function to DHS would allow DOS to shift its resources and attention to diplomacy.

DHS and DOS should seek to learn to “optimize.” “Optimizing” is the process of recognizing and actualizing benefits to the larger system as a whole. In this case, the “whole” is enhancing the United States security posture with respect to the visa issuing system. DHS and DOS could both achieve their own goals and mission better over the long term by pooling capabilities and optimizing the benefits of working together to implement this strategy (Gerencser et al., 2008). Optimizing will strengthen the individual disciplines of diplomacy and security. Diplomacy plays an important role in visa security at the strategic level. DOS should retain the ability to dictate the quantity of visas by type that should be issued to what nations. This decision is largely a diplomatic decision based on U.S. interests overseas. At the operational and tactical levels, DHS would support and undertake the operational aspects of the diplomatic policy decisions by determining which individuals should be granted or denied visas based on the findings of a security assessment.

### **C A SEAMLESS PROCESS**

The implementation of a new strategy will consolidate the immigration process, making it organizationally seamless, and reducing the need for operational level communication and collaboration. Immigrant and nonimmigrant visa holders coming to the United States must first be granted a visa by the DOS, and they present themselves and their visas to DHS for admission. For nonimmigrant visa holders, the entry and exit process will be their only contact with DHS. If DHS personnel are trying to make a determination for admission on an applicant want to obtain additional information, then they must obtain that information from DOS. For immigrant visa holders, a long-term relationship with DHS is necessary in order to obtain immigration benefits, such as lawful status and employment authorization. DHS must obtain records from DOS regarding the immigrant in order to effectively adjudicate his status. This requires information sharing and collaboration between two different government departments, including proprietary database access. Some security observers suggest that consolidating the visa issuing function with the admission and adjudication functions of

DHS could create a seamless process for the visitor or immigrant and could reduce the need for systems and policies governing information sharing and collaboration between separate government departments.

#### **D. DOS ROADBLOCKS**

This strategy presents unique organizational challenges within DOS. DOS currently uses its consular officers as entry level diplomatic positions from which to grow and develop the future leaders of its department. Moving these positions into DHS would require DOS to find another avenue from which to develop their junior diplomats.

Issuing visas also generates fees that are currently kept by DOS; however, DOS would not require these funds to facilitate the visa process as that would be moved to DHS. DOS's Diplomatic Security Service (DS) is currently responsible for investigating visa and passport fraud. DS shares the responsibility of investigating visa fraud with DHS's U.S. Immigration and Customs Enforcement (ICE) and the Department of Labor's (DOL) Office of the Inspector General (OIG). The mission of DS is to protect DOS personnel and missions and uphold the integrity of U.S. visa and passport travel documents (DOS, 2006). ICE could easily become the lead agency in visa fraud investigations as ICE is the largest investigative arm of DHS and already has attaches stationed at many U.S. embassies abroad. This would allow DS to focus more on the mission of protection, and it would prevent significant duplications of effort between the two agencies. This would require a significant transition period in order to ensure that the new office within DHS would be fully trained and prepared to assume these responsibilities. The institutional knowledge of DOS regarding the issuing of visas would need to be fully exploited before any formal change in responsibility could occur. This transition period would, however, be temporary, and it would be offset with the increase in security and continuity in both the visa and immigration processes.

#### **E. DHS CHANGES**

DHS would also need to undergo significant changes to implement this strategy. These changes could be potentially greater than the changes required by DOS. DOS and

DHS would have to work together to implement a training program to teach DHS employees the skill sets required along with the specifics of the duty. The largest change would be creating a new office within an existing DHS agency. ICE is the principle investigating arm of DHS. ICE already has a significant footprint in Department of State embassies and investigates crimes involving visa fraud. ICE is currently responsible for the Visa Security Program (VSP). ICE assigns special agents to diplomatic posts worldwide to conduct visa security activities, such as examining visa applications in depth, initiating investigations, coordinating with other law enforcement entities, and providing training and advice to DOS personnel (ICE, 2010). This program could easily be expanded to include agents whose function would be to issue visas. Analysis of ICE's *Strategic Plan for 2010–2014* reveals a focus on visa security and preventing dangerous individuals from entering the U.S. (ICE, 2010)

According to the *Plan*, ICE's primary mission is to protect national security, public safety, and the integrity of the U.S. borders through the criminal and civil enforcement of federal law governing border control, customs, trade and immigration (ICE, 2010). ICE's first priority is to prevent terrorism and enhance security. Directly under that priority is preventing terrorist entry into the U.S. ICE seeks to expand its efforts to identify and prevent the entry of terrorists or their associates into the United States. ICE will do this in two ways. First, ICE will expand its VSP to those U.S. Embassies and Consulates identified by the DOS and DHS as having the highest risk from a terrorism perspective. Second, ICE will strive to use its broad criminal authorities to investigate, disrupt and dismantle criminal activities that facilitate terrorist travel to, financing in, or employment in the United States. These include a variety of criminal activities, such as alien smuggling with a terrorism nexus; international passport, visa and identity fraud; illicit financing schemes designed to support terrorists or their associates; and employment authorization fraud at sensitive government, transportation and industrial facilities in the United States (ICE Strategic Plan, 2010). The specificity of mission focus outlined in this Plan as it pertains to visa security lays a strong foundation



to assuming complete responsibility for the visa issuing process. The fact that ICE is already seeking to expand the VSP could also make a transition of responsibility more viable.

## **F. STAKEHOLDERS**

DHS and DOS are not the only stakeholders in the visa issuing function. Others who have an interest in the way visas are issued include the U.S. Congress, special interest groups, which include civil liberties unions, college presidents across the U.S., migrants, visitors, and foreign business persons. The U.S. Congress is responsible for oversight and funding of departmental programs. There are multiple congressional committees that are responsible for national security oversight. These subcommittees must be fully informed and engaged in any potential changes within the visa issuing system. Special interest groups such as civil liberties unions must be engaged to ensure that they understand how this strategy will not add new security requirements but will instead streamline existing security procedures. College presidents have a huge stake in international students receiving visas to study in the United States. They should participate in working groups so that their concerns are appreciated and in order to better understand how improved security procedures in the visa process could make their campuses safer. The private sector will also benefit from improved security procedures in the visa process by receiving guest workers that have undergone a more efficient vetting process. A significant outreach to each of these stakeholders would be necessary in order to create a “mega community” that could work together towards achieving this goal. A mega community is defined as a collaborative socioeconomic environment in which business, government, and civil society interact according to their common interests, while maintaining their unique priorities (Gerencser et al., 2008).

All of the various stakeholders must be reached in an effort to mitigate potential roadblocks to implementing this strategy and invited to provide input in the creation of the plan. This can be accomplished by informing and involving the various stakeholders early on in the process. Congressional approval is necessary to attain required funding and legislation for this to be effective. Civil liberty groups and other special interest

groups must be assured that this will enhance security merely by streamlining a process that is already in place, and not by creating new requirements and additional scrutiny. Visitors and foreign business persons also must be reached to help them understand that this will make the process both more efficient and more secure.

**G. CONCLUSION**

To both summarize and focus the strategy, an Eliminate-Reduce-Raise-Create (ER2C) Grid (Table 2) has been filled that can be easily be understood by policy makers at all levels (Kim & Mauborgne, 2005). This strategy seeks to shift responsibility of the visa issuing function from a system that potentially creates a security vulnerability and communication seam to a more streamlined and efficient system. It seeks to raise the level of security in the visa issuing process and efficiency in the overall immigration process. The strategy aims to reduce vulnerabilities to fraud, and the likelihood of dangerous persons entering the U.S. Lastly, the strategy strives to create a seamless immigration process from start to finish through consolidation and the opportunity for DOS to focus exclusively on diplomacy. Table 2 shows the Eliminate-Reduce-Raise-Create Grid for this strategy.

Table 2. ER2C Grid

<p><u>Eliminate</u></p> <ul style="list-style-type: none"> <li>-Diplomacy at the operational level</li> <li>-Need for operational level collaboration and communication</li> </ul>	<p><u>Raise</u></p> <ul style="list-style-type: none"> <li>-Level of security in the visa process</li> <li>-Efficiency of the immigration process</li> </ul>
<p><u>Reduce</u></p> <ul style="list-style-type: none"> <li>-Visa fraud vulnerabilities</li> <li>-Likelihood of dangerous persons entering the U.S.</li> </ul>	<p><u>Create</u></p> <ul style="list-style-type: none"> <li>-Seamless immigration process from start to finish</li> <li>-Consolidate immigration process</li> <li>-Opportunity for DOS to focus exclusively on diplomacy</li> </ul>

The visa system in the United States is currently fractured between two governmental departments. This creates extra requirements in terms of interdepartmental collaboration and communication as well as duplications of effort in the security and diplomacy arena. Creating a seamless process for foreign nationals to enter the United States will increase both efficiency and security that will benefit national security as well as international commerce. Refining the visa process will require significant reorganizations within DHS and DOS, but it will allow them to focus exclusively on their respective missions. Nonetheless, for this strategy to be possible, stakeholders must be engaged to fully understand the benefits of such a strategy. This strategy could also solve the problems of information sharing, interdepartmental collaboration, and competing missions and resources. A seamless process that takes in to consideration aspects of the proposal offered in this thesis emphasizing a more efficient and secure system visa issuance system may result in a more secure United States.

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## LIST OF REFERENCES

- Bureau of Diplomatic Security United States Department of State. (2006). *Visa and Passport Security Strategic Plan*. Washington, DC: author.
- Carafano, J. J. (2006). Strengthening Visa Management [Executive Memorandum]. Washington, DC: Heritage Foundation.
- Carafano, J. & Nguyen, H. (2003). *Coordinate visa security: Homeland security needs authority to keep nation safe*. Washington, DC: Heritage Foundation.
- Executive Office of Immigration Review, U.S. Department of Justice. *EOIR Responsibilities*. Retrieved September 10, 2010, from <http://www.justice.gov/eoir/responsibilities.htm>
- Ford, J. T. *Testimony before the Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship: Border Security; New Policies and Increased Interagency Coordination Needed to Improve Visa Process*. (2003). Washington, DC: U.S. General Accounting Office.
- Gerencser, M., Van Lee, R., Napolitano, F. & Kelly, C. (2008). *Megacommunities: How leaders of government, business and non-profits can tackle today's global challenges together*. New York: Palgrave MacMillan.
- Harty, M. (2003). U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security and Citizenship, *Visa Issuance: Our First Line of Defense for Homeland Security*.
- Kim, W. C., & Mauborgne, R. (2005). *Blue Ocean Strategy; How to Create Uncontested Market Space and Make the Competition Irrelevant*. Boston, MA: Harvard Business School Publishing Corporation.
- National Commission on Terrorist Attacks upon the United States (9/11 Commission) (2004). *Final report of the National Commission on Terrorist Attacks upon the United States*. New York: W.W. Norton & Company Ltd.
- Office of the Inspector General, U.S. Department of State. (2002). *Review of nonimmigrant visa issuance policy and procedures*. Washington, DC: author.
- Tkacik, J. J. (2002, July 12). Why the Department of Homeland Security Should Control Visas. *The Heritage Foundation Backgrounder*.

- U.S. Department of Homeland Security. September 7, 2004. Fact Sheet: "An Overview of America's Security Since 9/11". Retrieved November 28, 2010, from [http://www.dhs.gov/xnews/releases/press\\_release\\_0505.shtm](http://www.dhs.gov/xnews/releases/press_release_0505.shtm)
- U.S. Department of Homeland Security. (2008) *One team, one mission, securing our homeland: U.S. Department of Homeland Security Strategic Plan Fiscal years 2008–2013*. Washington, DC: author.
- U.S. Immigration and Customs Enforcement. (2010). *ICE Strategic Plan FY 2010–2014*. Washington, DC: author unknown.
- U.S. Immigration and Customs Enforcement. (n.d.). *Visa Security Program*. Retrieved November 28, 2010, from [http://www.ice.gov/international-affairs/visa\\_security.htm](http://www.ice.gov/international-affairs/visa_security.htm) on 10/18/2010
- U.S. Department of State. (2006). *Visa and Passport Security Strategic Plan*. Washington, DC: author.
- U.S. Department of State & U.S. Agency for International Development. (2007). *Transformational Diplomacy Strategic Plan Fiscal Years 2007–2012*. Washington, DC: author.
- U.S. Department of State. (n.d.). *Temporary Visitors to the U.S.* Retrieved November 28, 2010, from [http://www.travel.state.gov/visa/temp/temp\\_1305.html](http://www.travel.state.gov/visa/temp/temp_1305.html) on 11/28/2010
- Verdery Jr., C. S. Jr. (2003). U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on International Operations and Terrorism. *The Post 9/11 Visa Reforms and New Technology: Achieving the Necessary Security Improvements in a Global Environment*.
- Wasem, R. E. (2004). *Visa policy: Roles of the Departments of State and Homeland Security*. Washington, DC: Congressional Research Service.
- Yale-Loer, S., Papademetriou, D. G., & Cooper, B. (2005). *Secure borders, open doors: Visa procedures in the post-September 11 Era*. Washington, DC: Migration Policy Institute.

## APPENDIX GLOSSARY OF DATABASES

The information in this appendix was gathered from *Secure Borders Open Doors: Visa Procedures in the Post September 11 Era* by Yale-Loehr, Papademetriou, and Cooper, 2005.

Automated Biometric Identification System (IDENT). A DHS database that holds files containing fingerprints and photographs of travelers who have been returned to their home country after the border inspection process.

Consular Consolidated Database (CCD). Visa applicant information including visa applications, photographs, and other information regarding visas. This system is maintained by DOS.

Consular Lookout and Support System (CLASS). A DOS name checking database that also contains names of known and suspected terrorists.

Integrated Automated Fingerprint Identification System (IAFIS). An FBI database that allows electronic searches of the agencies master criminal database.

Interagency Border Inspection System (IBIS). Combines database information from multiple immigration and customs related databases.

National Crime Information System (NCIC). An FBI computerized index of criminal justice related information.

National Security Entry and Exit Registration System (NSEERS). A registration system that requires individuals of certain countries be photographed, fingerprinted, and interviewed.

Student and Exchange Visitor Information System (SEVIS). An internet based system designed to track individuals in the U.S. with certain types of student/exchange visas.

US-VISIT. A DHS border security program that incorporates the tracking of biometric indicators to foreign visitors.





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