



U.S. Customs and  
Border Protection

DEC - 6 2005

OFO:ARMC: MH

Ms. Christina DeConcini, Esq.  
Director of Policy  
National Immigration Forum  
50 F Street, NW Suite 300  
Washington, DC 20001

Dear Ms. DeConcini:

Thank you for the minutes you provided of the August 11, 2005 Enforcement Working Group meeting. Your notes are consistent with those made by the CBP participants.

I noted a number of items reflected that additional information would be provided. I'd like to take this opportunity to provide a status report on those items:

- ADC has received several complaints concerning the treatment of US-based Arab-American commercial pilots by CBP officers at international airports of entry. Veteran pilots returning to the US after piloting US commercial airline flights from overseas are allegedly being scrutinized for non-routine questioning by CBP officers as they enter the US with their crew (most complaints indicate that the pilots are being selected without any other crew members for this questioning). No reasons for the questioning are provided to the pilots. *ADC requests that CBP address this matter to ensure compliance with all applicable DHS policies.* (Kareem Shora, ADC)

**Response:** CBP Officers use many diverse factors to refer individuals for examinations. Although CBP does use information from various systems and specific techniques for selecting passengers for targeted examinations, a component of our risk management practice is the use of completely random referrals for examination on a percentage of travelers. It is not our intent to subject the traveling public to unwarranted scrutiny. The traveling public is entitled to, and should be accorded, the utmost courtesy and facilitation that we can offer within the limits of our enforcement responsibilities. Again, our officers use many different enforcement tools, along with other enforcement criteria, as aides in determining which travelers may warrant more than normal scrutiny and we must rely on those tools and the judgment and discretion of our individual CBP officers as to the extent of examination necessary.

- *Does CBP know whether DHS has plans to terminate NSEERS?* (Kareem Shora, ADC) There are numerous residual problems including the use of information obtained from the domestic call in phase of the program being

mixed in with information gathered at port of entry under NSEERS and US Visit.

**Response:** DHS does not plan to terminate or discontinue NSEERS. Re: the mixing of the domestic call with the port of entry database, CBP responded by saying they will get back to us on this issue. We hope to receive a response to this inquiry soon.

**Response:** CBP continues to discuss the NSEERS process with officials at the department level. At this point, NSEERS registration procedures will continue in effect. CBP will inform the Enforcement Working Group, and all other interested parties, should there be a change to the NSEERS process.

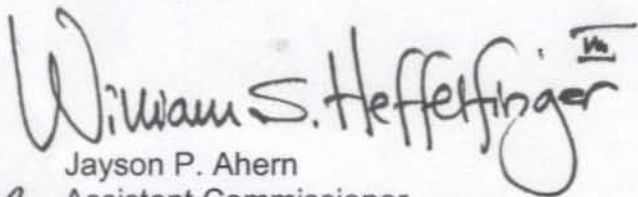
- Recently some of us met with Nuala O'Connor Kelly, Chief Privacy Officer of DHS to discuss the problematic issue of people not knowing where they should file FOIA request seeking information from CBP (or ICE or USCIS). She informed us of a new policy being put in place, which will require all FOIA requests to be filed with USCIS. *Are you aware of this new policy? What are CBP's plans for implementing it and what will you do with FOIA request which are currently pending with CBP?* (Christina DeConcini, National Immigration Forum).

**Response:** The memo in question is still under discussion. CBP does not know what they will do with pending FOIAs once the new policy is in fact in place.

**Response:** The agreement between CBP and CIS on all Border Patrol FOIAs and OFO's immigration related FOIAs pertaining to TECS responsive records is still pending. Once an agreement has been finalized, CBP will provide the working group with information regarding procedures to be followed.

Inasmuch as some of these issues remain under active consideration within DHS, as noted by our supplemental responses, I will have my staff continue to follow the issues and advise you should there be any changes. If you have any questions, please refer them to Michael Hrinyak, 202 344 2344.

Sincerely,



Jayson P. Ahern  
Assistant Commissioner  
Office of Field Operations

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