

Testimony of

The Honorable Asa Hutchinson

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Statement of Under Secretary Asa Hutchinson
Department of Homeland Security
Before the Senate Committee on the Judiciary,
Subcommittee on Immigration and Border Security
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Good afternoon, Chairman Chambliss, Ranking Member Kennedy and distinguished members of the Committee. I appreciate the opportunity to appear before you today and am pleased to announce that the Memorandum of Understanding (MOU) between the Department of State and the Department of Homeland Security (DHS) that will implement Section 428 of the Homeland Security Act (HSA) has been signed by Secretary Ridge and Secretary Powell. (A copy has been provided to your staff.) The MOU transfers the responsibility for visa policy and oversight to the Department of Homeland Security pursuant to the HSA.

When Congress created the Department of Homeland Security and specifically DHS's new role in the visa process, it charged the Secretary with responsibility for establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States. As the lead for DHS on section 428, I believe our role in the visa process is one of the most important missions of DHS and the Border and Transportation Security (BTS) Directorate.

The effectiveness of the new DHS role in visa security will rest in large part on how effective a partnership DHS can craft with the Department of State. I am pleased that Secretary Powell and Secretary Ridge have signed the MOU implementing section 428 of the Homeland Security Act and the President has submitted the report to Congress needed to implement this historic agreement. The MOU represents a truly significant and historic change in the visa process. By signing the MOU, both DHS and State have pledged to work cooperatively to create and maintain an effective, efficient visa process that secures America's borders from external threats while ensuring that our doors remain open to legitimate travel. The MOU has been the subject of many months of discussions between State and DHS, not only at the working level, but also through personal discussions I have had with my esteemed colleague, Assistant Secretary Maura Harty. I wish to thank Assistant Secretary Harty for her personal commitment and the commitment of the Department of State to working closely with us on the implementation of this agreement in the future.

The MOU affirms our commitment to work as partners with State in improving the security of our visa system. We view the visa process as the "forward-based defense" of the United States against terrorists and criminals who seek to enter the United States with the intention to do harm. Security in the visa process is three-fold: it requires sound visa policy, operational support

overseas and at home, and enhanced information-sharing and integration, so that those adjudicating or reviewing visa applications have all available tools and information to make a sound decision in any individual case.

In the area of policy, DHS will now establish most visa policy, have final approval over most Department of State initiated guidance, review implementation of visa policy, and ensure that homeland security requirements are fully reflected in the visa process. When we speak of visa policy, we refer not only to policy decisions that affect the visa process as a whole, but also visa guidance that may affect individual visa determinations. DHS visa guidance will include federal regulations, Foreign Affairs Manual provisions (including all interpretive and procedural notes), and State Department cables to diplomatic and consular posts.

In carrying out its responsibilities related to visa policy that protects homeland security, the Department of Homeland Security will respect the Secretary of State's role in leading and managing the consular corps and its functions, managing the visa process and executing the foreign policy of the United States.

The Office of International Enforcement (OIE), an independent office within my directorate, will oversee management and implementation of the visa MOU and manage the assignment of DHS personnel to consular posts. This new office reports directly to me and I have designated Renee J. Harris to be Acting Director of OIE. OIE will perform a variety of functions, including reviewing and implementing visa guidance in areas of interest to DHS, and will handle operational duties related to the section 428 process for BTS. I have also firmly committed to working with the Bureau of Citizenship and Immigration Services in developing visa policy.

A good working relationship with the Department of State on visa issues has been established, not only here in Washington, but also at the U.S. Embassy in Riyadh and Consulate in Jeddah. The law requires that DHS personnel be assigned to Saudi Arabia to review 100% of visa applications once the visa MOU becomes effective. DHS deployed a team to Saudi Arabia at the end of August to establish offices in Riyadh and Jeddah. The Saudi team has been working with their State Department colleagues to craft procedures and policies for the review of Saudi visa applications. DHS and State are developing protocols and standard operating procedures for review and referral of visa applications filed in Saudi Arabia and these protocols will be used as a model for procedures at future posts where DHS may be assigned. The Saudi team has already provided valuable assistance and expert advice to consular staff at Riyadh, confirming two fraud cases and providing training to consular officers on fingerprinting techniques and fraudulent documents.

Beyond Saudi Arabia, the law authorizes DHS to assign personnel to diplomatic and consular posts where visas are issued. We are in the process of reviewing the next phase of deployment and assignment of DHS personnel to selected consular posts. Overseas, DHS will be fully integrated into U.S. diplomatic missions and subject to the authority of the Chief of Mission in the same manner as other executive branch employees serving abroad. DHS officers assigned to visa issuing posts will perform certain functions, including providing expert advice and training to consular officers regarding specific security threats relating to adjudication of a visa application, reviewing visa applications (either on initiative of DHS or referral from consular

officer adjudicating application), and conducting investigations with respect to consular matters under the jurisdiction of DHS.

An effective visa system also requires information sharing on a number of levels. Within DHS, BTS, OIE, BCIS and the Information Analysis and Infrastructure Protection (IAIP) Directorate staff participate in the Visa Security Information Integration (VSII) working group that will support implementation of the MOU. The VSII specifically focuses on system and information integration needed to support the visa process. The DHS officer at a consular post must have access to any and all information on potential terrorists and individuals with criminal intentions towards the United States to perform their mission. This effort, of course, will be coordinated with the newly announced Terrorist Screening Center (TSC) and the Terrorist Threat Integration Center (TTIC). Within DHS, the IAIP Directorate, headed by Under Secretary Frank Libutti, is responsible for the DHS role in the TSC and TTIC.

DHS recognizes the importance of maintaining a visa process that allows legitimate travelers to continue to travel to the United States, whether for work, pleasure, or family reasons. However, DHS is aware that among the millions of visa applications filed annually, there will be cases that will not present clear cut answers and that will require further scrutiny and vetting. We remain committed to open, secure borders and will continue to balance these interests while ensuring that homeland security requirements receive the priority they deserve in the visa process. We look forward to working with other DHS components, our law enforcement partners, and the Department of State to ensure that collectively, we develop a visa system that provides the security that the American people expect and deserve.

Thank you for the invitation to testify today on this important issue, and I look forward to any questions you might have.