



Kyl, Feinstein Urge DHS to Improve Security of the Visa Waiver Program
September 18, 2006

WASHINGTON, D.C. – U.S. Senators Jon Kyl (R-Ariz.) and Dianne Feinstein (D-Calif.), chairman and ranking member of the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security, today sent a letter to Homeland Security Secretary Michael Chertoff urging the Department of Homeland Security to improve security measures of the Visa Waiver Program in ways outlined by the Government Accountability Office.

“What’s clear is that DHS has to move as quickly as possible to add more security features to the Visa Waiver Program, which allows about 16 million people a year to enter the United States without first obtaining a visa,” said Kyl. “That means getting more information, faster, so that they can make informed decisions about clearing people to get on planes bound for the United States. Congress may need to alter the requirements of the program to ensure that Visa Waiver countries are giving DHS the data it needs to make those decisions.”

“Certifying the integrity of the Visa Waiver Program needs to be a top security priority for DHS,” said Feinstein. “As a recent GAO report revealed, however, lost and stolen passports from participating countries continue to provide terrorists easy access through our airports, ports, and border checkpoints. DHS needs to ensure that our front-line officers have access to security databases, like Interpol’s lost and stolen passport information, to be able to know if someone is trying to enter the country with a fraudulent travel document. The continued failure to implement fixes to these security gaps in a timely fashion is a risk we can no longer afford. The time to act is now.”

Kyl and Feinstein also cited concerns raised during a recent Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security hearing titled “Keeping Terrorists off the Plane,” at which GAO and DHS officials testified.

“We are troubled by some of the findings of the GAO report,” said Kyl and Feinstein in the letter. “DHS has not established time frames or operating procedures for countries to report the theft of blank travel documents...[it] lacks a system for participating countries to report when their nationals’ travel documents are lost or stolen...VWP countries are failing to ‘timely’ report lost and stolen passport data.”

Kyl and Feinstein noted additional security concerns in the letter, including problems with information-sharing between U.S. and European authorities, and urged DHS to remedy these problems based on recommendations from the GAO’s report issued on Sept. 5, 2006.

The full text of the letter is attached.

The Honorable Michael Chertoff
The Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Mr. Secretary:

On September 7, 2006, the Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security held a hearing titled 'Keeping Terrorists off the Plane.' Officials with the Department of Homeland Security (DHS) and the Government Accountability Office (GAO) testified before the Subcommittee. Among other things, the witnesses discussed the recent GAO report, 'Stronger Actions Needed to Assess and Mitigate Risks of the Visa Wavier Program (VWP).'

We are troubled by some of the findings of the GAO report. First, DHS has not established time frames or operating procedures for countries to report the theft of blank travel documents, even though the reporting requirements have been in the VWP since 2002. Second, although not currently mandated by the VWP, DHS lacks a system for participating countries to report when their nationals' issued travel documents are lost or stolen. Third, VWP countries are failing to "timely" report lost and stolen passport data, in part, because DHS has not issued reporting guidelines indicating how to report such data, to whom they should report, or what the term "timely" means. Mr. Paul Rosenzweig of DHS testified that the Department will issue standard operating procedures to remedy these problems, but that DHS will not make such changes until April 2007. We consider that date too far in the future, and urge you to effect such changes immediately.

Additionally, GAO indicated that Singapore, Sweden, Brunei, and San Marino (all VWP participants) do not customarily advise Interpol of lost and stolen travel documents issued to their nationals. We would like to know what steps, if any, DHS has taken to encourage or require those countries to share such data with Interpol. We would also like your opinion, at the earliest possible convenience, whether the reporting of lost and stolen travel documents to Interpol needs to be made a statutory requirement for participation in the VWP.

Further, DHS is not effectively using Interpol's database of lost and stolen travel documents because U.S. border inspectors lack access to that data at primary inspection points, where it could do the most good in stopping suspicious travelers. Mr. Rosenzweig testified that DHS is working to provide inspectors that capability, but that the improvement will not come on-line until the third quarter of 2007. We think that is taking too long, and urge you, as a matter of national security, to make the change as soon as possible.

Finally, while DHS examines the nonimmigrant visa refusal rate of nationals of a given country to determine eligibility for VWP participation, it appears that a far more significant metric—the overstay rate of that country's nationals—is not presently used to determine whether participation should be extended or terminated. We would like to know if DHS has the capacity to measure overstay rates of some or all nationals from VWP countries, and if not, why not. We would also like your opinion whether it is necessary for Congress to legislate a low-percentage

overstay rate as a condition of VWP participation.

Thank you for helping us to resolve these critical issues.