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# CONGRESSIONAL TESTIMONY

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**Hearing** on “Restoring Integrity and Security to the Visa Process”

**Testimony Before**  
Committee on the Judiciary

Subcommittee on Immigration Integrity, Security, and Enforcement

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Chairman McClintock, Ranking Member Jayapal, and Members of the Committee, my name is Simon Hankinson. I am a Senior Research Fellow at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

## **Introduction**

From 1999 – 2022 I was a Foreign Service officer with the Department of State, serving at U.S. diplomatic missions in seven countries on four continents. For much of that time, I adjudicated visa cases as a consular officer or supervised others who did. I and my staff conducted interviews, investigated fraud, worked with host country law enforcement, and cooperated with other U.S. agencies to enforce immigration laws of the United States. The mission was clear: facilitate lawful visits, commerce, and immigration while excluding those aliens who were inadmissible under our laws for a variety of reasons. In the quarter century since I did my first visa interview, the way we interview and screen applicants and process their visas has changed considerably. However, the three major vulnerabilities have not changed: these are fraud, overstays, and applicant vetting.

## **Illegal Immigration via Border and Visas**

According to law, aliens arriving by land or air should not be admitted into the United States by Customs and Border Protection without a valid visa issued by a U.S. consular officer overseas. If an alien is caught entering illegally, he should be detained until any immigration process he instigates (usually an asylum claim) has been completed and he is either given the right to remain or returned to his country of origin or other safe third country. But during the Biden administration, the U.S. had

close to a *de facto* open border. Biden replaced the traditional border control model of deterrence, detention, and deportation of illegal crossers with efforts to “significantly expand lawful pathways for protection, and facilitate the safe, orderly, and humane processing of migrants.”<sup>1</sup> Biden’s Department of Homeland Security (DHS) allowed aliens in the millions to enter and then released them ostensibly to apply for asylum protection thereafter. DHS reported over 150,000 people nearly every month attempting to enter the U.S. illegally from January 2021 until January 2025.<sup>2</sup> December 2023 set the monthly record for the highest number of illegal aliens encountered at the border in U.S. history, with 370,883 encounters of inadmissible aliens.<sup>3</sup> In addition, the Biden Administration redirected tens of thousands of illegal aliens whom the Border Patrol would have “encountered”—that is, administratively arrested—crossing between ports of entry by inventing and expanding programs to allow over 1.5 million inadmissible aliens to enter the United States using mass, class-wide immigration parole.<sup>4</sup>

The Biden Administration claimed that mass release of illegal aliens at the border and invented “lawful pathways” using parole were necessary “unless Congress comes together in a bipartisan way to address our broken immigration and asylum system.”<sup>5</sup> However, the almost immediate reduction of illegal aliens entering the U.S. by more than 90% under the second Trump Administration belies this claim. As of June 2025, the United States border with Mexico is more under control than at any time since the 1960s. The U.S. Border Patrol caught only 8,725 aliens attempting to enter the U.S. illegally at the southern border in May 2025, a reduction of 93% from May 2024, when 117,905 were caught at the southern border.<sup>6</sup> In May 2024, almost 250,000 total illegal aliens encountered when adding in those paroled and released.<sup>7</sup>

President Trump ended all of Biden’s categorical parole programs, and the border is much more secure. However, every year hundreds of thousands of aliens still enter legally on visas, or under the Visa Waiver Program, and later become illegally present by overstaying their visas or violating our laws. This is a phenomenon unrelated to border security and requiring different methods to control.

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<sup>1</sup> Department of Homeland Security, “Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration,” April 27, 2024, <https://www.dhs.gov/news/2023/04/27/fact-sheet-us-government-announces-sweeping-new-actions-manage-regional-migration>.

<sup>2</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, “Nationwide Encounters,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters>, (accessed May 10, 2024).

<sup>3</sup> Ibid.

<sup>4</sup> U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Processes for Cubans, Haitians, Nicaraguans, and Venezuelans,” last reviewed/updated September 20, 2023, <https://www.uscis.gov/CHNV> (accessed October 16, 2023).

<sup>5</sup> Press release, “Border Encounters Remain Low as Biden-Harris Administration’s Comprehensive Plan to Manage the Border After Title 42 in Effect,” U.S. Department of Homeland Security, June 6, 2023, <https://www.dhs.gov/news/2023/06/06/border-encounters-remain-low-biden-harris-administrations-comprehensive-plan-manage#:~:text=Until%20and%20unless%20Congress%20comes,in%20migration%20at%20our%20border> (accessed October 16, 2023).

<sup>6</sup> Jennie Taer, “Border agents didn’t release a single illegal migrant into the US last month — down from 62K under Biden,” New York Post, June 17, 2025, <https://nypost.com/2025/06/17/us-news/border-agents-didnt-release-a-single-illegal-migrant-into-the-us-last-month-border-patrol/> (last accessed June 20, 2025).

<sup>7</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, “Nationwide Encounters,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters>, (accessed May 10, 2024).

## Visa Security: Areas of Concern

The three main areas of concern when it comes to visas are fraud, overstays, and vetting.

### I. Visa Fraud

Like crime, visa fraud is endemic and will never go away. But with enough time and the right tools, it can be reduced to acceptable levels. Fraud is not exclusive to undeveloped countries, though it is far more common in poor, corrupt, or badly governed states. Every consular officer has fraud stories, and all of us have been fooled more than once. Even the most experienced and tough officer makes mistakes. In my consular assignments, I was lied to many times a day, about every aspect of applicants' cases including their age, name, identity, occupation, marital status, purpose of travel, wealth, income, relatives in the U.S., and intent to return home.

Visas are the purview of the Department of State's Bureau of Consular Affairs (CA). Foreign Service Officers (FSOs) in U.S. embassies and consulates overseas are responsible for interviewing foreign applicants for non-immigrant (temporary) and immigrant (permanent) visas and issuing visas to those aliens who are qualified under the Immigration and Nationality Act (INA). The INA contains many ineligibilities, or reasons why a given applicant is barred from receiving a U.S. visa.<sup>8</sup>

### Pressure to Issue Visas – Speed Over Security

Embassy workloads are large, and backlogs for interviews can stretch into months or even years.<sup>9</sup> The Covid-19 worldwide pandemic shut down routine visa processing entirely for many months, resulting in backlogs of several years. There is often pressure, whether overt or subtle, from embassy managers, Washington, and lobbying interests to achieve speed over security.<sup>10</sup> Visa interviews are usually completed in a matter of a few minutes. The Foreign Affairs Manual, which guides Foreign Service officers in nearly every aspect of their professional lives, states that “the determination of an NIV applicant's classification and eligibility for a visa is your statutory responsibility and may not be delegated to any other officer...or to a member of the clerical staff.”<sup>11</sup> Nonetheless, such informal “pre-screening” by local staff to save time has been implemented against the rules from time to time at some posts. Officers who rightly resist pressure to cut processing time, issue marginal cases, or refuse to carry out unsafe or even unlawful local practices do so at risk to their careers. Foreign Service officers put high value on their annual performance reviews, called EERs. A low, or even slightly less effusive EER can seriously harm an officer's chances for promotion. Although officers can appeal, or “grieve” a poor EER, the process can drag on for years.

### Refusing Visas

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<sup>8</sup> Some, but not all, of these ineligibilities can be waived by U.S. Citizenship and Immigration Services (USCIS) on application.

<sup>9</sup> U.S. Department of State, “Worldwide Visa Operations: Update,” <https://travel.state.gov/content/travel/en/News/visas-news/worldwide-visa-operations-update.html> (last accessed June 20, 2025).

<sup>10</sup> American Immigration Lawyers Association, “Reopening America's Doors to Immigration Requires Addressing the Visa Backlog,” April 12, 2022, <https://www.aila.org/blog/reopening-americas-doors-to-immigration-requires-addressing-the-visa-backlog/>

<sup>11</sup> U.S. Department of State, Foreign Affairs Manual, 9 FAM 403.10-2

Immigrant visas (IVs) can be refused for a variety of reasons. Most often, they are refused under INA s.221(g) because the applicant is not “documentarily qualified,” meaning not all the required application documents are present and verified. The majority of IV applicants overcome, or successfully apply for waivers for, all but the most serious ineligibilities. For non-immigrant visas (NIVs), most denials are made using INA section 214(b), which says that “every alien [subject to some exceptions] ...shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer ... that he is entitled to nonimmigrant status.” The decision to issue or deny under 214(b) is a non-reviewable decision made by a consular officer. At some posts, this discretionary power gives officers the ability to reject, in relatively little time, large numbers of applicants per day who are obvious intending immigrants, or whose purpose of travel or *bona fides* are not credible. Some visa classes such as H1Bs and L1s, and all immigrant visas, are not subject to 214(b). These can be refused for various other reasons, including fraud, but this is time-consuming.

### **Fraud in Afghan Special Immigrant Visas**

Volumes could be filled with examples of visa fraud, from one-off cases, to organized rings. One example from recent history reveals some of the risks of visa fraud. In June 2025, Secretary of State Rubio informed Congress that the State Department will close the office of the Coordinator for Afghan Relocation Efforts (CARE). From the U.S. withdrawal from Afghanistan in 2021 until the end of the Biden presidency, CARE spent around \$5 billion ostensibly to “assist Afghans who cooperated with the US mission in that country.”<sup>12</sup> CARE brought to America more than 200,000 Afghans under the Special Immigrant Visa program, which is normally used for embassy local staff who had served with distinction for entire careers, and the U.S. Refugee Admissions Program.

According to several whistleblowers and others familiar with Afghan case work, CARE permitted the entry of thousands of Afghans with no legitimate experience working for the United States, nor any credible fear of the Taliban regime that would qualify them for asylum or refugee status. Case workers and whistleblowers have identified systematic fraud in the program, including forged recommendation letters from U.S. officials and military officers and fraud or forgery in identity and personal documents. In addition, they allege, CARE employed contractors, many of them from Afghanistan, with insufficient vetting and oversight. Some contractors reportedly facilitated the approval of cases for family and other reasons rather than connection to the U.S. effort in Afghanistan. U.S. State Department consular officers reportedly “overcame” significant “hits,” or records in the U.S. consular database indicating criminal, terrorist, or Taliban ties, in various cases, allowing these cases to proceed despite not confirming whether or not the “hits” were indicative of national security threats.

Many Afghans who have been granted refugee or asylee status under CARE have since returned to Afghanistan to visit, which belies their claims of fearing the Taliban. Because the U.S. has no credible background checks, we have surely admitted through CARE countless individuals with criminal histories, and a few with Taliban connections. Here are a few examples of disturbing conduct by Afghan refugee/asylees in the past year:

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<sup>12</sup> Phillip Linderman, “Afghan refugee office is a corrupt failure — Trump is right to shut it down,” New York Post, June 10, 2025, [https://nypost.com/2025/06/10/opinion/afghan-refugee-office-a-corrupt-failure-best-to-shutter-it/?utm\\_campaign=iphone\\_nyp&utm\\_source=mail\\_app](https://nypost.com/2025/06/10/opinion/afghan-refugee-office-a-corrupt-failure-best-to-shutter-it/?utm_campaign=iphone_nyp&utm_source=mail_app) (last accessed June 23, 2025).

In November 2024, two Afghans plotted to kill Americans at polling stations in Oklahoma City on Election Day. In June 2025, one of them, Nasir Ahmad Tawhedi, pleaded guilty in federal court to conspiring and attempting to provide material support and resources to ISIS.<sup>13</sup>

In April 2025, Afghan Jamal Wali was pulled over by Fairfax, Virginia, police officers for speeding. After an unhinged, anti-American, and ungrateful rant, Wali was shot by police after he drew a gun on them.<sup>14</sup>

In May 2025, Afghan Dilbar Gul Dilbar was arrested and charged with visa fraud, after his application for an SIV was found to have a counterfeit Chief of Mission approval form from the U.S. ambassador in Kabul, a fraudulent letter of employment, and a fraudulent Letter of Recommendation. Despite fraud at the basis of his entire case, Dilbar's application was approved on March 20, 2024, he was allowed into the U.S. on April 4, and he was issued a Legal Permanent Resident card ("green card") the following July. Anyone who has served five minutes as a consular officer will be highly skeptical that Dilbar's case is unique.<sup>15</sup>

It is probable, as some American activists claim, that there remain some Afghans in Afghanistan who have legitimate claims to asylum after both providing loyal service to the United States and due to current fear of the Taliban. But in their stead, we have likely imported thousands of others with no such valid claims. In light of the extensive fraud in the CARE program, all SIV and USRAP programs specific to Afghans should be reviewed by the State Department's and Department of Homeland Security's Inspector General for fraud concerns. In the meantime, applications by Afghans for asylum or refugee status; permanent residency, and U.S. citizenship should be suspended pending this review.

### **Fraud Prevention Units**

Where fraud is apparent in a case that would otherwise be issuable, officers can refer the case to the post's Fraud Prevention Unit (FPU) for further investigation. These units are small, with one part-time officer assigned in a small post and only a few even in very large posts. FPUs do not have time to look into every case, nor to look in depth at more than a few cases per day. In embassies with workloads of hundreds or even thousands of applications per day, FPUs are unable to look at more than a small sample. Consular officers rotate in and out of FPU duties, and it is never a career-long specialty for FSOs.

FPUs are supported and trained by CA's Office of Fraud Prevention Programs in Washington, which has professional staff permanently dedicated to fraud prevention and coordinates with Diplomatic

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<sup>13</sup> U.S. Department of Justice, Press Release, "Afghan National Pleads Guilty to Plotting Election Day Terror Attack in the United States," June 13, 2025, <https://www.justice.gov/opa/pr/afghan-national-pleads-guilty-plotting-election-day-terror-attack-united-states> (last accessed June 23, 2025).

<sup>14</sup> Shane Galvin, "Driver exclaims 'I should have served with f-king Taliban' moments before fatal traffic-stop shootout with police: bodycam footage," New York Post, May 25, 2025, <https://nypost.com/2025/05/25/us-news/virginia-police-shooting-driver-jamal-wali-declared-he-should-have-served-with-the-taliban-before-fatal-traffic-stop-shootout/> (last accessed June 23, 2025).

<sup>15</sup> U.S. Department of Justice, Press Release, "Afghan citizen charged with visa fraud," May 1, 2025, <https://www.justice.gov/usao-wdny/pr/afghan-citizen-charged-visa-fraud> (last accessed June 23, 2025).

Security agents assigned as Assistant Regional Security Officer/Investigations (ARSO/I) within consular sections.

## **Fraud Prevention Technology**

The advent of Artificial Intelligence technology promises to yield benefits for fraud prevention. AI can look through volumes of data and find patterns that would evade human inspection. AI will be able to verify and fact-check at a much greater speed than officers. In addition, some of the routine work of an FPU could be outsourced to remote workers inside the U.S. at a greatly lower cost than assigning a full-time FSO abroad. Advancing technology should permit consular managers, given enough resources, to carry out the additional screening of social media accounts reportedly ordered by Secretary of State Rubio, and any additional future requirements.<sup>16</sup> Still, efficiency and speed of processing – which benefit visa applicants and their U.S. sponsors – must always be balanced by national security concerns, which must come first.

There will always be risk in issuing visas. With advances in fraud prevention, there are advances in fraud techniques. The cat-and-mouse game between malafide visa applicants and alien smugglers on the one hand, and the State and Homeland Security Departments on the other, can never be won entirely.

## **II. Visa Overstays**

Data on the entry and exit of foreign nationals is not complete, comprehensive, or always accurate. We still do not have a system that records the exit (or not) of every alien who arrives in the U.S. Overstay percentages reported by DHS are very likely to be low estimates. According to DHS reports, between fiscal years 2020 and 2023, over 1.5 million aliens overstayed their visas.<sup>17</sup> According to the DHS Fiscal Year 2023 report, the latest data available:

...there were 39,005,712 in-scope nonimmigrant admissions to the United States through air or sea POEs [ports of entry] with expected departures occurring in FY 2023, which represents the majority of air and sea annual nonimmigrant admissions. Of this number, CBP calculated a total overstay rate of 1.45 percent, or 565,155 overstay events. In other words, 98.55 percent of the in-scope nonimmigrant visitors departed the United States on-time and in accordance with the terms of their admission.<sup>18</sup>

Countries with very low overstay rates are often in the Visa Waiver Program (VWP), where their citizens can enter the U.S. without a visa for periods of 90 days or less using an online form. For

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<sup>16</sup> Kat Lonsdorf, "U.S. will review social media for foreign student visa applications," NPR, June 19, 2025, <https://www.npr.org/2025/06/19/g-s1-73572/us-resumes-visas-foreign-students-access-social-media> (last accessed June 20, 2025).

<sup>17</sup> Adam Sabes, "Colorado terror attack exposes 'national security threat' posed by immigrant visa overstays: former FBI agent," Fox News, June 16, 2025, <https://www.foxnews.com/us/colorado-terror-attack-exposes-national-security-threat-posed-immigrant-visa-overstays-former-fbi-agent> (last accessed June 20, 2025).

<sup>18</sup> U.S. Department of Homeland Security, "Entry/Exit Overstay Report," Fiscal Year 2023 Report to Congress, August 5, 2024, [https://www.dhs.gov/sites/default/files/2024-10/24\\_1011\\_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf](https://www.dhs.gov/sites/default/files/2024-10/24_1011_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf)



VWP countries, the FY 2023, Suspected In-Country Overstay rate was 0.62 percent of the 16,146,989 expected departures.<sup>19</sup>

For countries whose citizens require a visa to visit the United States, visa overstay rates vary dramatically by country. For non-VWP countries, the FY 2023, Suspected In-Country Overstay rate was 3.2 percent of the 9,810,543 expected departures.<sup>20</sup>

Within that overall figure, overstay rates varied slightly between classes of visa; students overstayed visas at a rate of 3.67%, while other classes of visa overstayed at a rate of 2.99%.<sup>21</sup> Overstay rates varied enormously between country of origin: while only 1% of Panamanian visa holder overstayed, for many countries the percentage of overstayers exceeds 10%. African countries are particularly bad in this regard, with many countries over 10%, Congo and Eritrea at over 20% overstay rate, and Chad at nearly 50%. Laos had a 30% overstay rate and Yemen nearly 20%. Given that consular officers are supposed to refuse visa applicants who do not demonstrate a clear intent to return to their home countries, such levels of overstay indicate either very poor decision-making by line officers, weak management controls, or a deliberate policy to issue visas regardless of risk. Visa refusal rates in every country should logically be linked to the rate at which nationals of that country overstay their visas, with refusals rising as overstays increase. Countries where the overstay rate is unacceptable should issue few visas at all, limited to diplomats and a limited number of low-risk travelers, students, and businesspeople. However, that does not happen, mainly due to political considerations.

### **Asylum Claims by Overstayers**

Some aliens who overstay their visas claim asylum to delay or prevent their being deported. Though some claims are found to have merit, the majority fail, as the claimants seek to remain for economic or family reasons and have no basis for a valid asylum claim. DHS lifecycle enforcement reports show that though “most people processed for expedited removal...will likely establish credible fear and remain in the United States for the foreseeable future...many of them will not ultimately be granted asylum.”<sup>22</sup> But there is no annual cap on asylum claims, no fee for the process, and applicants are able to get work authorization six months after they apply. All this encourages many aliens to submit fraudulent asylum claims because it allows them to remain in the U.S. and work for many years. A March 2025 Heritage Special Report, that I co-authored, concluded that “the U.S. refugee and asylum processes no longer serve the national interest and must be redesigned to preserve a credible refugee system while removing the possibility of gaming it to immigrate for other purposes.”<sup>23</sup>

### **Crime by Visa Overstayers**

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<sup>19</sup> Ibid

<sup>20</sup> Ibid

<sup>21</sup> Ibid

<sup>22</sup> U.S. Department of Homeland Security, Notice of Proposed Rulemaking, “Circumvention of Legal Pathways,” *Federal Register*, Vol. 88, No. 36 (February 23, 2023), p. 11704,

<https://www.federalregister.gov/documents/2023/02/23/2023-03718/circumvention-of-lawful-pathways> (accessed March 18, 2025).

<sup>23</sup> Simon Hankinson and Lora Ries, Special Report, “The U.S. Must Redesign Asylum Law for 21st-Century Reality and Put America First,” The Heritage Foundation, March 31, 2025, <https://www.heritage.org/border-security/report/the-us-must-redesign-asylum-law-21st-century-reality-and-put-america-first>

Some aliens who overstay their visas commit crimes while in the United States. Others have links to foreign military or espionage agencies, terrorist connections, or criminal records in their home countries. Here are just a few cases from the past few years:

- JUN 2025 - Egyptian national Mohamed Sabry Soliman was arrested in Boulder, CO for reportedly firebombing people who were demonstrating for the release of hostages in Gaza. Soliman arrived in the United States in August 2022 on a B1/B2 (visitor) visa. He overstayed his period of admission, claimed asylum, and pending his claim received work authorization which ended in March 2025.<sup>24</sup>
- DEC 2024 – A Florida man shot two home intruders, killing Jorge Nestevan Flores-Toldeo from Mexico. The second intruder, Michel Soto-Mella from Chile, was arrested near the house and charged with armed burglary. Soto-Mella reportedly entered the US on a visa or under the VWP and overstayed.<sup>25</sup>
- OCT 2024 - ICE/ERO Houston deported Honduran Fredy Rufino Aguilar-Hernandez, who was wanted for murder in Honduras. He reportedly entered the U.S. at Atlanta airport in 2018 and overstayed his visa.<sup>26</sup>
- SEP 2024 – ICE/ERO arrested Brazilian Gean Do Amaral Belafronte, who was charged with sexual assault and battery. He apparently entered on a visa in 2018 and overstayed.<sup>27</sup>
- JUL 2024 - Victor Manuel Gomez-Acosta, a Mexican, was charged with homicide and DUI in Abbotsford, Wisconsin. He stabbed his wife and daughters to death. Gomez-Acosta entered the U.S. legally in September 2016 at Laredo, Texas and overstayed his admission period.<sup>28</sup>

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<sup>24</sup> Adam Sabes, “Colorado terror attack exposes ‘national security threat’ posed by immigrant visa overstays: former FBI agent,” Fox News, June 16, 2025, <https://www.foxnews.com/us/colorado-terror-attack-exposes-national-security-threat-posed-immigrant-visa-overstays-former-fbi-agent>

<sup>25</sup> Shane Galvin, “Florida homeowner shoots and kills one intruder, injures another: sheriff’s office,” New York Post, December 28, 2024, [https://nypost.com/2024/12/28/us-news/florida-homeowner-shoots-two-intruders-kills-one-sheriffs-office/?utm\\_campaign=iphone\\_nyp&utm\\_source=com.microsoft.Office.Outlook.compose-shareextension](https://nypost.com/2024/12/28/us-news/florida-homeowner-shoots-two-intruders-kills-one-sheriffs-office/?utm_campaign=iphone_nyp&utm_source=com.microsoft.Office.Outlook.compose-shareextension) (last accessed June 20, 2025).

<sup>26</sup> “ERO Houston removes Honduran fugitive wanted for murder,” October 25, 2024, [https://www.ice.gov/news/releases/ero-houston-removes-honduran-fugitive-wanted-murder?utm\\_medium=email&utm\\_source=govdelivery](https://www.ice.gov/news/releases/ero-houston-removes-honduran-fugitive-wanted-murder?utm_medium=email&utm_source=govdelivery)

<sup>27</sup> US Immigration and Customs Enforcement, Press Release, “ERO Boston arrests Brazilian national charged with sex crimes against Massachusetts resident,” September 17, 2024, <https://www.ice.gov/news/releases/ero-boston-arrests-brazilian-national-charged-sex-crimes-against-massachusetts>

<sup>28</sup> Adam Shaw, “Mexican man charged with killing two children in Wisconsin is in US illegally,” Fox News, July 13, 2024, <https://www.foxnews.com/politics/mexican-man-charged-killing-two-children-wisconsin-us-illegally> (last accessed June 20, 2025).



- OCT 2023 - Billy Erney Buitrago-Bustos, a Colombian, was arrested by Great Barrington, MA police for allegedly raping a child by force. He was reportedly admitted on May 4, 2016 at New York’s JFK airport on a visa and overstayed.<sup>29</sup>
- JUL 2023 – Jun “Harry” Liang was arrested and charged with several federal offenses related to arranging bear hunting and prostitution for Chinese clients. Liang reportedly overstayed a visa which expired in 2016.<sup>30</sup>

### **III. “Vetting” in Consular Visa Operations**

Twenty-five years ago on the visa line in New Delhi, I would interview at least 150 visa applicants a day using paper forms and enter my decision into a computerized non-immigrant visa (NIV) system. With reference to the Immigration and Nationality Act (INA), my job was to decide whether each applicant qualified for a visa. After 9/11, the State Department used to tell adjudicating officers that “every visa decision is a national security decision.” If an applicant did not qualify under the law, we did not issue a visa. The most common reason for denial was under INA s.214(b), which in brief requires every alien to prove to the consular officer that he is going to the U.S. for the purpose stated, and that he has a home outside the U.S. to which he intended to return. There are also many reasons a person can be ineligible from getting a visa under the INA, mostly under s.212, including criminal offences, public health concerns, and previous immigration violations. This personal consular interview is the first line of “vetting” for foreign visa applicants.

The second line of vetting is through automatic checks of U.S. databases containing holdings from across government agencies. Names, dates of birth, and other facts are run through the Consular Lookout and Support System (CLASS) maintained by the State Department’s Bureau of Consular Affairs. This system pulls data from federal agencies that in turn have data from state and local law enforcement, such that if a foreigner has a criminal or other adverse history in the United States, they are likely to be flagged for further review before a visa is issued. Visa applicants must also provide photographs and all 10 fingerprints (if available). These are confirmed by embassy or consular staff and the interviewing consular officer and then run through facial recognition and fingerprint databases to see if there are any matches. All adverse results must be addressed by the interviewing or adjudicating consular officers before they make a decision.

It is quite common to find applicants with false names and dates of birth, even with legitimately issued foreign passports, because their claimed identities can be compared to bio-data databases. Fingerprints don’t change, and facial recognition is always improving. Applicants for immigrant visas are required to supply a criminal records clearance from their national police agency. For some countries these are credible documents, but in poor or corrupt countries they are unreliable at best. Applicants for nonimmigrant visas do not have to supply police clearances, they are simply required to attest on a signed form that they have no criminal record and no other ineligibility. Embassies and consulates have local and American staff trained in anti-fraud measures. Consular staff know local

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<sup>29</sup> US Immigration and Customs Enforcement, Press Release, “ERO Boston arrests Colombian national charged with rape of Massachusetts minor,” November 20, 2024, <https://www.ice.gov/news/releases/ero-boston-arrests-colombian-national-charged-rape-massachusetts-minor>

<sup>30</sup> Inside Edition, “Alleged Illegal Chinese Immigrant Hosted \$60K Bear Hunts With Option to Add Prostitutes: Authorities,” July 17, 2023, <https://www.insideedition.com/illegal-immigrant-chinese-bear-hunt-prostitutes>

languages, accents, customs, news, and other country-specific factors that can help prevent applicants from lying successfully in their visa applications. Larger embassies host various federal agencies, including elements of DHS and other federal law enforcement, who have local contacts with their counterparts through whom they can investigate cases of concern. However, catching a visa applicant with a criminal record is mostly a matter of luck, and it is certain that each year, thousands of visas are issued to aliens who would be found ineligible if their true case histories were known.

Vetting of cases in countries that are hostile to the United States, or of their nationals applying for visas in their home or other countries, can be subverted by both operational and political considerations. Ambassadors and Washington managers often exert pressure on consular managers at overseas posts to decrease interview backlogs, which means shorter interviews and less scrutiny for each case. Political considerations also influence the level of interest in visa fraud and cooperation between the State Department and other U.S. agencies. For example, under the Biden administration, the Department of Justice (DoJ) canceled a program to combat fraud from Chinese applicants connected to the Communist Party, military, and intelligence agencies. The DoJ's China initiative was cancelled in 2022, apparently on the grounds that it was racially biased,<sup>31</sup> and Biden's DoJ began dropping fraud charges<sup>32</sup> against alleged Chinese military personnel accused of falsifying visa applications.<sup>33</sup> The Biden Justice Department's National Security Division did not apparently prosecute any new China-related visa fraud cases between February 2021 and the November 2024 election, even though multiple visa fraud cases begun by the first Trump administration had resulted in convictions.<sup>34</sup>

## Conclusion

Given the attraction of a visa to the U.S. for nationals of some countries, fraud can never be eliminated, but it can be reduced using existing controls and further mitigated using advancing technology. Visa vetting should be enhanced using AI and all available tools. All countries where the U.S. issues visas should be required, over time, to provide a mechanism for the U.S. to automatically verify that their nationals do not have criminal records before they are issued visas. This is already mandatory for the VWP countries<sup>35</sup> and should be extended gradually to all other countries. Visa issuance rates should be tied to specific country overstay and fraud rates. Overstay

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<sup>31</sup> U.S. Department of Justice, Remarks by Assistant Attorney General Matthew Olsen on Countering Nation-State Threats, Wednesday, February 23, 2022, <https://www.justice.gov/opa/speech/assistant-attorney-general-matthew-olsen-delivers-remarks-countering-nation-state-threats>

<sup>32</sup> Jane Lee, "U.S. dials back probe of Chinese scientists on visa fraud charges," Reuters, July 23, 2021, <https://www.reuters.com/world/us/us-seeks-dismiss-charges-visa-fraud-cases-chinese-researchers-2021-07-23/>

<sup>33</sup> U.S. Department of Justice, Office of Public Affairs, Press Release, "Researchers Charged with Visa Fraud After Lying About Their Work for China's People's Liberation Army," Thursday, July 23, 2020, <https://www.justice.gov/opa/pr/researchers-charged-visa-fraud-after-lying-about-their-work-china-s-people-s-liberation-army>

<sup>34</sup> U.S. Department of Justice, Office of Public Affairs, Press Release, "Chinese Government Employee Convicted of Participating in Conspiracy to Defraud the United States and Fraudulently Obtain U.S. Visas," Wednesday, March 23, 2022, <https://www.justice.gov/opa/pr/chinese-government-employee-convicted-participating-conspiracy-defraud-united-states-and>

<sup>35</sup> US Government Accountability Office, "Visa Waiver Program: DHS Should Take Steps to Ensure Timeliness of Information Needed to Protect U.S. National Security," GAO-16-498, May 05, 2016, <https://www.gao.gov/products/gao-16-498>

rates of more than 5% should be cause for reducing processing speed and increasing scrutiny of each case, as well as raising the standard needed to overcome INA s.214(b). Countries that are unable to properly record, document, and verify the true identities of their nationals, and provide us with accurate, real-time, on-demand criminal records checks, should be given extremely limited access to U.S. visas.

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