

AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA) OF THE WASHINGTON, D.C. AND PHILADELPHIA CHAPTERS LIAISON MEETING WITH UNITED STATES CUSTOMS AND BORDER PROTECTION (CBP) (WASHINGTON DULLES, BALTIMORE & PHILADELPHIA)

Meeting: Wednesday, June 7, 2017 @ 11:00am
Location: CBP, Baltimore, Maryland

LIAISON AGENDA:

Attendees:

From CBP:

- Ms. Casey Durst, District Field Officer (DFO), Baltimore
- Paul Gooch: Program Manager, Baltimore FO
- Robert Hunt, Chief of Staff, Baltimore, FO
- Frank McCarthy, Chief Passenger Operations, Philadelphia
- Brooks Burnett, Supervisor Passenger Operations, Philadelphia
- Sandra Rios, Watch Commander, Washington Dulles
- Sean Butler, Supervisor Passenger Operations, Washington Dulles

From AILA:

- Michelle Lazerow, Chair, CBP-AILA D.C. Liaison Committee
- Mary Ann Berlin, CBP-AILA D.C. Liaison Committee (BWI)
- Marc Mancini, CBP-AILA D.C. Liaison Committee
- Jonathan Grode, CBP-AILA Liaison Committee, Philadelphia Chapter
- Gokcen Gurk, CBP-AILA Liaison Committee, Philadelphia Chapter
- Catherine Reynolds, AILA D.C. Executive Committee
- Dinesh Verma, AILA D.C. Executive Committee
- Elizabeth Kohler, AILA D.C. Executive Committee
- Mayabakza Bangudi, AILA D.C. Executive Committee

INTRODUCTION:

At the outset of this meeting, I would like to thank everyone at CBP for being here today, having travelled from Philadelphia, Washington Dulles and BWI, especially as I know you are all under a lot of pressure, sometimes short of staff and with always so much going on as you work tirelessly to carry out the many facets of law enforcement duties you are entrusted with to protect the United States. We all want you to know how much we appreciate you taking the time to attend this Liaison meeting from which we all benefit so much. Thank you to Mr. Gooch for not taking "NO" from me when I insisted that we set us this very important meeting. Thank you so much to you all!

GENERAL QUESTIONS:

I. As of our meeting in 2016, the names below were provided as the Port Director, Assistant Port Director at the following Ports. Please advise of any changes and/or updates:

WASH DULLES

Port Director: **Wayne Biondi**
Acting Port Director: **Elmer Jarava**

Asst. Port Director: Tactical	Jerry Ficklin (Passenger Operations) Patrick Orender
BALTIMORE	
Port Director:	Diana Bowman
Asst. Port Director:	John Peters
Asst. Port Director	Thomas Heffernan
PHILADELPHIA	
Acting Port Director:	Raymond Polley
Asst. Port Director (Trade):	Ed Moriarty
Tactical:	Paul Nardella
Passenger Operations:	Kevin Donohue

ii. Can you kindly provide us with an *update* on the most recently available number of annual international travelers being admitted into the U.S. at:

WASH DULLES:	3,153,112
BALTIMORE:	481,419
PHILADELPHIA:	1,630,236

iii. **Contact information:**

Thank you for providing us with contact information when our members, on behalf of their clients, have important, sometimes urgent, matters and/or issues that need to be dealt with immediately. Please confirm that we may continue to use the numbers provided and that the information below is still correct and current:

WASH DULLES Tel #: 703/661-2800 – Press 0, and ask for the **Duty Supervisor**

- This is the command center & open 24/7

BALTIMORE Tel #: 410-865-2100 (Option #1) ask for **Supervisor**

PHILADELPHIA Tel #: 215-863-4200 (select # **Watch Commander*** and if not at desk, select **Entrance & Clearance Desk** (open 6:00am to 10:00pm)

- ***If urgent, don't leave a message for the Watch Commander***

QUESTIONS FROM MEMBERS:

I-94 and corrected PED:

In past CBP liaison meetings you confirmed that CBP stands behind its undertaking for our clients to be able to go to any airport to correct Form I-94, and this is working well with no reported issues relating to this. However, a few questions have been asked by members for this meeting and they are posed below:

Questions:

- If someone has a problem with **incorrect documentation** of an admission at a POE coming back from **Canada**, is it generally okay to approach the POE nearest to where the immigrant lives with a request to correct?
RESPONSE: Yes
- What is the best way to get a **class of admission** corrected?
RESPONSE: Same as I-94 correction. See below

What about an incorrect **period of admission** eg: H-1B only admitted until expiration of Visa instead of Petition validity?

RESPONSE: Ensure that applicant for admission brings correct documentation. This may have occurred where applicant has several valid visas in passport. Same as I-94 correction. See below.

- In addition, what is the situation with an H-1B who has an I-797 approval for H1B until, for example, June 7, 2017 - but is also in possession of a **second** I-797 approval valid from June 7, 2017 to June 6, 2020. If the person enters the U.S. on, for example, May 7, 2017, is he/she being admitted for the full duration of the new approval notice until 2020?

RESPONSE: **At this time**, Dulles, BWI and Philadelphia require that the person seeking the correction **appear in person**. When correction is needed it is best to call first to make sure someone is available. It is highly recommended not to go to the airport during the busiest hours – long waits. Each airport has designated times to correct Form I-94's, for example:

- **Washington Dulles:** 10:00am to 2:00pm
- **Philadelphia:** 9:00am to 12 noon

In past meetings, CBP recommended “in person” appearance for correction of I-94's. Some ports in the U.S. permit sending an e.mail to a designated CBP officer or designated e.mail address to make the correction, especially if the arriving alien lives very far from the closest airport. Has there been any change in this policy? Are either Dulles, BWI or Philadelphia permitting I-94's to be corrected by e.mail?

- As a matter of discussion, those Ports that permit I-94's to be corrected by e.mail have very specific requirements to be met along with the submission of a list of documents and information they need to process such a request. *For example:*
 - o **Dallas-Ft. Worth International Airport** has a designated e.mail address and require the following to be included in any request to correct a Form I-94:
 - *Submit a Statement as to the issue and how the applicant wishes the issue to be resolved – along with:*
 - *Biographic page of passport*
 - *Copy of U.S. visa in passport*
 - *Most recent entry stamp in passport*
 - *Boarding pass and/ flight information*
 - *Address and telephone number in the U.S.*
 - *Completed Form DHS-590*
- One member asked about correcting a **Form I-94** obo a client who lives in Mechanicsburg, PA – the closest airport being Washington Dulles –and if this could be done via e.mail?

RESPONSE:

Following this example, FOD Durst suggested that the Ports look into and explore the logistics of correction of I-94's via e.mail and for each Port to create an e.mail inbox that would allow for correction requests. We discussed that (as with the Dallas-Ft. Worth example above) extensive documents and information would need to be provided and if there were any issues that could not be resolved electronically, the person would be invited to make an in-person appearance at the

Port. There is of course the issue as to who would monitor the e-mails and various options were discussed. The issue of secure e-mails was also discussed (the example of secure communications being the DHS **TRIP** system). FOD Durst asked Officer Gooch to take the lead for this field office and reach out to the POE's that have the e.mail system in place how they have done it etc.

- This process is still being explored and will advise if it becomes a viable option. Until that time the answer remains as answered on for the first question "I-94 and corrected PED".

L-1 VISAS:

The situation with blanket L-visas seems to be continued issue at POE across the U.S. due to inconsistencies in the period of admission.

(11) Admission. A beneficiary may apply for admission to the United States only while the individual or blanket petition is valid. The beneficiary of an individual petition shall not be admitted for a date past the validity period of the petition. The beneficiary of a blanket petition may be admitted for three years even though the initial validity period of the blanket petition may expire before the end of the three-year period. If the blanket petition will expire while the alien is in the United States, the burden is on the petitioner to file for indefinite validity of the blanket petition or to file an individual petition in the alien's behalf to support the alien's status in the United States. The admission period for any alien under section 101(a)(15)(L) shall not exceed three years unless an extension of stay is granted pursuant to paragraph (l)(15) of this section.

- What is CBP's position of a proper admission pursuant to a Form I-129S?
- Consulates are issuing 5 year blanket visas. Some consulates do not give annotated I-129S – it appears that much of the confusion for blanket L's initiates at the consular level

It is our understanding that the previous position was that an I-94 should be issued for a 3 year period on initial entry or up to date on endorsed I-129S (whichever is shorter).

RESPONSE: This is correct on how it should be except if the person is entering to open a new office as an L-1, the maximum period of admission is one (1) year.

- Chapter members are still reporting I-94s issued for five years, or three years (beyond the expiry of the I-129S). What is the official policy and what, if anything, is being done to ensure consistent admissions?
 - We understand further that some CBP POE's have expressed willingness to correct any errors at deferred inspection?
 - Have you issued any guidance to your officers @ Dulles, BWI or Philadelphia?
 - Has HQ issued any guidance to POE's?

RESPONSE: A person cannot be admitted beyond the regulatory maximum period of time in the L-1 status. Musters/guidance have been sent out to the ports by HQ on the subject.

ALSO - RESPONSE: The issue with the L-1 visas comes up frequently. Often it is the consulates that cause the confusion. DOS has moved away from annotations on visas which makes it more difficult for the officers. CBP do not see the DOS database with the notes that used to be on the annotations.

I-129S: CBP confirms there are still inconsistencies w/admissions and many times the applicant presents the wrong I-129S to CBP. Recommended for applicants to present the correct documentation which will make it easier for CBP, who are willing to correct any errors at deferred inspection.

- As always CBP/Ports always are willing to work with stakeholders and public to rectify any possible errors or advise on how to best remedy the problem.

Member question:

Could you please clarify how far in advance will CBP accept a **Canadian** applying to renew his/her L-1 status at the U.S. POE based upon a Blanket L-1 approval?

- Is it correct that an individual can apply for a renewal “no more than 30 days” before their L-1 status expires?

RESPONSE: Dulles does them, but rarely. It is very labor intensive. Philadelphia also gets very few and will verify documentation. If applicant comes in the evening tends to be problem with whom to contact to confirm information.

PAROLE for INTERNATIONAL ENTREPRENEURS:

The former administration put forth a new class for parole for International Entrepreneurs that will be made effective July 17, 2017. The current administration has voiced some opposition to allowing parole for entire classes of individuals and instead stressed that parole should be used on a case-by-case basis.

- Has CBP received any guidance in this regard?
- Is the agency ready to allow for entrepreneurial parole following USCIS approval?

RESPONSE: No information or guidance has been received. Any issues or decisions in this regard to go to the Port Director who has to handle this.

NATION-WIDE HIRING @ CBP:

CBP has focused on hiring efforts nation-wide (*including just this weekend over Twitter*)

- Will any of your ports be expanding your officer pool?
- If so, will new positions be created?
- How will the structure of your offices change?

RESPONSE: CBP is generally staffed well except for Dulles which is down 20% due to attrition, officers transfer into higher grades, better work schedules and salaries. CBP does not want to stop upward mobility. Great care taken to ensure that hirees are appropriate. Challenge with Dulles, internal candidates, going well but it is a “work in progress”. Dulles does have new officers starting to work there currently, with some officers coming from across the nation, trained and ready to work. Strategy for the SW border and Northern border to get it staffed up and then move them out: good plan but takes time. Exposure on the SW border is very important

B-2 ADMISSION:

The Foreign Affairs Manual allows for one-year B-2 admissions if they are “*Cohabiting Partners, Extended Family Members, and Other Household Members not Eligible for Derivative Status*” For example, this status would be appropriate where a U.S. parent is accompanying minor children to U.S. boarding schools. Extensions thereafter are also available. In cases where this purpose is not written on the foil, or where there is no such visa (such as a Canadian), what is your ports current policy in granting one-year B-2 admissions and international travel thereafter?

RESPONSE: 1 year admission are permissible, determined on a case-by-case basis; Needs to be approved by a supervisor so it will be determined in secondary.

Philadelphia: has been done on applicant's assertion if they seem credible but better to have verifiable documentation. For example, if school, provide registration, report cards.

Medical Visas: If applicant is incapacitated and cannot complete Biometrics, should try to get DOS to note that "fingerprints waived" to save time and inconvenience. CBP does not want sick people waiting if it can be avoided

PREGANANT MOTHERS: if a pregnant mother arrives to have her child born here in the U.S. If she has the funds to pay for it, must show ability to pay for medical expenses, this is permissible and the mother should not hide purpose of trip.

Note: Admissibility facts vary with each applicant therefore needs to be considered at time of application.

STUDENT VISAS:

At times, F-1 students will be granted an immigrant petition approval or be eligible for derivative status but opt for consular processing instead of adjustment due to faster processing times, to accompany the principal, or other reasons.

- In such cases, is CBP generally aware that a **DS-260** has been filed?
- Given a clear intent to consular process, in your discretion would you consider the filing of a DS-260 a negative discretionary factor in granting admission?
- Is it possible in your opinion to overcome such immigrant intent and be allowed a short term admission as a nonimmigrant to attend classes before the immigrant visa may be issued?

RESPONSE: Admissibility facts vary with each applicant therefore all facts will and need to be considered at time of application for admission.

RESPONSE: What is the overall intent for the particular trip? This trend seems to be growing with wealthy families who abuse the F-1 program. They start off full-time, then to part-time - been an upward trend and growing.

ENTRY AS B-1: Musicians

At times, musicians will attempt to enter the U.S. to engage in showcase festivals or competitions using B-1 status. No compensation, other than prize money, would be granted.

- Do you think this is an appropriate use of B-1 classification?
- What should be done in cases where a musician might not yet qualify for an O or P visa and seek to perform in the U.S.?

RESPONSE: It may be OK for them to use the B-1 visa, if purpose is what they state ie: showcase in festival, or competition. But when CBP questions them they say they are just coming for a showcase for a record label. With further investigation by CBP who "googles" them and sees that they have 15 shows booked. Use of B-1 may be OK if a cultural event, playing at a university and getting a stipend. But if shows are booked, flyers made, it is a common basis for expedited removal because they don't tell the truth and it is easy to discover exactly what they will be doing in the U.S. {P-visas are the best alternative but hard to get as USCIS 's adjudications are tougher which leads to an upward trend in trying to use the B-1}

We have included below the following excerpt from the USCIS website on the permissible B-1 activities:

“The B-1 visa is intended only for business activities that are a “necessary incident” to your business abroad. This covers a wide range of activities such as attending meetings, consulting with associates, engaging in negotiations, taking orders for goods produced and located outside the United States, attending conferences, and researching options for opening a business in the United States (such as locating or entering into a lease for office space). Generally speaking, you cannot engage in any activity or perform a service that would constitute local employment for hire within the United States. What constitutes local employment for hire will depend on the circumstances of each case, but generally speaking, any activity you perform in the United States must be directly connected with and part of your work abroad”.

PRE-FLIGHT CLEARANCE:

Can you provide an update on the further development of pre-flight clearance operations outside of the US?

RESPONSE: CBP is engaging in conversations with many countries abroad, Punta Cana is one coming up as a hub for Caribbean travelers.

LAPTOPS ON INTERNATIONAL FLIGHTS:

Can you give any further update on insight into the rumored expansion of the laptop ban for all international flights to the US?

RESPONSE: TSA issue

SECONDARY INSPECTION: Returning LPR's

- Returning LPR's who have been in immigration proceedings in the past before and Immigration Judge and who have been granted Cancellation of Removal are sent to secondary and are there for hours (and hours). Are there any documents the LPR should carry that can speed up the process (and the wait time)?
- On a similar note: Returning LPR's with a prior finding of ineligibility {by way of example: 212(a)(6)(C)(1)} but whose **Waiver was approved** by USCIS – and who are put into secondary on each entry into the U.S., would providing CBP with a copy of the approved waiver help speed up time in secondary or even obviate the need for being sent to secondary?

RESPONSE: LPR's who were granted cancellation of Removal – have LPR carry copy of order with him/her and present to CBP at Secondary. It will help speed things up in Secondary.

Also: LPR will have to go to Secondary if fingerprints come up.

IF LPR received a WAIVER, primary will have to send LPR to Secondary. LPR can use the DHS travel redress entry program to explain what transpired and to avoid being referred to secondary on each entry. There is no negative stigma to contacting DHS travel redress and in fact, they encourage it

- Can a Returning LPR with a criminal conviction – who MAY be inadmissible – withdraw his/her request for admission?
 - o If yes, does CBP have a special procedure to accomplish this?

RESPONSE: Returning LPR with criminal conviction that may be inadmissible and withdraw a request for admission – in lieu of an NTA – is possible, but OCC needs to be involved as it is a complex process. Usually OCC is involved, and each case has its own merits on making a decision.

What arrangements can be made for represented clients who are being held in secondary (Form G-28 already on file) for us to have access to our clients?

- Is this a TSA issue?
- If Form G-28 is not on file, how do we arrange to get a Form G-28 to CBP to ensure that our client is being represented and has access to us in Secondary?
-

DEFERRED INSPECTION:

How does an attorney on behalf of his/her client request a postponement of a Deferred Inspection appointment?

- What procedure does CBP have in order to achieve this?

RESPONSE: Very important to call deferred inspection in advance of appointment date. One officer does them: do not expect to show up on the date that your client is given. Call first and ask for a postponement. Postponements are automatically given a date one month later. If it is a criminal deferred inspection, CBP may not have had time to check on the paperwork. They will give a new date and will postpone for a longer period of time as they may be waiting for the criminal documentation which may take a while (eg: old, expunged, several issues etc). CBP will postpone again – for legitimate reasons. Also important for someone in deferred inspection to keep in contact with CBP and to check in.

PHILADELPHIA: Rarely are CBP ready for the alien on the initial date given. CBP would write down specifically what is needed in regards to the time for the postponement and give sufficient time. Again, alien must keep in touch. If serious convictions, CBP may request the alien to contact them and check in every 30 days

PAROLE:

Does CBP have discretion to “parole” an alien after issuing an NTA or must a parole request be sent to ICE?

RESPONSE: CBP has the authority to parole after issuing an NTA.

ABANDONMENT OF LPR:

Form I-407 is used to let USCIS know that an LPR has decided to voluntarily abandon his/her status as a lawful permanent resident of the U.S. This can be done in a number of ways and as stated by USCIS on their website, “*you may also submit Form I-407 to a Customs and Border Protection officer at a U.S. [port of entry](#)”.*

Question:

- Does CBP accept Form I-407 at primary inspection or at secondary inspection?
- Besides Form I-407, what other documents or information does CBP require from the applicant?
- Can an I-551 be mailed to a Port of Entry and if so, what time of confirmation can we expect?

RESPONSE: Form I-407's are only accepted in Secondary inspection – and only upon entry into the U.S. I-407 Statement would need to be taken and it gives the LPR the right to request a hearing at any time and request an NTA. The green card is also taken. It cannot be mailed in to CBP. The other option always is to submit the I-407 to the U.S. Embassy abroad. If the applicant had a green card which was abandoned by completion of the I-407, but he/she

needed to enter the U.S. temporarily for a short visit, he/she can be given a B-2 with the fee waived.

NON-ABANDONMENT:

- What are best practices to show non-abandonment when temporarily employed abroad?

RESPONSE: Admissibility facts vary with each applicant therefore all facts will and need to be considered at time of application for admission, documentation from the applicant may be needed for consideration as well.

- If an LPR keeps his U.S. apartment and rents it out is that enough?

RESPONSE: This in itself does not demonstrate US Residency requirements.

- When CBP admits a returning resident who has been abroad between six and twelve months is there a method of notifying USCIS that the returning resident has met his burden so that a subsequent filing of the N-400 application for citizenship is not denied for abandonment?

RESPONSE: On completion and submission of the N-400, USCIS will see the absences listed on the form. At this time the I-94 travel history from CBP still only goes back 5 years. USCIS has access to the travel records and record of Secondary too. If there has been extensive absence from the U.S., but CBP admitted LPR, attorney can argue that LPR persuaded CBP at entry of reasons for extended absence and satisfied CBP

Automated Passport Control (APC):

Last meeting we raised the recently opened APC booths at Dulles and more limited, at Philadelphia. CBP advised us that there was a very positive response from travelers to APC. Feedback has also been positive from travelers and in particular with having staff available to assist those not technologically savvy or who struggle with the new technology.

During our last meeting, you advised us that approximately 40 airports in the U.S. have APC's as well as Abu Dhabi, Aruba and Bahamas. Has there been a further expansion of the APC's at airports throughout the U.S.?

BWI: Was scheduled to have APC machines fully operational by July 2016. Did they meet this goal?

Philadelphia: Last year, APC's were open only to USC's and only during peak hours (noon – 6:00pm) Philly was waiting to work through some technical difficulties prior to using the APC's for LPR's and Visa Waivers. Has this been implemented? What is the update with Philadelphia?

Wash Dulles: APC's open to USC's, LPR's and Canadians AND APC's were also made available to ESTA travelers ONLY if on their second or subsequent trip to the U.S. AND they are using the same passport as before. As things were working so well at Dulles, are there any updates or developments since our last meeting that CBP would like to share with us?

Dulles was working on the very long lines @ egress? Has this improved?

RESPONSE:

Baltimore: APC's are now in place and it is going very well

Philadelphia: had some technical issues which are better now

Note: the APC's are owned by the City of Philadelphia and if there are technical issues, the City has to service them and sort out the issues. Also Philadelphia would leave the APC's open for longer hours than currently in operation if the City would staff them

DULLES: No issues, APC's work very well and are well-staffed and serviced and are used to the maximum

Dulles now has the separate line for the mobile app and with good wifi users go right through

Dulles – egress: No more egress lines. Dulles is currently testing modified egress and it seems to be going well. They still have CBP officers roving the area along with dogs if additional inspection is needed. New procedure where the airlines bring your checked baggage into secondary. CBP is getting information in advance – and have not stepped away from enforcement.

Note: Dulles would accommodate a tour* to demonstrate this new procedure. There are other airports piloting this new system – good feedback from passengers, but airlines are complaining due to the extra work for them.

- *We will work on arranging a tour w/Dulles*

CLEAR:

This is available at Washington Dulles and BWI – and Philly?

Please can you explain to us the following:

What is **CLEAR**? How does it work? How secure is it as far as certain travelers being escorted through TSA and the special privileges that it offer?

RESPONSE:

CLEAR is at Dulles and BWI, but not Philly. It is conducted by a private company that supposedly performs their own background checks on applicants and TSA decides whether or not to accept the passenger through this special procedure when going through security. The Clear Booth is not associated with CBP or TSA. It came out about 5 years ago prior to TSA pre-check. Passengers pay \$200.00 for 1 year and enables personal and expedited assistance as passengers are taken through to a specific line at TSA Baltimore

FACIAL RECOGNITION TECHNOLOGY: This is very new “hot off the press” and is being tested at Dulles. As it has just started it is difficult to know how it is working. CBP said we should check back with them next year for more updates

GENERAL:

We are always told that we should have our clients be well-prepared and carry with them important documents that will be of assistance to CBP, for example, original approval notices, disposition of a crime for which the alien was charged, a letter from counsel explaining a certain situation which the alien is questioned on every entry into the U.S. etc., but we are frequently told by our clients that CBP does not bother to look at the documents provided.

- How do you recommend we handle situations like this?
- How do we advise our clients to handle this?

RESPONSE:

- **In summary, clients should be well-prepared for their admission into the U.S. Bring documentation that will be relevant to assist CBP and if applicant in Secondary, having the required documentation will make things go quicker and more smoothly. Example: contact information for students attending university, name(s) of contact, e.mail address, business card etc. so that CBP can verify. This is especially important when student is traveling on weekends or off-hours.**

NOTE: Although having the documents is helpful some still need to be verified or are required to be verified and some are required to be sent to Secondary by policy

IN CLOSING:

We welcome any feedback and/or advice to pass on to our members as well as to our clients in ensuring that, where applicable, they have the appropriate information available as well as documentation to facilitate their entry into the U.S. to assist CBP.

Thank you again to Mr. Gooch and to CBP for arranging this meeting which enables very useful dialogue with the AILA Washington D.C. and Philadelphia Chapters. We are very grateful to you all and we look forward to our continued cooperation.

**Respectfully submitted,
Michelle L. Lazerow, Esq.
Chair, CBP AILA LIAISON Committee**